

RAILROAD UPGRADE INCENTIVES AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul A. Cutler

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill provides for tax incentives related to railroad upgrades.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes nonrefundable individual and corporate income tax credits for the purchase of railroad idling reduction devices;
- ▶ limits the total annual aggregate amount of tax credits that may be issued for certain income tax credits;
- ▶ provides for the issuance of a high cost infrastructure development tax credit for certain railroad engine replacement projects;
- ▶ requires a person to provide matching funds and obtain written certification from the board of the Utah Inland Port Authority in order to receive a high cost infrastructure development tax credit for railroad engine replacement projects;
- ▶ authorizes the Utah Inland Port Authority to award financial grants to cover costs associated with railroad engine replacement projects;
- ▶ provides a sunset date for the income tax credits related to railroad idling reduction devices; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 This bill provides retrospective operation.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **11-58-202**, as last amended by Laws of Utah 2022, Chapters 32, 82

35 **59-7-618.1**, as enacted by Laws of Utah 2021, Chapter 371

36 **59-10-1033.1**, as enacted by Laws of Utah 2021, Chapter 371

37 **63I-1-259**, as last amended by Laws of Utah 2023, Chapter 52

38 **79-6-602**, as last amended by Laws of Utah 2023, Chapter 473

39 **79-6-603**, as last amended by Laws of Utah 2023, Chapter 473

40 **79-6-604**, as last amended by Laws of Utah 2022, Chapter 44

41 ENACTS:

42 **11-58-306**, Utah Code Annotated 1953

43 **59-7-618.2**, Utah Code Annotated 1953

44 **59-10-1033.2**, Utah Code Annotated 1953

45

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

47 Section 1. Section **11-58-202** is amended to read:

48 **11-58-202. Authority powers and duties.**

49 (1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the
50 efforts of all applicable state and local government entities, property owners and other private
51 parties, and other stakeholders to:

52 (a) develop and implement a business plan for the authority jurisdictional land, to
53 include an environmental sustainability component, developed in conjunction with the Utah
54 Department of Environmental Quality, incorporating policies and best practices to meet or
55 exceed applicable federal and state standards, including:

56 (i) emissions monitoring and reporting; and

57 (ii) strategies that use the best available technology to mitigate environmental impacts
58 from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of land in a project area, including the development of public infrastructure and improvements and other infrastructure and improvements on or related to land in a project area;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of public infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other

authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

(r) own, lease, operate, or otherwise control public infrastructure and improvements in a project area;

(s) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(t) develop and implement world-class, state-of-the-art, zero-emissions logistics to:

(i) support continued growth of the state's economy;

(ii) promote the state as the global center of efficient and sustainable supply chain logistics;

(iii) facilitate the efficient movement of goods on roads and rails and through the air;

and

(iv) benefit the commercial viability of tenants and users; and

(u) attract capital and expertise in pursuit of the next generation of logistics solutions.

(3) (a) Beginning April 1, 2020, the authority shall:

(i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and

(ii) maintain an accurate digital file of the boundary that is easily accessible by the public.

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this

Subsection (3)(b).

(4) (a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.

(b) (i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (4)(a).

(ii) Authority money designated for use under Subsection (4)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

(5) The authority may use authority funds to award financial grants to cover costs associated with the implementation of a locomotive engine replacement project, as defined in Section 79-6-602, in accordance with standards and procedures established by the board under Subsection 11-58-306(4).

Section 2. Section 11-58-306 is enacted to read:

11-58-306. Written certification from board required for high cost infrastructure development tax credit involving locomotive engine replacement project.

(1) As used in this section:

(a) "High cost infrastructure development tax credit" means a tax credit issued in accordance with Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act.

(b) "Locomotive engine replacement project" means the same as that term is defined in Section 79-6-602.

(2) A person shall obtain a written certification from the board before submitting an application for a high cost infrastructure development tax credit regarding a locomotive engine replacement project under Section 79-6-604.

(3) The board shall issue a written certification if:

(a) the board, in consultation with the Division of Air Quality created in Section 19-1-105, determines the project for which the tax credit is sought:

(i) qualifies as a locomotive engine replacement project; and

(ii) utilizes the best available technology; and

(b) the person seeking to apply for the tax credit commits to provide matching funds in an amount approved by the board.

(4) The board shall establish:

(a) procedures for requesting and obtaining a written certification from the board under this section;

(b) criteria for a technology to meet the requirements of Subsection (3)(a)(ii);

(c) the minimum amount of matching funds required under Subsection (3)(b); and

(d) standards and procedures for awarding grants under Subsection [11-58-202\(5\)](#), including application and reporting requirements.

Section 3. Section **59-7-618.1** is amended to read:

59-7-618.1. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section [19-2-107](#).

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquefied natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and

(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a taxpayer that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single taxpayer.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a taxpayer is entitled to a tax credit as provided in this section and stating the amount of the tax

214 credit.

215 (2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise
216 due under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required
217 to Pay Corporate Franchise or Income Tax Act:

218 (a) in an amount equal to:

219 (i) \$15,000, if the qualified purchase occurs during calendar year 2021;

220 (ii) \$13,500, if the qualified purchase occurs during calendar year 2022;

221 (iii) \$12,000, if the qualified purchase occurs during calendar year 2023;

222 (iv) \$10,500, if the qualified purchase occurs during calendar year 2024;

223 (v) \$9,000, if the qualified purchase occurs during calendar year 2025;

224 (vi) \$7,500, if the qualified purchase occurs during calendar year 2026;

225 (vii) \$6,000, if the qualified purchase occurs during calendar year 2027;

226 (viii) \$4,500, if the qualified purchase occurs during calendar year 2028;

227 (ix) \$3,000, if the qualified purchase occurs during calendar year 2029; and

228 (x) \$1,500, if the qualified purchase occurs during calendar year 2030; and

229 (b) if the qualified taxpayer certifies under oath that over 50% of the miles that the
230 heavy duty vehicle that is the subject of the qualified purchase will travel annually will be
231 within the state.

232 (3) (a) Except as provided in Subsection (3)(b), a taxpayer may not submit an
233 application for, and the director may not issue to the taxpayer, a tax credit certificate under this
234 section in any taxable year for a qualified purchase if the director has already issued tax credit
235 certificates to the taxpayer for 10 qualified purchases in the same taxable year.

236 (b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of
237 tax credits under Subsection (5) has not been claimed, a taxpayer may submit an application
238 for, and the director may issue to the taxpayer, one or more tax credit certificates for up to eight
239 additional qualified purchases, even if the director has already issued to that taxpayer tax credit
240 certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

241 (4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits
242 available under this section for qualified taxpayers with a small fleet.

243 (b) Subsection (4)(a) does not prevent a taxpayer from submitting an application for, or
244 the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a

small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and ~~[Section]~~ Sections 59-7-618.2, 59-10-1033.1, and 59-10-1033.2 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the taxpayer is able to submit an application for a tax credit certificate.

(6) (a) (i) A taxpayer wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the taxpayer a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a taxpayer qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the taxpayer is allowed under this section; and

(ii) provide the taxpayer with a written tax credit certificate:

(A) stating that the taxpayer has qualified for a tax credit; and

(B) showing the amount of tax credit for which the taxpayer has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter or Chapter 8, Gross Receipts Tax on Certain

Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 4. Section **59-7-618.2** is enacted to read:

59-7-618.2. Nonrefundable tax credit for purchase of locomotive idle-reduction device.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section 19-2-107.

(c) "Locomotive idle-reduction device" means technology or equipment that:

(i) is verified by the United States Environmental Protection Agency to reduce locomotive idling; and

(ii) is not required under 40 C.F.R. Sec. 1033.115.

(d) "Qualified purchase" means the purchase of a locomotive idle-reduction device.

(e) "Qualified taxpayer" means a taxpayer that:

(i) makes one or more qualified purchases;and

(ii) receives a tax credit certificate from the director under this section.

(2) Subject to Subsections (3) and (4), a qualified taxpayer may, for each qualified purchase made by the qualified taxpayer in a taxable year, claim a nonrefundable tax credit in an amount equal to the lesser of:

(a) 50% of the actual costs paid by the qualified taxpayer for the qualified purchase, not including any financial assistance, rebates, or credits, other than a tax credit issued under this section, that the qualified taxpayer uses to pay for the qualified purchase; and

(b) (i) \$12,000, if the qualified purchase is made during calendar year 2024;

(ii) \$10,500, if the qualified purchase is made during calendar year 2025;

(iii) \$9,000, if the qualified purchase is made during calendar year 2026;

(iv) \$7,500, if the qualified purchase is made during calendar year 2027;

(v) \$6,000, if the qualified purchase is made during calendar year 2028;

(vi) \$4,500, if the qualified purchase is made during calendar year 2029; or

(vii) \$3,000, if the qualified purchase is made during calendar year 2030.

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

(b) The taxpayer shall submit, with the taxpayer's application to the director for a tax credit certificate, proof of the taxpayer making one or more qualified purchases.

(c) The director shall provide notice to a taxpayer acknowledging receipt of the taxpayer's application for a tax credit certificate.

(d) If the director determines that the taxpayer qualifies for a tax credit under this section, the director shall:

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

(ii) issue to the taxpayer a tax credit certificate stating the amount of the taxpayer's tax credit.

(e) A qualified taxpayer shall retain the tax credit certificate for the same period that a person is required to keep books and records under [Section 59-1-1406](#).

(4) (a) The tax credit under this section is allowed only:

(i) against taxes owed under this chapter or Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in the taxable year by the qualified taxpayer;

(ii) for the taxable year in which the qualified purchase is made; and

(iii) once per qualified purchase.

(b) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(c) If a qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

(5) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and Sections [59-7-618.1](#), [59-10-1033.1](#), and [59-10-1033.2](#) may not exceed \$500,000.

(6) The director shall annually submit to the commission a list that includes:

(a) the name and identifying information of each qualified taxpayer to which a tax credit certificate was issued under this section; and

(b) for each qualified taxpayer described in Subsection (6)(a), the amount of the tax credit listed in the tax credit certificate.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

(a) establish a process under which a taxpayer may reserve a potential tax credit under this section for a limited time to allow the taxpayer to make a qualified purchase with the assurance that the aggregate limit under Subsection (5) will not be met before the taxpayer submits an application for a tax credit certificate; and

(b) govern the application process for receiving a tax credit certificate under this section.

Section 5. Section **59-10-1033.1** is amended to read:

59-10-1033.1. Tax credit related to alternative fuel heavy duty vehicles.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section [19-2-107](#).

(c) "Heavy duty vehicle" means a commercial category 7 or 8 vehicle, according to vehicle classifications established by the Federal Highway Administration.

(d) "Natural gas" includes compressed natural gas and liquified natural gas.

(e) "Qualified heavy duty vehicle" means a heavy duty vehicle that:

(i) has never been titled or registered and has been driven less than 7,500 miles; and
(ii) is fueled by natural gas, has a 100% electric drivetrain, or has a hydrogen-electric drivetrain.

(f) "Qualified purchase" means the purchase of a qualified heavy duty vehicle.

(g) "Qualified taxpayer" means a claimant, estate, or trust that:

(i) purchases a qualified heavy duty vehicle; and

(ii) receives a tax credit certificate from the director.

(h) "Small fleet" means 40 or fewer heavy duty vehicles registered in the state and owned by a single claimant, estate, or trust.

(i) "Tax credit certificate" means a certificate issued by the director certifying that a claimant, estate, or trust is entitled to a tax credit as provided in this section and stating the amount of the tax credit.

(2) A qualified taxpayer may claim a nonrefundable tax credit against tax otherwise due under this chapter:

(a) in an amount equal to:

(i) \$15,000, if the qualified purchase occurs during calendar year 2021;

(ii) \$13,500, if the qualified purchase occurs during calendar year 2022;

(iii) \$12,000, if the qualified purchase occurs during calendar year 2023;

(iv) \$10,500, if the qualified purchase occurs during calendar year 2024;

(v) \$9,000, if the qualified purchase occurs during calendar year 2025;

(vi) \$7,500, if the qualified purchase occurs during calendar year 2026;

(vii) \$6,000, if the qualified purchase occurs during calendar year 2027;

(viii) \$4,500, if the qualified purchase occurs during calendar year 2028;

(ix) \$3,000, if the qualified purchase occurs during calendar year 2029; and

(x) \$1,500, if the qualified purchase occurs during calendar year 2030; and

(b) if the qualified taxpayer certifies under oath that over 50% of the miles that the heavy duty vehicle that is the subject of the qualified purchase will travel annually will be within the state.

(3) (a) Except as provided in Subsection (3)(b), a claimant, estate, or trust may not submit an application for, and the director may not issue to the claimant, estate, or trust, a tax credit certificate under this section in any taxable year for a qualified purchase if the director

has already issued tax credit certificates to the claimant, estate, or trust for 10 qualified purchases in the same taxable year.

(b) If, by May 1 of any year, more than 30% of the aggregate annual total amount of tax credits under Subsection (5) has not been claimed, a claimant, estate, or trust may submit an application for, and the director may issue to the claimant, estate, or trust, one or more tax credit certificates for up to eight additional qualified purchases, even if the director has already issued to that claimant, estate, or trust tax credit certificates for the maximum number of qualified purchases allowed under Subsection (3)(a).

(4) (a) Subject to Subsection (4)(b), the director shall reserve 25% of all tax credits available under this section for qualified taxpayers with a small fleet.

(b) Subsection (4)(a) does not prevent a claimant, estate, or trust from submitting an application for, or the director from issuing, a tax credit certificate if, before October 1, qualified taxpayers with a small fleet have not reserved under Subsection (5)(b) tax credits for the full amount reserved under Subsection (4)(a).

(5) (a) The aggregate annual total amount of tax credits represented by tax credit certificates that the director issues under this section and ~~[Section]~~ Sections 59-7-618.1, 59-7-618.2, and 59-10-1033.2 may not exceed \$500,000.

(b) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish a process under which a claimant, estate, or trust may reserve a potential tax credit under this section for a limited time to allow the claimant, estate, or trust to make a qualified purchase with the assurance that the aggregate limit under Subsection (5)(a) will not be met before the claimant, estate, or trust is able to submit an application for a tax credit certificate.

(6) (a) (i) A claimant, estate, or trust wishing to claim a tax credit under this section shall, using forms the board requires by rule:

(A) submit to the director an application for a tax credit;

(B) provide the director proof of a qualified purchase; and

(C) submit to the director the certification under oath required under Subsection (2)(b).

(ii) Upon receiving the application, proof, and certification required under Subsection (6)(a)(i), the director shall provide the claimant, estate, or trust a written statement from the director acknowledging receipt of the proof.

(b) If the director determines that a claimant, estate, or trust qualifies for a tax credit under this section, the director shall:

(i) determine the amount of tax credit the claimant, estate, or trust is allowed under this section; and

(ii) provide the claimant, estate, or trust with a written tax credit certificate:

(A) stating that the claimant, estate, or trust has qualified for a tax credit; and

(B) showing the amount of tax credit for which the claimant, estate, or trust has qualified under this section.

(c) A qualified taxpayer shall retain the tax credit certificate.

(d) The director shall at least annually submit to the commission a list of all qualified taxpayers to which the director has issued a tax credit certificate and the amount of each tax credit represented by the tax credit certificates.

(7) The tax credit under this section is allowed only:

(a) against a tax owed under this chapter in the taxable year by the qualified taxpayer;

(b) for the taxable year in which the qualified purchase occurs; and

(c) once per vehicle.

(8) A qualified taxpayer may not assign a tax credit or a tax credit certificate under this section to another person.

(9) If the qualified taxpayer receives a tax credit certificate under this section that allows a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for a taxable year, the qualified taxpayer may carry forward the amount of the tax credit that exceeds the tax liability for a period that does not exceed the next five taxable years.

Section 6. Section **59-10-1033.2** is enacted to read:

59-10-1033.2. Nonrefundable tax credit for purchase of locomotive idle-reduction device.

(1) As used in this section:

(a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act.

(b) "Director" means the director of the Division of Air Quality appointed under Section [19-2-107](#).

(c) "Locomotive idle-reduction device" means technology or equipment that:

462 (i) is verified by the United States Environmental Protection Agency to reduce
463 locomotive idling; and

464 (ii) is not required under 40 C.F.R. Sec. 1033.115.

465 (d) "Purchaser" means a claimant, estate, or trust.

466 (e) "Qualified purchase" means the purchase of a locomotive idle-reduction device.

467 (f) "Qualified purchaser" means a purchaser that:

468 (i) makes one or more qualified purchases; and

469 (ii) receives a tax credit certificate from the director under this section.

470 (2) Subject to Subsections (3) and (4), a qualified purchaser may, for each qualified
471 purchase made by the qualified purchaser in a taxable year, claim a nonrefundable tax credit in
472 an amount equal to the lesser of:

473 (a) 50% of the actual costs paid by the qualified purchaser for the qualified purchase,
474 not including any financial assistance, rebates, or credits, other than a tax credit issued under
475 this section, that the qualified purchaser uses to pay for the qualified purchase; and

476 (b) (i) \$12,000, if the qualified purchase is made during calendar year 2024;
477 (ii) \$10,500, if the qualified purchase is made during calendar year 2025;
478 (iii) \$9,000, if the qualified purchase is made during calendar year 2026;
479 (iv) \$7,500, if the qualified purchase is made during calendar year 2027;
480 (v) \$6,000, if the qualified purchase is made during calendar year 2028;
481 (vi) \$4,500, if the qualified purchase is made during calendar year 2029; or
482 (vii) \$3,000, if the qualified purchase is made during calendar year 2030.

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

485 (b) The purchaser shall submit, with the purchaser's application to the director for a tax
486 credit certificate, proof of the purchaser making one or more qualified purchases.

487 (c) The director shall provide notice to a purchaser acknowledging receipt of the
488 purchaser's application for a tax credit certificate.

489 (d) If the director determines that the purchaser qualifies for a tax credit under this
490 section, the director shall:

491 (i) determine the amount of the purchaser's tax credit; and
492 (ii) issue to the purchaser a tax credit certificate stating the amount of the purchaser's

493 tax credit.

494 (e) A qualified purchaser shall retain the tax credit certificate for the same period that a
495 person is required to keep books and records under Section [59-1-1406](#).

496 (4) (a) The tax credit under this section is allowed only:

497 (i) against taxes owed under this chapter in the taxable year by the qualified purchaser;

498 (ii) for the taxable year in which the qualified purchase is made; and

499 (iii) once per qualified purchase.

500 (b) A qualified purchaser may not assign a tax credit or a tax credit certificate under
501 this section to another person.

502 (c) If a qualified purchaser receives a tax credit certificate under this section that allows
503 a tax credit in an amount that exceeds the qualified taxpayer's tax liability under this chapter for
504 a taxable year, the qualified purchaser may carry forward the amount of the tax credit that
505 exceeds the tax liability for a period that does not exceed the next five taxable years.

506 (5) The aggregate annual total amount of tax credits represented by tax credit
507 certificates that the director issues under this section and Sections [59-7-618.1](#), [59-7-618.2](#), and
508 [59-10-1033.1](#) may not exceed \$500,000.

509 (6) The director shall annually submit to the commission a list that includes:

510 (a) the name and identifying information of each qualified purchaser to which a tax
511 credit certificate was issued under this section; and

512 (b) for each qualified purchaser described in Subsection (6)(a), the amount of the tax
513 credit listed in the tax credit certificate.

514 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
515 board shall make rules to:

516 (a) establish a process under which a purchaser may reserve a potential tax credit under
517 this section for a limited time to allow the purchaser to make a qualified purchase with the
518 assurance that the aggregate limit under Subsection (5) will not be met before the purchaser
519 submits an application for a tax credit certificate; and

520 (b) govern the application process for receiving a tax credit certificate under this
521 section.

522 Section 7. Section **63I-1-259** is amended to read:

523 **63I-1-259. Repeal dates: Title 59.**

(1) Section 59-1-213.1 is repealed May 9, 2024.

(2) Section 59-1-213.2 is repealed May 9, 2024.

(3) Subsection 59-1-403(4)(aa), which authorizes the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(4) Subsection 59-1-405(1)(g) is repealed May 9, 2024.

(5) Subsection 59-1-405(2)(b) is repealed May 9, 2024.

(6) Section 59-7-618.1 is repealed July 1, ~~[2029]~~ 2031.

(7) Section 59-7-618.2 is repealed July 1, 2031.

~~[(7)]~~ (8) Section 59-9-102.5 is repealed December 31, 2030.

~~[(8)]~~ (9) Section 59-10-1033.1 is repealed July 1, ~~[2029]~~ 2031.

(10) Section 59-10-1033.2 is repealed July 1, 2031.

Section 8. Section **79-6-602** is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

(3) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(4) "High cost infrastructure project" means:

(a) [a project, including] for an energy delivery project or a fuel standard compliance project, a project:

~~[(a)]~~ (i) [(i)] (A) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

555 ~~[(i)]~~ (B) that involves new investment of at least \$50,000,000 in an existing industrial,
556 mining, manufacturing, or agriculture entity, by the entity; or

557 ~~[(ii)]~~ (C) for the construction of a plant or other facility for the storage or production
558 of fuel used for transportation, electricity generation, or industrial use;

559 ~~[(b)]~~ (ii) that requires or is directly facilitated by infrastructure construction; and

560 ~~[(c)]~~ (iii) for which the cost of infrastructure construction to the entity creating the
561 project is greater than:

562 ~~[(i)]~~ (A) 10% of the total cost of the project; or

563 ~~[(ii)]~~ (B) \$10,000,000~~[-]; and~~

564 (b) for a locomotive engine replacement project, a project:

565 (i) that requires or is directly facilitated by infrastructure construction; and

566 (ii) for which the cost of infrastructure construction to the entity creating the project is
567 at least \$5,000,000.

568 (5) "Infrastructure" means:

569 (a) an energy delivery project;

570 (b) a railroad as defined in Section 54-2-1;

571 (c) a fuel standard compliance project;

572 (d) a road improvement project;

573 (e) a water self-supply project;

574 (f) a water removal system project;

575 (g) a solution-mined subsurface salt cavern;

576 (h) a project that is designed to:

577 (i) increase the capacity for water delivery to a water user in the state; or

578 (ii) increase the capability of an existing water delivery system or related facility to
579 deliver water to a water user in the state; ~~[or]~~

580 (i) an underground mine infrastructure project~~[-]; or~~

581 (j) a locomotive engine replacement project.

582 (6) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an
583 agreement with the office that qualifies the applicant to receive a tax credit as provided in this
584 part.

585 (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as

defined in Section [59-10-1402](#), of a person described in Subsection (6)(a).

(7) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

- (a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;
- (b) Title 59, Chapter 5, Part 2, Mining Severance Tax;
- (c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- (d) Title 59, Chapter 10, Individual Income Tax Act; and
- (e) Title 59, Chapter 12, Sales and Use Tax Act.

(8) "Locomotive engine replacement project" means a project that is designed to replace a locomotive engine in order to meet the United States Environmental Protection Agency's Tier 4 emission standards for switch locomotives as described in 40 C.F.R. Part 1033, for a class I railroad or a class III railroad, as defined in 49 U.S.C. Sec. 20102, operating in a county of the first, second, or third class.

~~[(8)]~~ (9) "Office" means the Office of Energy Development created in Section [79-6-401](#).

~~[(9)]~~ (10) "Tax credit" means a tax credit under Section [59-7-619](#) or [59-10-1034](#).

~~[(10)]~~ (11) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

- (a) lists the name of the infrastructure cost-burdened entity;
- (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
- (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and
- (d) includes other information as determined by the office.

~~[(11)]~~ (12) (a) "Underground mine infrastructure project" means a project that:

- (i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and
- (ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

- (i) an underground access or a haulage road, entry, ramp, or decline;

- (ii) a vertical or incline mine shaft;
- (iii) a ventilation shaft or an air course; or
- (iv) a conveyor or a truck haulageway.

Section 9. Section **79-6-603** is amended to read:

79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Board created in Section **79-6-902**, and other state agencies as necessary, shall, in accordance with the procedures described in Section **79-6-604**, certify:

- (i) that the project meets the definition of a high cost infrastructure project under this part;
- (ii) that the high cost infrastructure project will generate infrastructure-related revenue;
- (iii) the economic life of the high cost infrastructure project; and
- (iv) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(b) For purposes of determining whether a project meets the definition of a high cost infrastructure project, the office shall consider a project to be a new project if the project began no earlier than the taxable year before the year in which the applicant applies for a tax credit.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the project's net benefit to the state, including:

- (i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;
- (ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;
- (iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;
- (iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;
- (v) whether the project would have a positive environmental impact on the state;
- (vi) whether the project promotes responsible energy development;

(vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability;

(viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part; and

(ix) other relevant factors that the board specifies in the board's evaluation.

(b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:

(i) is strategically situated to maximize connections to an energy source project located in the state that is:

(A) existing;

(B) under construction;

(C) planned; or

(D) foreseeable;

(ii) is supported by a project plan related to:

(A) engineering;

(B) environmental issues;

(C) energy production;

(D) load or other capacity; and

(E) any other issue related to the building and operation of energy delivery infrastructure; and

(iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:

(A) the Federal Energy Regulatory Commission;

(B) the North American Electric Reliability Council; and

(C) the Public Service Commission of Utah.

(c) The Utah Energy Infrastructure Board may recommend that the office deny an applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:

(i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a); or

(ii) for an energy delivery project, the project does not satisfy the conditions described

in Subsection (2)(b).

(3) (a) Subject to Subsection (3)(b) and the procedures described in Section [79-6-604](#), if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(b) In addition to the requirements of Subsection (3)(a), the office may not enter into an agreement under this Subsection (3) with an applicant regarding a locomotive engine replacement project unless the applicant obtains a written certification from the Utah Inland Port Authority in accordance with Section [11-58-306](#).

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project;

(b) except as provided in Subsections (4)(a) [~~and~~], (d) and (e), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; [~~and~~]

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a)[-]; and

(e) if the high cost infrastructure project is a locomotive engine replacement project, in a total amount equal to 25% of the cost of the infrastructure construction associated with the high cost infrastructure project.

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 10. Section 79-6-604 is amended to read:

79-6-604. Tax credit -- Application procedure.

(1) An applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the applicant meets the requirements described in Subsection 79-6-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; ~~and~~

(c) documentation that expressly directs and authorizes the State Tax Commission to

disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[-]; and

(d) for an applicant regarding a locomotive engine replacement project, the written certification required by Section 11-58-306.

(2) (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).

(3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 79-6-603, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines that the applicant is not eligible for the tax credit under Section 79-6-603, or that the applicant's documentation is inadequate, the office shall:

(a) deny the tax credit; or

(b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.

(4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection 79-6-603(6), the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 79-6-603, the office shall, on the basis of the documentation:

(a) enter, with the applicant, into the agreement described in Subsection 79-6-603(3);

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

(c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.

(5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Board, as provided in Subsection 79-6-603(2).

(6) An infrastructure cost-burdened entity may not claim a tax credit under Section

59-7-619 or 59-10-1034 unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.

(7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection 79-6-603(7).

(8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 79-6-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Section 11. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 12. **Retrospective operation.**

(1) The following sections have retrospective operation for a taxable year beginning on or after January 1, 2024:

(a) Section 59-7-618.1;

(b) Section 59-7-618.2;

(c) Section 59-10-1033.1;

(d) Section 59-10-1033.2;

(e) Section 79-6-602;

(f) Section 79-6-603; and

(g) Section 79-6-604.