

**RAILROAD UPGRADE INCENTIVES AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul A. Cutler**

Senate Sponsor: \_\_\_\_\_

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**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



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;

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

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

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

64 (2) The authority may:

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

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

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

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

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

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

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

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

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

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

86 (f) sue and be sued;

87 (g) enter into contracts generally;

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

- 90 authority project areas;
- 91       (i) exercise powers and perform functions under a contract, as authorized in the
- 92 contract;
- 93       (j) receive the property tax differential, as provided in this chapter;
- 94       (k) accept financial or other assistance from any public or private source for the
- 95 authority's activities, powers, and duties, and expend any funds so received for any of the
- 96 purposes of this chapter;
- 97       (l) borrow money, contract with, or accept financial or other assistance from the federal
- 98 government, a public entity, or any other source for any of the purposes of this chapter and
- 99 comply with any conditions of the loan, contract, or assistance;
- 100       (m) issue bonds to finance the undertaking of any development objectives of the
- 101 authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act,
- 102 bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial
- 103 Property Assessed Clean Energy Act;
- 104       (n) hire employees, including contract employees;
- 105       (o) transact other business and exercise all other powers provided for in this chapter;
- 106       (p) engage one or more consultants to advise or assist the authority in the performance
- 107 of the authority's duties and responsibilities;
- 108       (q) work with other political subdivisions and neighboring property owners and
- 109 communities to mitigate potential negative impacts from the development of authority
- 110 jurisdictional land;
- 111       (r) own, lease, operate, or otherwise control public infrastructure and improvements in
- 112 a project area;
- 113       (s) exercise powers and perform functions that the authority is authorized by statute to
- 114 exercise or perform;
- 115       (t) develop and implement world-class, state-of-the-art, zero-emissions logistics to:
- 116       (i) support continued growth of the state's economy;
- 117       (ii) promote the state as the global center of efficient and sustainable supply chain
- 118 logistics;
- 119       (iii) facilitate the efficient movement of goods on roads and rails and through the air;
- 120 and

- 121 (iv) benefit the commercial viability of tenants and users; and
- 122 (u) attract capital and expertise in pursuit of the next generation of logistics solutions.
- 123 (3) (a) Beginning April 1, 2020, the authority shall:
- 124 (i) be the repository of the official delineation of the boundary of the authority
- 125 jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic
- 126 component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special
- 127 Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the
- 128 Legislature; and
- 129 (ii) maintain an accurate digital file of the boundary that is easily accessible by the
- 130 public.
- 131 (b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:
- 132 (A) with a single tax identification number; and
- 133 (B) that is partly included within and partly excluded from the authority jurisdictional
- 134 land by the boundary delineated in the shapefile described in Subsection [11-58-102\(2\)](#).
- 135 (ii) With the consent of the mayor of the municipality in which the split property is
- 136 located, the executive director may adjust the boundary of the authority jurisdictional land to
- 137 include an excluded portion of a split property or exclude an included portion of a split
- 138 property.
- 139 (iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall
- 140 consult with the county assessor, the county surveyor, the owner of the split property, and the
- 141 municipality in which the split property is located.
- 142 (iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest
- 143 boundary of the authority jurisdictional land shall maintain the buffer area between authority
- 144 jurisdictional land intended for development and land outside the boundary of the authority
- 145 jurisdictional land to be preserved from development.
- 146 (v) Upon completing boundary adjustments under this Subsection (3)(b), the executive
- 147 director shall cause to be recorded in the county recorder's office a map or other description,
- 148 sufficient for purposes of the county recorder, of the adjusted boundary of the authority
- 149 jurisdictional land.
- 150 (vi) The authority shall modify the official delineation of the boundary of the authority
- 151 jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this

152 Subsection (3)(b).

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

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

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

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

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

167 **11-58-306. Written certification from board required for high cost infrastructure**  
168 **development tax credit involving locomotive engine replacement project.**

169 (1) As used in this section:

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

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

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

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

179 (a) the board, in consultation with the Division of Air Quality created in Section  
180 19-1-105, determines the project for which the tax credit is sought:

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

182 (ii) utilizes the best available technology; and

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

185 (4) The board shall establish:

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

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

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

190 (d) standards and procedures for awarding grants under Subsection [11-58-202\(5\)](#),

191 including application and reporting requirements.

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

193 **59-7-618.1. Tax credit related to alternative fuel heavy duty vehicles.**

194 (1) As used in this section:

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

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

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

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

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

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

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

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

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

208 (i) purchases a qualified heavy duty vehicle; and

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

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

212 (i) "Tax credit certificate" means a certificate issued by the director certifying that a  
213 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



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

247 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
248 certificates that the director issues under this section and ~~[Section]~~ Sections 59-7-618.2,  
249 59-10-1033.1, and 59-10-1033.2 may not exceed \$500,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

279 (c) once per vehicle.

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

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

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

289 **59-7-618.2. Nonrefundable tax credit for purchase of locomotive idle-reduction**  
290 **device.**

291 (1) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

335 (iii) once per qualified purchase.

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

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

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

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

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

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

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

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

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

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

359 **59-10-1033.1. Tax credit related to alternative fuel heavy duty vehicles.**

360 (1) As used in this section:

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

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

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

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

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

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

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

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

374 (i) purchases a qualified heavy duty vehicle; and

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

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

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

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

383 (a) in an amount equal to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

414 (5) (a) The aggregate annual total amount of tax credits represented by tax credit  
415 certificates that the director issues under this section and ~~[Section]~~ Sections 59-7-618.1,  
416 59-7-618.2, and 59-10-1033.2 may not exceed \$500,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

446 (c) once per vehicle.

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

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

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

454 **59-10-1033.2. Nonrefundable tax credit for purchase of locomotive idle-reduction**  
455 **device.**

456 (1) As used in this section:

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

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

461 (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.**

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

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

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

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

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

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

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

533 [(7)] (8) Section 59-9-102.5 is repealed December 31, 2030.

534 [(8)] (9) Section 59-10-1033.1 is repealed July 1, [2029] 2031.

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

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

537 **79-6-602. Definitions.**

538 As used in this part:

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

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

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

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

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

550 (4) "High cost infrastructure project" means:

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

553 ~~[(a)]~~ (i) ~~[(i)]~~ (A) that expands or creates new industrial, mining, manufacturing, or  
554 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

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

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

590 (a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

591 (b) Title 59, Chapter 5, Part 2, Mining Severance Tax;

592 (c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

593 (d) Title 59, Chapter 10, Individual Income Tax Act; and

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

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

600 [~~8~~] (9) "Office" means the Office of Energy Development created in Section  
601 79-6-401.

602 [~~9~~] (10) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

603 [~~10~~] (11) "Tax credit certificate" means a certificate issued by the office to an  
604 infrastructure cost-burdened entity that:

605 (a) lists the name of the infrastructure cost-burdened entity;

606 (b) lists the infrastructure cost-burdened entity's taxpayer identification number;

607 (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure  
608 cost-burdened entity under this part; and

609 (d) includes other information as determined by the office.

610 [~~11~~] (12) (a) "Underground mine infrastructure project" means a project that:

611 (i) is designed to create permanent underground infrastructure to facilitate underground  
612 mining operations; and

613 (ii) services multiple levels or areas of an underground mine or multiple underground  
614 mines.

615 (b) "Underground mine infrastructure project" includes:

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

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

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

621 **79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.**

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

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

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

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

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

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

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

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

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

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

658 (A) existing;

659 (B) under construction;

660 (C) planned; or

661 (D) foreseeable;

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

663 (A) engineering;

664 (B) environmental issues;

665 (C) energy production;

666 (D) load or other capacity; and

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

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

671 (A) the Federal Energy Regulatory Commission;

672 (B) the North American Electric Reliability Council; and

673 (C) the Public Service Commission of Utah.

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

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

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

679 in Subsection (2)(b).

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

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

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

691 (a) for the lesser of:

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

693 (ii) 20 years; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

734 **79-6-604. Tax credit -- Application procedure.**

735 (1) An applicant shall provide the office with:

736 (a) an application for a tax credit certificate;

737 (b) documentation that the applicant meets the requirements described in Subsection  
738 **79-6-603**(1), to the satisfaction of the office, for the taxable year for which the applicant seeks  
739 to claim a tax credit; ~~and~~

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



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

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

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

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

750 (3) If, after the office reviews the documentation from the State Tax Commission  
751 under Subsection (2)(b) and the information the applicant submits to the office under Section  
752 79-6-603, the office, in consultation with the Utah Energy Infrastructure Board created in  
753 Section 79-6-902, determines that the applicant is not eligible for the tax credit under Section  
754 79-6-603, or that the applicant's documentation is inadequate, the office shall:

755 (a) deny the tax credit; or

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

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

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

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

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

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

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

772 59-7-619 or 59-10-1034 unless the infrastructure cost-burdened entity receives a tax credit  
773 certificate from the office.

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

776 (8) Except for the information that is necessary for the office to disclose in order to  
777 make the report described in Section 79-6-605, the office shall treat a document an applicant or  
778 infrastructure cost-burdened entity provides to the office as a protected record under Section  
779 63G-2-305.

780 Section 11. **Effective date.**

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

785 Section 12. **Retrospective operation.**

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

788 (a) Section 59-7-618.1;

789 (b) Section 59-7-618.2;

790 (c) Section 59-10-1033.1;

791 (d) Section 59-10-1033.2;

792 (e) Section 79-6-602;

793 (f) Section 79-6-603; and

794 (g) Section 79-6-604.