

Representative Douglas V. Sagers proposes the following substitute bill:

ENTERPRISE ZONE TAX CREDIT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends the enterprise zone income tax credits.

Highlighted Provisions:

This bill:

▶ authorizes for a specified time, an enterprise zone tax credit for certain investments in a plant, equipment, or other depreciable property used to:

- produce or process from a renewable energy source, hydrogen for use as fuel; or
- distribute or dispense hydrogen fuel produced from a renewable energy source;

▶ allows a taxpayer to claim enterprise zone income tax credits against taxes owed under the Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 [59-7-614.10](#), as last amended by Laws of Utah 2019, Chapter 247
 27 [59-10-1037](#), as last amended by Laws of Utah 2019, Chapter 247
 28 [63I-2-263](#), as last amended by Laws of Utah 2019, Chapters 182, 240, 246, 325, 370,
 29 and 483
 30 [63N-2-213](#), as last amended by Laws of Utah 2019, Chapter 247

31 ENACTS:

32 [59-8-301](#), Utah Code Annotated 1953

33

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

35 Section 1. Section [59-7-614.10](#) is amended to read:

36 **[59-7-614.10. Nonrefundable enterprise zone tax credit.](#)**

37 (1) As used in this section:

38 (a) "Business entity" means a corporation that meets the definition of "business entity"
39 as that term is defined in Section [63N-2-202](#).

40 (b) "Office" means the Governor's Office of Economic Development created in Section
41 [63N-1-201](#).

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

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

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

50 (5) A business entity may not claim or carry forward a tax credit [~~available~~] under this
51 [~~part~~] section for a taxable year during which the business entity has claimed the targeted
52 business income tax credit [~~available~~] under Section [59-7-624](#).

53 (6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim
54 Committee shall study the tax credit allowed by this section and make recommendations
55 concerning whether the tax credit should be continued, modified, or repealed.

56 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by

57 this Subsection (6), the office shall provide by electronic means the following information for
58 each calendar year to the Office of the Legislative Fiscal Analyst:

- 59 (A) the amount of tax credits provided in each development zone;
- 60 (B) the number of new full-time employee positions reported to obtain tax credits in
61 each development zone;
- 62 (C) the amount of tax credits awarded for rehabilitating a building in each development
63 zone;
- 64 (D) the amount of tax credits awarded for investing in a plant, equipment, or other
65 depreciable property in each development zone;
- 66 (E) the information related to the tax credit contained in the office's latest report under
67 Section 63N-1-301; and
- 68 (F) any other information that the Office of the Legislative Fiscal Analyst requests.

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

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

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

80 (d) The Revenue and Taxation Interim Committee shall ensure that the
81 recommendations described in Subsection (6)(a) include an evaluation of:

- 82 (i) the cost of the tax credit to the state;
- 83 (ii) the purpose and effectiveness of the tax credit; and
- 84 (iii) the extent to which the state benefits from the tax credit.

85 Section 2. Section 59-8-301 is enacted to read:

86 **Part 3. Tax Credits**
87 **59-8-301. Nonrefundable enterprise zone tax credit.**

88 (1) As used in this section:

89 (a) "Business entity" means an organization subject to the tax imposed by this part that
90 is a business entity as defined in Section 63N-2-202.

91 (b) "Office" means the Governor's Office of Economic Development created in Section
92 63N-1-201.

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

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

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

101 (5) (a) The Revenue and Taxation Interim Committee shall ~~H~~→ :

101a (i) ~~H~~ study the tax credit allowed

102 by this section ~~H~~ [:

103 ———~~(i)~~ ~~H~~ as part of the Revenue and Taxation Interim Committee's study under Subsection
104 59-7-164.10(6); and

105 (ii) make recommendations concerning whether the tax credit should be continued,
106 modified, or repealed.

107 (b) Except as provided in Subsection (5)(c), for purposes of the study required by this
108 Subsection (5), the office shall provide by electronic means the following information for each
109 calendar year to the Office of the Legislative Fiscal Analyst:

110 (i) the amount of tax credits provided in each development zone;

111 (ii) the number of new full-time employee positions reported to obtain tax credits in
112 each development zone;

113 (iii) the amount of tax credits awarded for rehabilitating a building in each
114 development zone;

115 (iv) the amount of tax credits awarded for investing in a plant, equipment, or other
116 depreciable property in each development zone;

117 (v) the information related to the tax credit contained in the office's latest report under
118 Section 63N-1-301; and

119 (vi) any other information that the Office of the Legislative Fiscal Analyst requests.

120 (c) (i) In providing the information described in Subsection (5) ~~H~~→ ~~(a)~~ (b) ←~~H~~, the office
 120a shall

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

122 (ii) If, notwithstanding the redactions made under Subsection (5) ~~H~~→ ~~(b)~~ (c) ←~~H~~ (i),
 122a reporting the

123 information described in Subsection (5)(b)(i) might disclose the identity of a recipient of a tax
 124 credit, the office may file a request with the Revenue and Taxation Interim Committee to
 125 provide the information described in Subsection (5)(b)(i) in the aggregate for all development
 126 zones that receive the tax credit under this section.

127 (d) As part of the study required by this Subsection (5), the Office of the Legislative
 128 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
 129 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
 130 office under Subsection (5)(b).

131 (e) The Revenue and Taxation Interim Committee shall ensure that the
 132 recommendations described in Subsection (5)(a) include an evaluation of:

- 133 (i) the cost of the tax credit to the state;
- 134 (ii) the purpose and effectiveness of the tax credit; and
- 135 (iii) the extent to which the state benefits from the tax credit.

136 Section 3. Section **59-10-1037** is amended to read:

137 **59-10-1037. Nonrefundable enterprise zone tax credit.**

138 (1) As used in this section:

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

141 (b) "Office" means the Governor's Office of Economic Development created in Section
 142 [63N-1-201](#).

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

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

148 (4) A business entity may carry forward a tax credit under this section for a period that
 149 does not exceed the next three taxable years, if the amount of the tax credit exceeds the

150 business entity's tax liability under this chapter for that taxable year.

151 (5) A business entity may not claim or carry forward a tax credit [~~available~~]
152 [~~part~~] section for a taxable year during which the business entity has claimed the targeted
153 business income tax credit [~~available~~] under Section 59-10-1112.

154 (6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim
155 Committee shall study the tax credit allowed by this section and make recommendations
156 concerning whether the tax credit should be continued, modified, or repealed.

157 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by
158 this Subsection (6), the office shall provide by electronic means the following information, if
159 available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

160 (A) the amount of tax credits provided in each development zone;

161 (B) the number of new full-time employee positions reported to obtain tax credits in
162 each development zone;

163 (C) the amount of tax credits awarded for rehabilitating a building in each development
164 zone;

165 (D) the amount of tax credits awarded for investing in a plant, equipment, or other
166 depreciable property in each development zone;

167 (E) the information related to the tax credit contained in the office's latest report under
168 Section 63N-1-301; and

169 (F) other information that the Office of the Legislative Fiscal Analyst requests.

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

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

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

- 181 (d) The Revenue and Taxation Interim Committee shall ensure that the
182 recommendations described in Subsection (6)(a) include an evaluation of:
183 (i) the cost of the tax credit to the state;
184 (ii) the purpose and effectiveness of the tax credit; and
185 (iii) the extent to which the state benefits from the tax credit.
- 186 Section 4. Section **63I-2-263** is amended to read:
187 **63I-2-263. Repeal dates, Title 63A to Title 63N.**
- 188 (1) On July 1, 2020:
189 (a) Subsection **63A-1-203(5)(a)(i)** is repealed; and
190 (b) in Subsection **63A-1-203(5)(a)(ii)**, the language that states "appointed on or after
191 May 8, 2018," is repealed.
- 192 (2) Sections **63C-4a-307** and **63C-4a-309** are repealed January 1, 2020.
- 193 (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is
194 repealed July 1, 2020.
- 195 (4) The following sections regarding the World War II Memorial Commission are
196 repealed on July 1, 2020:
197 (a) Section **63G-1-801**;
198 (b) Section **63G-1-802**;
199 (c) Section **63G-1-803**; and
200 (d) Section **63G-1-804**.
- 201 (5) In relation to the State Fair Park Committee, on January 1, 2021:
202 (a) Section **63H-6-104.5** is repealed; and
203 (b) Subsections **63H-6-104(8)** and **(9)** are repealed.
- 204 (6) Section **63H-7a-303** is repealed on July 1, 2022.
- 205 (7) In relation to the Employability to Careers Program Board, on July 1, 2022:
206 (a) Subsection **63J-1-602.1(52)** is repealed;
207 (b) Subsection **63J-4-301(1)(h)**, related to the review of data and metrics, is repealed;
208 and
209 (c) Title 63J, Chapter 4, Part 7, Employability to Careers Program, is repealed.
- 210 (8) Section **63J-4-708** is repealed January 1, 2023.
211 (9) Subsection **63N-2-213(7)(g)**, which provides a tax credit related to property used

212 primarily to produce or process hydrogen for fuel or to distribute or dispense hydrogen fuel, is
213 repealed January 1, 2027.

214 Section 5. Section **63N-2-213** is amended to read:

215 **63N-2-213. State tax credits.**

216 (1) The office shall certify a business entity's eligibility for a tax credit described in this
217 section.

218 (2) A business entity seeking to receive a tax credit as provided in this section shall
219 provide the office with:

220 (a) an application for a tax credit certificate in a form approved by the office, including
221 a certification, by an officer of the business entity, of a signature on the application; and

222 (b) documentation that demonstrates the business entity has met the requirements to
223 receive the tax credit.

224 (3) If, after review of an application and documentation provided by a business entity
225 as described in Subsection (2), the office determines that the application and documentation are
226 inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

227 (a) deny the tax credit; or

228 (b) inform the business entity that the application or documentation was inadequate
229 and ask the business entity to submit additional documentation.

230 (4) If, after review of an application and documentation provided by a business entity
231 as described in Subsection (2), the office determines that the application and documentation
232 provide reasonable justification for authorizing a tax credit, the office shall:

233 (a) determine the amount of the tax credit to be granted to the business entity;

234 (b) issue a tax credit certificate to the business entity; and

235 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

236 (5) A business entity may not claim a tax credit under this section unless the business
237 entity has a tax credit certificate issued by the office.

238 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
239 office shall make rules describing:

240 (a) the form and content of an application for a tax credit under this section;

241 (b) the documentation requirements for a business entity to receive a tax credit
242 certificate under this section; and

243 (c) administration of the program, including relevant timelines and deadlines.

244 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
245 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
246 Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on
247 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Title 59,
248 Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

249 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
250 employee position created within the enterprise zone;

251 (b) an additional \$500 tax credit may be claimed if the new full-time employee position
252 created within the enterprise zone pays at least 125% of:

253 (i) the county average monthly nonagricultural payroll wage for the respective industry
254 as determined by the Department of Workforce Services; or

255 (ii) if the county average monthly nonagricultural payroll wage is not available for the
256 respective industry, the total average monthly nonagricultural payroll wage in the respective
257 county where the enterprise zone is located;

258 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
259 position created within the enterprise zone is in a business entity that adds value to agricultural
260 commodities through manufacturing or processing;

261 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
262 new full-time employee position created within the enterprise zone that is filled by an
263 employee who is insured under an employer-sponsored health insurance program if the
264 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

265 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
266 enterprise zone that has been vacant for two years or more; [~~and~~]

267 (f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
268 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
269 property[-]; and

270 (g) for a taxable year beginning on or after January 1, 2021, and before January 1, 2026,
271 an additional annual investment tax credit of 10% of the first \$250,000 investment, 5% of the
272 next \$1,000,000 investment, and 2.5% of the next \$2,000,000 investment, in a plant,
273 equipment, or other depreciable property used primarily:

274 (i) to produce or process, from a renewable energy source, as defined in Section
275 54-17-601, hydrogen for use as a fuel; or

276 (ii) to distribute or dispense hydrogen fuel produced from a renewable energy source,
277 as defined in Section 54-17-601.

278 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
279 credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30
280 full-time employee positions in a taxable year.

281 (b) A business entity that received a tax credit for one or more new full-time employee
282 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
283 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
284 through (d) if:

285 (i) the business entity has created a new full-time position within the enterprise zone;
286 and

287 (ii) the total number of full-time employee positions at the business entity at any point
288 during the tax year for which the tax credit is being claimed is greater than the highest number
289 of full-time employee positions that existed at the business entity in the previous three taxable
290 years.

291 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
292 through ~~(f)~~ (f).

293 (9) If the amount of a tax credit under this section exceeds a business entity's tax
294 liability under this chapter for a taxable year, the business entity may carry forward the amount
295 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
296 years.

297 (10) Tax credits under ~~Subsections (7)(a) through (f)~~ Subsection (7) may not be
298 claimed by a business entity primarily engaged in retail trade or by a public utilities business.

299 (11) A business entity that has no employees:

300 (a) may not claim tax credits under Subsections (7)(a) through (d); and

301 (b) may claim tax credits under Subsections (7)(e) through ~~(f)~~ (g).

302 (12) (a) A business entity may not claim or carry forward a tax credit available under
303 this part for a taxable year during which the business entity has claimed the targeted business
304 income tax credit available under Section 63N-2-304.

305 (b) A business entity may not claim or carry forward a tax credit available under this
306 section for a taxable year during which the business entity claims or carries forward a tax credit
307 available under Section 59-7-610 or 59-10-1007.

308 (13) (a) On or before November 30, 2018, and every three years after 2018, the
309 Revenue and Taxation Interim Committee shall review the tax credits provided by this section
310 and make recommendations concerning whether the tax credits should be continued, modified,
311 or repealed.

312 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation
313 Interim Committee shall:

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

315 (ii) invite state agencies, individuals, and organizations concerned with the credits
316 under review to provide testimony;

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

318 (A) the cost of the tax credits to the state;

319 (B) the purpose and effectiveness of the tax credits; and

320 (C) the extent to which the state benefits from the tax credits; and

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

323 Section 6. **Effective date.**

324 This bill takes effect for a taxable year beginning on or after January 1, 2021.