

WORKFORCE DEVELOPMENT INCENTIVES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to tax credit incentives for economic development.

Highlighted Provisions:

This bill:

- ▶ defines the term "working parent benefits"; and
- ▶ provides that the Governor's Office of Economic Development may consider

whether an employer will provide working parent benefits when awarding certain economic development tax credits.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-2-103, as last amended by Laws of Utah 2019, Chapters 399, 465, 498 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 465

63N-2-104, as last amended by Laws of Utah 2018, Chapter 281

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

Section 1. Section **63N-2-103** is amended to read:



28 **63N-2-103. Definitions.**

29 As used in this part:

30 (1) "Authority" means:

31 (a) the Utah Inland Port Authority, created in Section 11-58-201; or

32 (b) the Military Installation Development Authority, created in Section 63H-1-201.

33 (2) "Authority project area" means a project area of:

34 (a) the Utah Inland Port Authority, created in Section 11-58-201; or

35 (b) the Military Installation Development Authority, created in Section 63H-1-201.

36 (3) "Business entity" means a person that enters into an agreement with the office to
37 initiate a new commercial project in Utah that will qualify the person to receive a tax credit
38 under Section 59-7-614.2 or 59-10-1107.

39 (4) "Community reinvestment agency" has the same meaning as that term is defined in
40 Section 17C-1-102.

41 (5) "Development zone" means an economic development zone created under Section
42 63N-2-104.

43 (6) "Local government entity" means a county, city, town, or authority that enters into
44 an agreement with the office to have a new commercial project that:

45 (a) is initiated within:

46 (i) the boundary of the county, city, or town; or

47 (ii) an authority project area; and

48 (b) qualifies the county, city, town, or authority to receive a tax credit under Section
49 59-7-614.2.

50 (7) (a) "New commercial project" means an economic development opportunity that
51 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

52 (b) "New commercial project" does not include retail business.

53 (8) "Significant capital investment" means an amount of at least \$10,000,000 to
54 purchase capital or fixed assets, which may include real property, personal property, and other
55 fixtures related to a new commercial project:

56 (a) that represents an expansion of existing operations in the state; or

57 (b) that maintains or increases the business entity's existing work force in the state.

58 (9) "Tax credit" means an economic development tax credit created by Section

59 [59-7-614.2](#) or [59-10-1107](#).

60 (10) "Tax credit amount" means the amount the office lists as a tax credit on a tax
61 credit certificate for a taxable year.

62 (11) "Tax credit certificate" means a certificate issued by the office that:

63 (a) lists the name of the business entity, local government entity, or community
64 development and renewal agency to which the office authorizes a tax credit;

65 (b) lists the business entity's, local government entity's, or community development and
66 renewal agency's taxpayer identification number;

67 (c) lists the amount of tax credit that the office authorizes the business entity, local
68 government entity, or community development and renewal agency for the taxable year; and

69 (d) may include other information as determined by the office."

70 (12) (a) "Working parent benefits" means nonwage compensation in addition to normal
71 wages that are provided to an employee who is the parent or guardian of one or more dependent
72 children.

73 (b) "Working parent benefits" may include:

74 (i) licensed on-site child care, licensed near-site child care, or a child-care subsidy;

75 (ii) a flexible work schedule;

76 (iii) a matched flexible spending account for child care;

77 (iv) paid family care leave; and

78 (v) a partnership with a local licensed child-care provider to secure stable placement
79 for children of an employee.

80 Section 2. Section **63N-2-104** is amended to read:

81 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**
82 **of tax credit.**

83 (1) The office, with advice from the board, may create an economic development zone
84 in the state if the following requirements are satisfied:

85 (a) the area is zoned commercial, industrial, manufacturing, business park, research
86 park, or other appropriate business related use in a community-approved master plan;

87 (b) the request to create a development zone has first been approved by an appropriate
88 local government entity; and

89 (c) local incentives have been or will be committed to be provided within the area.

90 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
91 the office shall make rules establishing the requirements for a business entity or local
92 government entity to qualify for a tax credit for a new commercial project in a development
93 zone under this part.

94 (b) The office shall ensure that the requirements described in Subsection (2)(a) include
95 the following:

96 (i) the new commercial project is within the development zone;

97 (ii) the new commercial project includes direct investment within the geographic
98 boundaries of the development zone;

99 (iii) the new commercial project brings new incremental jobs to Utah;

100 (iv) the new commercial project includes the creation of high paying jobs in the state,
101 significant capital investment in the state, or significant purchases from vendors, contractors, or
102 service providers in the state, or a combination of these three economic factors;

103 (v) the new commercial project generates new state revenues; and

104 (vi) a business entity, a local government entity, or a community reinvestment agency
105 to which a local government entity assigns a tax credit under this section meets the
106 requirements of Section 63N-2-105.

107 (c) In determining the maximum potential amount and duration of a tax credit offered
108 to a business entity or local government entity under this part, the office may consider, in
109 addition to other criteria described in this section, whether the new commercial project will
110 provide working parent benefits to employees.

111 (3) (a) The office, after consultation with the board, may enter into a written agreement
112 with a business entity or local government entity authorizing a tax credit to the business entity
113 or local government entity if the business entity or local government entity meets the
114 requirements described in this section.

115 (b) (i) With respect to a new commercial project, the office may authorize a tax credit
116 to a business entity or a local government entity, but not both.

117 (ii) In determining whether to authorize a tax credit with respect to a new commercial
118 project to a business entity or a local government entity, the office shall authorize the tax credit
119 in a manner that the office determines will result in providing the most effective incentive for
120 the new commercial project.

121 (c) (i) Except as provided in Subsection (3)(c)(ii), the office may not authorize or
122 commit to authorize a tax credit that exceeds:

123 (A) 50% of the new state revenues from the new commercial project in any given year;
124 or

125 (B) 30% of the new state revenues from the new commercial project over the lesser of
126 the life of a new commercial project or 20 years.

127 (ii) If the eligible business entity makes capital expenditures in the state of
128 \$1,500,000,000 or more associated with a new commercial project, the office may:

129 (A) authorize or commit to authorize a tax credit not exceeding 60% of new state
130 revenues over the lesser of the life of the project or 20 years, if the other requirements of this
131 part are met;

132 (B) establish the year that state revenues and incremental jobs baseline data are
133 measured for purposes of an incentive under this Subsection (3)(c)(ii); and

134 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive
135 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements
136 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to
137 authorize a tax credit of more than 60% of new state revenues in any one year.

138 (d) (i) A local government entity may by resolution assign a tax credit authorized by
139 the office to a community reinvestment agency.

140 (ii) The local government entity shall provide a copy of the resolution described in
141 Subsection (3)(d)(i) to the office.

142 (iii) If a local government entity assigns a tax credit to a community reinvestment
143 agency, the written agreement described in Subsection (3)(a) shall:

144 (A) be between the office, the local government entity, and the community
145 reinvestment agency;

146 (B) establish the obligations of the local government entity and the community
147 reinvestment agency; and

148 (C) establish the extent to which any of the local government entity's obligations are
149 transferred to the community reinvestment agency.

150 (iv) If a local government entity assigns a tax credit to a community reinvestment
151 agency:

152 (A) the community reinvestment agency shall retain records as described in Subsection
153 (4)(d); and

154 (B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the
155 community reinvestment agency as the named applicant.

156 (4) The office shall ensure that the written agreement described in Subsection (3):

157 (a) specifies the requirements that the business entity or local government entity shall
158 meet to qualify for a tax credit under this part;

159 (b) specifies the maximum amount of tax credit that the business entity or local
160 government entity may be authorized for a taxable year and over the life of the new commercial
161 project;

162 (c) establishes the length of time the business entity or local government entity may
163 claim a tax credit;

164 (d) requires the business entity or local government entity to retain records supporting a
165 claim for a tax credit for at least four years after the business entity or local government entity
166 claims a tax credit under this part; and

167 (e) requires the business entity or local government entity to submit to audits for
168 verification of the tax credit claimed.