

ENTERPRISE ZONE TAX CREDIT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the enterprise zone income tax credits.

Highlighted Provisions:

This bill:

▶ authorizes enterprise zone income tax credits for:

• the creation of certain full-time jobs in a business that produces, processes, distributes, or dispenses hydrogen fuel; and

• certain investments in plant, equipment, or other depreciable property used to produce, process, distribute, or dispense hydrogen fuel; 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:

63N-2-213, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

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

Section 1. Section **63N-2-213** is amended to read:



28 **63N-2-213. State tax credits.**

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

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

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

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

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

40 (a) deny the tax credit; or

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

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

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

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

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

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

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

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

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

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

57 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
58 of this part are met, the following nonrefundable tax credits against a tax under Title 59,

59 Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income
60 Tax Act, are applicable in an enterprise zone:

61 (a) ~~Ĥ~~→ **(i) except as provided in Subsection (7)(a)(ii),** ←~~Ĥ~~ a tax credit of \$750 may be
61a claimed by a business entity for each new full-time
62 employee position created within the enterprise zone; ~~Ĥ~~→ **or**

62a **(ii) if a business entity produces, processes, distributes, dispenses, or stores hydrogen**
62b **for use as a fuel, a tax credit of \$750 may be claimed by the business entity for each new**
62c **full-time employee position created within the enterprise zone if the new full-time employee**
62d **position created within the enterprise zone pays at least 125% of:**

62e **(A) the county average monthly nonagricultural payroll wage for the respective**
62f **industry as determined by the Department of Workforce Services; or**

62g **(B) if the county average monthly nonagricultural payroll wage is not available for the**
62h **respective industry, the total average monthly nonagricultural payroll wage in the respective**
62i **county where the enterprise zone is located;** ←~~Ĥ~~

63 (b) ~~Ĥ~~→ **(i) except as provided in Subsection (7)(b)(ii),** ←~~Ĥ~~ an additional \$500 tax credit
63a may be claimed if the new full-time employee position
64 created within the enterprise zone pays at least 125% of:

65 ~~Ĥ~~→ **[(i)] (A)** ←~~Ĥ~~ the county average monthly nonagricultural payroll wage for the respective
65a industry
66 as determined by the Department of Workforce Services; or

67 ~~Ĥ~~→ **[(ii)] (B)** ←~~Ĥ~~ if the county average monthly nonagricultural payroll wage is not
67a available for the
68 respective industry, the total average monthly nonagricultural payroll wage in the respective
69 county where the enterprise zone is located; ~~Ĥ~~→ **or**

69a **(ii) if a business entity produces, processes, distributes, dispenses, or stores hydrogen**
69b **for use as a fuel, an additional \$500 tax credit may be claimed if the new full-time employee**
69c **position created within the enterprise zone pays at least 150% of:**

69d **(A) the county average monthly nonagricultural payroll wage for the respective**
69e **industry as determined by the Department of Workforce Services; or**

69f **(B) if the county average monthly nonagricultural payroll wage is not available for the**
69g **respective industry, the total average monthly nonagricultural payroll wage in the respective**
69h **county where the enterprise zone is located;** ←~~Ĥ~~

70 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
71 position created within the enterprise zone is in a business entity that adds value to agricultural ☻

72 ☛ commodities through manufacturing or processing;

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

77 ~~Ĥ→ [(e) an additional tax credit of \$750 may be claimed if the new full-time employee~~
78 ~~position created within the enterprise zone is in a business entity that produces or processes~~
79 ~~hydrogen for use as a fuel;~~

80 ~~—— (f) an additional tax credit of \$750 may be claimed if the new full-time employee~~
81 ~~position created within the enterprise zone is in a business entity that distributes or dispenses~~
82 ~~hydrogen fuel;~~

83 ~~—— [(e) [(g)] ←Ĥ~~ a tax credit of 25% of the first \$200,000 spent on rehabilitating a building
83a in
84 the enterprise zone that has been vacant for two years or more; [~~and~~]

85 ~~Ĥ→ [(f) [(h)] ←Ĥ~~ an annual investment tax credit of 10% of the first \$250,000 in
85a investment,
86 and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
87 property[-]; ~~and~~

88 ~~Ĥ→ [(g)] ←Ĥ~~ an additional annual investment tax credit of 10% of the first \$250,000
88a investment,
89 5% of the next \$1,000,000 investment, and 2.5% of the next \$2,000,000 investment in plant,

90 equipment, or other depreciable property used primarily:

91 (i) to produce or process hydrogen for use as a fuel; or

92 (ii) to distribute ~~to~~, ~~store~~ dispense ~~to~~, or store ~~to~~ hydrogen fuel.

93 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
94 credit under Subsections (7)(a) through ~~(7)(f)~~ (d) ~~(7)(g)~~ ~~(7)(h)~~ may claim the tax credit for no more
94a than 30

95 full-time employee positions in a taxable year.

96 (b) A business entity that received a tax credit for one or more new full-time employee
97 positions under Subsections (7)(a) through ~~(7)(f)~~ (d) ~~(7)(g)~~ ~~(7)(h)~~ in a prior taxable year may claim
97a a tax

98 credit for a new full-time employee position in a subsequent taxable year under Subsections
99 (7)(a) through ~~(7)(f)~~ (d) ~~(7)(g)~~ ~~(7)(h)~~ if:

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

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

106 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
107 through ~~(7)(f)~~ (d) ~~(7)(g)~~ ~~(7)(h)~~ .

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

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

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

115 (a) may not claim tax credits under Subsections (7)(a) through ~~(7)(f)~~ (d) ~~(7)(g)~~ ~~(7)(h)~~ ; and

116 (b) may claim tax credits under Subsections ~~(7)(a) through (7)(g)~~ (7)(e) ~~(7)(g)~~ ~~(7)(h)~~ through ~~(7)(f)~~
116a ~~(7)(g)~~ (g) ~~(7)(h)~~ .

117 (12) A business entity may not claim or carry forward a tax credit available under this
118 part for a taxable year during which the business entity has claimed the targeted business
119 income tax credit available under Section 63N-2-305.

120 (13) (a) On or before November 30, 2018, and every three years after 2018, the

121 Revenue and Taxation Interim Committee shall review the tax credits provided by this section
122 and make recommendations concerning whether the tax credits should be continued, modified,
123 or repealed.

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

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

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

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

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

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

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

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

135 Section 2. **Effective date.**

136 This bill takes effect for a taxable year beginning on or after January 1, 2020.