

TARGETED BUSINESS INCOME TAX CREDIT

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill repeals the Targeted Business Income Tax Credit in an Enterprise Zone.

Highlighted Provisions:

This bill:

- ▶ provides that a business applicant may claim the Targeted Business Income Tax Credit in an Enterprise Zone (the income tax credit) for a taxable year that begins before January 1, 2023;
- ▶ schedules the repeal of provisions of code that reference the income tax credit; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-7-159, as last amended by Laws of Utah 2021, Chapters 282 and 367

59-7-624, as last amended by Laws of Utah 2021, Chapter 282

59-10-137, as last amended by Laws of Utah 2021, Chapters 282 and 367

59-10-1112, as last amended by Laws of Utah 2021, Chapter 282

63I-2-259, as last amended by Laws of Utah 2021, Chapter 370

63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

30 **63N-2-304**, as last amended by Laws of Utah 2019, Chapter 247



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **59-7-159** is amended to read:

34 **59-7-159. Review of credits allowed under this chapter.**

35 (1) As used in this section, "committee" means the Revenue and Taxation Interim
36 Committee.

37 (2) (a) The committee shall review the tax credits described in this chapter as provided
38 in Subsection (3) and make recommendations concerning whether the tax credits should be
39 continued, modified, or repealed.

40 (b) In conducting the review required under Subsection (2)(a), the committee shall:

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

42 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
43 under review to provide testimony;

44 (iii) (A) invite the Governor's Office of Economic Opportunity to present a summary
45 and analysis of the information for each tax credit regarding which the Governor's Office of
46 Economic Opportunity is required to make a report under this chapter; and

47 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
48 analysis of the information for each tax credit regarding which the Office of the Legislative
49 Fiscal Analyst is required to make a report under this chapter;

50 (iv) ensure that the committee's recommendations described in this section include an
51 evaluation of:

52 (A) the cost of the tax credit to the state;

53 (B) the purpose and effectiveness of the tax credit; and

54 (C) the extent to which the state benefits from the tax credit; and

55 (v) undertake other review efforts as determined by the committee chairs or as
56 otherwise required by law.

57 (3) (a) On or before November 30, 2017, and every three years after 2017, the

58 committee shall conduct the review required under Subsection (2) of the tax credits allowed
59 under the following sections:

- 60 (i) Section 59-7-601;
- 61 (ii) Section 59-7-607;
- 62 (iii) Section 59-7-612;
- 63 (iv) Section 59-7-614.1; and
- 64 (v) Section 59-7-614.5.

65 (b) On or before November 30, 2018, and every three years after 2018, the committee
66 shall conduct the review required under Subsection (2) of the tax credits allowed under the
67 following sections:

- 68 (i) Section 59-7-609;
- 69 (ii) Section 59-7-614.2;
- 70 (iii) Section 59-7-614.10;
- 71 (iv) Section 59-7-619; and
- 72 (v) Section 59-7-620[~~;~~ and].
- 73 [~~(vi) Section 59-7-624.~~]

74 (c) On or before November 30, 2019, and every three years after 2019, the committee
75 shall conduct the review required under Subsection (2) of the tax credits allowed under the
76 following sections:

- 77 (i) Section 59-7-610;
- 78 (ii) Section 59-7-614; and
- 79 (iii) Section 59-7-614.7.

80 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
81 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
82 2017.

83 (ii) The committee shall complete a review described in this Subsection (3)(d) three
84 years after the effective date of the tax credit and every three years after the initial review date.

85 Section 2. Section 59-7-624 is amended to read:

86 **59-7-624. Targeted business income tax credit.**

87 (1) As used in this section, "business applicant" means the same as that term is defined
88 in Section 63N-2-302.

89 (2) [A] For a taxable year that begins before January 1, 2023, a business applicant that
90 is certified and issued a targeted business income tax eligibility certificate by the Governor's
91 Office of Economic Opportunity under Section 63N-2-304 may claim a refundable tax credit in
92 the amount specified on the targeted business income tax eligibility certificate.

93 (3) For a taxable year for which a business applicant claims a targeted business income
94 tax credit under this section, the business applicant may not claim or carry forward a tax credit
95 under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone
96 Act.

97 Section 3. Section 59-10-137 is amended to read:

98 **59-10-137. Review of credits allowed under this chapter.**

99 (1) As used in this section, "committee" means the Revenue and Taxation Interim
100 Committee.

101 (2) (a) The committee shall review the tax credits described in this chapter as provided
102 in Subsection (3) and make recommendations concerning whether the tax credits should be
103 continued, modified, or repealed.

104 (b) In conducting the review required under Subsection (2)(a), the committee shall:

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

106 (ii) invite state agencies, individuals, and organizations concerned with the tax credit
107 under review to provide testimony;

108 (iii) (A) invite the Governor's Office of Economic Opportunity to present a summary
109 and analysis of the information for each tax credit regarding which the Governor's Office of
110 Economic Opportunity is required to make a report under this chapter; and

111 (B) invite the Office of the Legislative Fiscal Analyst to present a summary and
112 analysis of the information for each tax credit regarding which the Office of the Legislative
113 Fiscal Analyst is required to make a report under this chapter;

114 (iv) ensure that the committee's recommendations described in this section include an
115 evaluation of:

- 116 (A) the cost of the tax credit to the state;
- 117 (B) the purpose and effectiveness of the tax credit; and
- 118 (C) the extent to which the state benefits from the tax credit; and

119 (v) undertake other review efforts as determined by the committee chairs or as
120 otherwise required by law.

121 (3) (a) On or before November 30, 2017, and every three years after 2017, the
122 committee shall conduct the review required under Subsection (2) of the tax credits allowed
123 under the following sections:

- 124 (i) Section 59-10-1004;
- 125 (ii) Section 59-10-1010;
- 126 (iii) Section 59-10-1015;
- 127 (iv) Section 59-10-1025;
- 128 (v) Section 59-10-1027;
- 129 (vi) Section 59-10-1031;
- 130 (vii) Section 59-10-1032;
- 131 (viii) Section 59-10-1035;
- 132 (ix) Section 59-10-1104;
- 133 (x) Section 59-10-1105; and
- 134 (xi) Section 59-10-1108.

135 (b) On or before November 30, 2018, and every three years after 2018, the committee
136 shall conduct the review required under Subsection (2) of the tax credits allowed under the
137 following sections:

- 138 (i) Section 59-10-1005;
- 139 (ii) Section 59-10-1006;
- 140 (iii) Section 59-10-1012;
- 141 (iv) Section 59-10-1022;

- 142 (v) Section 59-10-1023;
- 143 (vi) Section 59-10-1028;
- 144 (vii) Section 59-10-1034;
- 145 (viii) Section 59-10-1037; and
- 146 (ix) Section 59-10-1107[; ~~and~~].
- 147 [~~(x) Section 59-10-1112.~~]

148 (c) On or before November 30, 2019, and every three years after 2019, the committee
149 shall conduct the review required under Subsection (2) of the tax credits allowed under the
150 following sections:

- 151 (i) Section 59-10-1007;
- 152 (ii) Section 59-10-1014;
- 153 (iii) Section 59-10-1017;
- 154 (iv) Section 59-10-1018;
- 155 (v) Section 59-10-1019;
- 156 (vi) Section 59-10-1024;
- 157 (vii) Section 59-10-1029;
- 158 (viii) Section 59-10-1036;
- 159 (ix) Section 59-10-1106; and
- 160 (x) Section 59-10-1111.

161 (d) (i) In addition to the reviews described in this Subsection (3), the committee shall
162 conduct a review of a tax credit described in this chapter that is enacted on or after January 1,
163 2017.

164 (ii) The committee shall complete a review described in this Subsection (3)(d) three
165 years after the effective date of the tax credit and every three years after the initial review date.

166 Section 4. Section 59-10-1112 is amended to read:

167 **59-10-1112. Targeted business income tax credit.**

168 (1) As used in this section, "business applicant" means the same as that term is defined
169 in Section 63N-2-302.

170 (2) [A] For a taxable year that begins before January 1, 2023, a business applicant that
171 is certified and issued a targeted business income tax eligibility certificate by the Governor's
172 Office of Economic Opportunity under Section [63N-2-304](#) may claim a refundable tax credit in
173 the amount specified on the targeted business income tax eligibility certificate.

174 (3) For a taxable year for which a business applicant claims a targeted business income
175 tax credit under this section, the business applicant may not claim or carry forward a tax credit
176 under Section [59-7-610](#), Section [59-10-1007](#), or Title 63N, Chapter 2, Part 2, Enterprise Zone
177 Act.

178 Section 5. Section **63I-2-259** is amended to read:

179 **63I-2-259. Repeal dates -- Title 59.**

180 (1) In Section [59-2-926](#), the language that states "applicable" and "or [53F-2-301.5](#)" is
181 repealed July 1, 2023.

182 [~~(2) Subsection [59-7-106](#)(1)(w) is repealed December 31, 2021.~~]

183 [~~(3) Section [59-7-620](#) is repealed December 31, 2021.~~]

184 [~~(4) Subsection [59-10-114](#)(2)(j) is repealed December 31, 2021.~~]

185 (2) Subsection [59-7-610](#)(8), relating to claiming a tax credit in the same taxable year as
186 the targeted business income tax credit, is repealed December 31, 2024.

187 (3) Subsection [59-7-614.10](#)(5), relating to claiming a tax credit in the same taxable
188 year as the targeted business income tax credit, is repealed December 31, 2024.

189 (4) Section [59-7-624](#) is repealed December 31, 2024.

190 (5) Subsection [59-10-210](#)(2)(b)(vi) is repealed December 31, 2024.

191 (6) Subsection [59-10-1007](#)(8), relating to claiming a tax credit in the same taxable year
192 as the targeted business income tax credit, is repealed December 31, 2024.

193 (7) Subsection [59-10-1037](#)(5), relating to claiming a tax credit in the same taxable year
194 as the targeted business income tax credit, is repealed December 31, 2024.

195 (8) Section [59-10-1112](#) is repealed December 31, 2024.

196 Section 6. Section **63I-2-263** is amended to read:

197 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

198 ~~[(1) Section 63A-3-111 is repealed June 30, 2021.]~~

199 ~~[(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is~~
200 ~~repealed July 1, 2021.]~~

201 ~~[(3)]~~ (1) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology
202 Commission is repealed July 1, 2023.

203 ~~[(4)]~~ (2) Section 63G-1-502 is repealed July 1, 2022.

204 ~~[(5)]~~ (3) The following sections regarding the World War II Memorial Commission are
205 repealed ~~[on]~~ July 1, 2022:

206 (a) Section 63G-1-801;

207 (b) Section 63G-1-802;

208 (c) Section 63G-1-803; and

209 (d) Section 63G-1-804.

210 ~~[(6)]~~ (4) Section 63H-7a-303 is repealed July 1, 2024.

211 ~~[(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.]~~

212 ~~[(8)]~~ (5) Sections 63M-7-213 and 63M-7-213.5 are repealed ~~[on]~~ January 1, 2023.

213 ~~[(9)]~~ (6) Section 63M-7-217 is repealed ~~[on]~~ July 1, 2022.

214 ~~[(10)]~~ (7) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is
215 repealed January 1, 2024.

216 ~~[(11) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed~~
217 ~~December 31, 2021.]~~

218 (8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable
219 year as the targeted business income tax credit, is repealed December 31, 2024.

220 (9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise
221 Zone, is repealed December 31, 2024.

222 Section 7. Section 63N-2-304 is amended to read:

223 **63N-2-304. Application for targeted business income tax credit.**

224 (1) (a) [A] For a taxable year that begins before January 1, 2023, a business applicant
225 may apply to the office for a targeted business income tax credit eligibility certificate under this

226 part if the business applicant:

227 (i) is located in:

228 (A) an enterprise zone; and

229 (B) a county with a population of less than 25,000;

230 (ii) meets the requirements of Section [63N-2-212](#);

231 (iii) provides a community investment project within the enterprise zone; and

232 (iv) is not engaged in the following:

233 (A) construction;

234 (B) retail trade; or

235 (C) public utility activities.

236 (b) For a taxable year for which a business applicant claims a targeted business income
237 tax credit available under this part, the business applicant may not claim or carry forward a tax
238 credit available under Section [59-7-610](#), [59-10-1007](#), or [63N-2-213](#).

239 (2) (a) A business applicant seeking to claim a targeted business income tax credit
240 under this part shall submit an application to the office by no later than June 1 of the taxable
241 year in which the business applicant is seeking to claim the targeted business income tax credit.

242 (b) The application described in Subsection (2)(a) shall include:

243 (i) any documentation required by the office to demonstrate that the business applicant
244 meets the requirements of Subsection (1);

245 (ii) a plan developed by the business applicant that describes:

246 (A) if the community investment project includes significant new employment, the
247 projected number and anticipated wage level of the jobs that the business applicant plans to
248 create as the basis for qualifying for a targeted business income tax credit;

249 (B) if the community investment project includes significant new capital development,
250 the capital development the business applicant plans to make as the basis for qualifying for a
251 targeted business income tax credit;

252 (C) how the business applicant's plan coordinates with the goals of the enterprise zone
253 in which the business applicant is providing a community investment project;

254 (D) how the business applicant's plan coordinates with the overall economic
255 development goals of the county or municipality in which the business applicant is providing a
256 community investment project;

257 (E) any matching funds that will be used for the community investment project;

258 (F) how any targeted business income tax credit incentives that were awarded in a
259 previous year have been used for the community investment project by the business applicant;
260 and

261 (G) the requested amount of the targeted business income tax credit; and

262 (iii) any additional information required by the office.

263 (3) (a) The office shall:

264 (i) evaluate an application filed under Subsection (2);

265 (ii) determine whether the business applicant is potentially eligible for a targeted
266 business income tax credit; and

267 (iii) if the business applicant is potentially eligible for a targeted business income tax
268 credit, determine performance benchmarks and the deadline for meeting those benchmarks that
269 the business applicant must achieve before the office awards a targeted business income tax
270 credit to the business applicant.

271 (b) If the office determines that the business applicant is potentially eligible for a
272 targeted business income tax credit, the office shall:

273 (i) notify the business applicant that the business applicant is eligible for a targeted
274 business income tax credit if the business applicant meets the performance benchmarks by the
275 deadline as determined by the office as described in Subsection (3)(a)(iii);

276 (ii) notify the business applicant of the potential amount of the targeted business
277 income tax credit that may be awarded to the business applicant, which amount may be no
278 more than \$100,000 for the business applicant in a taxable year; and

279 (iii) monitor a business applicant to ensure compliance with this section and to
280 measure the business applicant's progress in meeting performance benchmarks.

281 (c) If the business applicant provides evidence to the office, in a form prescribed by the

282 office, that the business applicant has achieved the performance benchmarks by the deadline as
283 determined by the office as described in Subsection (3)(a)(iii), the office shall:

284 (i) certify that the business applicant is eligible for a targeted business income tax
285 credit;

286 (ii) issue a targeted business income tax credit eligibility certificate to the business
287 applicant in accordance with:

288 (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate
289 Franchise and Income Taxes, Section 59-7-624; or

290 (B) for a business applicant that files a return under Title 59, Chapter 10, Individual
291 Income Tax Act, Section 59-10-1112; and

292 (iii) provide a duplicate copy of the targeted business income tax credit eligibility
293 certificate to the State Tax Commission.

294 (4) The total amount of the targeted business income tax credit eligibility certificates
295 that the office issues under this part for all business applicants may not exceed \$300,000 in any
296 fiscal year.

297 (5) (a) A business applicant shall retain the targeted business income tax credit
298 eligibility certificate as issued under Subsection (3) for the same time period that a person is
299 required to keep books and records under Section 59-1-1406.

300 (b) The office may audit a business applicant to ensure:

301 (i) eligibility for a targeted business income tax credit; and

302 (ii) compliance with this section.