

1 **UTAH FIRST ECONOMIC DEVELOPMENT AMENDMENTS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: John R. Westwood

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions related to the Governor's Office of Economic
10 Development.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ directs the Governor's Office of Economic Development to promote and encourage
14 the employment of Utah workers, the purchase of Utah goods, and the growth of
15 Utah businesses.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **63N-1-201**, as renumbered and amended by Laws of Utah 2015, Chapter 283

23 **63N-2-104**, as last amended by Laws of Utah 2016, Chapter 350

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

26 Section 1. Section **63N-1-201** is amended to read:

27 **63N-1-201. Creation of office -- Responsibilities.**

28 (1) There is created the Governor's Office of Economic Development.

29 (2) The office is:

30 (a) responsible for economic development and economic development planning in the
31 state; and

32 (b) the industrial promotion authority of the state.

33 (3) The office shall:

34 (a) administer and coordinate state and federal economic development grant programs;

35 (b) promote and encourage the economic, commercial, financial, industrial,
36 agricultural, and civic welfare of the state;

37 (c) promote and encourage the employment of workers in the state and the purchase of
38 goods and services produced in the state by local businesses;

39 [~~(c)~~] (d) act to create, develop, attract, and retain business, industry, and commerce in
40 the state;

41 [~~(d)~~] (e) act to enhance the state's economy;

42 [~~(e)~~] (f) administer programs over which the office is given administrative supervision
43 by the governor;

44 [~~(f)~~] (g) submit an annual written report as described in Section 63N-1-301; and

45 [~~(g)~~] (h) perform other duties as provided by the Legislature.

46 (4) In order to perform its duties under this title, the office may:

47 (a) enter into a contract or agreement with, or make a grant to, a public or private
48 entity, including a municipality, if the contract or agreement is not in violation of state statute
49 or other applicable law;

50 (b) except as provided in Subsection (4)(c), receive and expend funds from a public or
51 private source for any lawful purpose that is in the state's best interest; and

52 (c) solicit and accept a contribution of money, services, or facilities from a public or
53 private donor, but may not use the contribution for publicizing the exclusive interest of the
54 donor.

55 (5) Money received under Subsection (4)(c) shall be deposited in the General Fund as
56 dedicated credits of the office.

57 (6) (a) The office shall obtain the advice of the board before implementing a change to

58 a policy, priority, or objective under which the office operates.

59 (b) Subsection (6)(a) does not apply to the routine administration by the office of
60 money or services related to the assistance, retention, or recruitment of business, industry, or
61 commerce in the state.

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

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

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

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

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

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

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

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

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

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

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

82 (iv) the new commercial project includes the creation of high paying jobs in the state,
83 significant capital investment in the state, or significant purchases from vendors ~~and~~,

84 contractors, or service providers in the state, or a combination of these three economic factors;

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

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

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

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

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

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

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

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

105 (ii) If the eligible business entity makes capital expenditures in the state of
106 \$1,500,000,000 or more associated with a new commercial project, the office may:

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

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

112 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive
113 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements

114 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to
115 authorize a tax credit of more than 60% of new state revenues in any one year.

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

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

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

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

124 (B) establish the obligations of the local government entity and the community
125 reinvestment agency; and

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

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

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

132 (B) a tax credit certificate issued in accordance with Section 63N-2-106 shall list the
133 community reinvestment agency as the named applicant.

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

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

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

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

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

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