

**Effective 5/12/2015**

**Chapter 2**  
**Tax Credit Incentives for Economic Development**

**Part 1**  
**Economic Development Tax Increment Financing**

**63N-2-101 Title.**

- (1) This chapter is known as "Tax Credit Incentives for Economic Development."
- (2) This part is known as "Economic Development Tax Increment Financing."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-102 Purpose.**

This part is enacted to:

- (1) foster and develop targeted industries in the state, to stimulate community-focused economic growth, and to diversify and catalyze the state's economy;
- (2) create high paying employment opportunities in the state;
- (3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and
- (4) provide a cooperative and unified working relationship between state and local economic development efforts.

Amended by Chapter 200, 2022 General Session

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

As used in this part:

- (1)
  - (a) "Business entity" means a person that enters into a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.
  - (b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104.3(2), "business entity" includes a nonprofit entity.
- (2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.
- (3) "Development zone" means an economic development zone created under Section 63N-2-104.
- (4) "Local government entity" means a county, city, town, or metro township.
- (5) "New commercial project" means an economic development opportunity that:
  - (a) involves a targeted industry;
  - (b) is located within:
    - (i) a county of the third, fourth, fifth, or sixth class; or
    - (ii) a municipality that has a population of 10,000 or less and the municipality is located within a county of the second class; or
  - (c) involves an economic development opportunity that the commission determines to be eligible for a tax credit under this part.
- (6) "Remote work opportunity" means a new commercial project that:

- (a) does not require a physical office in the state where employees associated with the new commercial project are required to work; and
- (b) requires employees associated with the new commercial project to:
  - (i) work remotely from a location within the state; and
  - (ii) maintain residency in the state.
- (7) "Significant capital investment" means an investment in capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state.
- (8) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.
- (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.
- (10) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the business entity to which the office authorizes a tax credit;
  - (b) lists the business entity's taxpayer identification number;
  - (c) lists the amount of tax credit that the office authorizes the business entity for the taxable year; and
  - (d) may include other information as determined by the office.
- (11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.

Amended by Chapter 200, 2022 General Session

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

- (1) The office may create an economic development zone in the state if the following requirements are satisfied:
  - (a) the area is located within a commercial or industrial zone;
  - (b) the local government entity having jurisdiction over the area supports the creation of the development zone; and
  - (c) the local government entity described in Subsection (1)(b) provides or commits to provide local incentives within the area in accordance with the local government entity's approved incentive policy.
- (2) A local government entity may, for the purpose of incentivizing new commercial projects within the local government entity's boundaries, create an economic development zone if the following requirements are satisfied:
  - (a) the area is located:
    - (i) within a commercial or industrial zone; and
    - (ii) within the geographic boundaries of the local government entity;
  - (b) the local government entity adopts a long-term plan that addresses the following planning elements within the area:
    - (i) transportation and infrastructure;
    - (ii) workforce development; and
    - (iii) housing needs; and
  - (c) the office approves the local government entity's request to create the development zone.

Amended by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session

**63N-2-104.1 Eligibility for tax credit -- Economic impact study.**

- (1) The office shall certify a business entity's eligibility for a tax credit as provided in this section.
- (2) A business entity is eligible to receive a tax credit for a new commercial project if:
  - (a) the new commercial project:
    - (i)
      - (A) is located and provides direct investment within the geographic boundaries of a development zone; or
      - (B) creates a remote work opportunity;
    - (ii) includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors; and
    - (iii) generates new state revenues; and
  - (b) the business entity has not claimed a High Cost Infrastructure Development Tax Credit under Section 79-6-603 for the same new commercial project, if the new commercial project is located within a county of the first or second class.
- (3) The office shall conduct a study of the economic impacts associated with a new commercial project to determine whether a business entity meets the requirements of Subsection (2).
- (4) In determining whether a new commercial project meets the requirements of Subsection (2)(a)(ii), the office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within a development zone, or remotely from elsewhere in the state.

Enacted by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session, (Coordination Clause)

**63N-2-104.2 Written agreement -- Contents -- Grounds for amendment or termination.**

- (1) If the office determines that a business entity is eligible for a tax credit under Section 63N-2-104.1, the office may enter into a written agreement with the business entity that:
  - (a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;
  - (b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;
  - (c) establishes the length of time the business entity may claim a tax credit;
  - (d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;
  - (e) requires the business entity to submit to audits for verification of any tax credit claimed; and
  - (f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.
- (2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:
  - (a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;
  - (b) consider the following factors:
    - (i) whether the new commercial project provides vital or specialized support to supply chains;
    - (ii) whether the new commercial project provides an innovative product, technology, or service;

- (iii) the number and wages of new incremental jobs associated with the new commercial project;
  - (iv) the amount of financial support provided by local government entities for the new commercial project;
  - (v) the amount of capital expenditures associated with the new commercial project;
  - (vi) whether the new commercial project returns jobs transferred overseas;
  - (vii) the rate of unemployment in the county in which the new commercial project is located;
  - (viii) whether the new commercial project creates a remote work opportunity;
  - (ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);
  - (x) whether the business entity commits to hiring Utah workers for the new commercial project;
  - (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;
  - (xii) whether the business entity's headquarters are located within the state;
  - (xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;
  - (xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; and
  - (xv) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and
- (c) consult with the GO Utah board.
- (3)
- (a) In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:
    - (i) authorize a higher or optimized amount of tax credit for a new commercial project located within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and
    - (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.
  - (b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.
- (4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:
- (a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;
  - (b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or
  - (c) an increase in the business entity's operations that:
    - (i) is outside the scope of the written agreement or outside the boundaries of a development zone; and
    - (ii) results in new state revenue not subject to the incentive.

Enacted by Chapter 200, 2022 General Session

**63N-2-104.3 Limitations on tax credit amount.**

- (1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:
  - (a) 50% of the new state revenues from the new commercial project in any given year;
  - (b) 30% of the new state revenues from the new commercial project over a period of up to 20 years; or
  - (c) 35% of the new state revenues from the new commercial project over a period of up to 20 years, if:
    - (i) the new commercial project brings 2,500 or more new incremental jobs to the state;
    - (ii) the amount of capital expenditures associated with the new commercial project is \$1,000,000,000 or more; and
    - (iii) the commission approves the tax credit.
- (2) If the office authorizes a tax credit for a new commercial project located within the boundary of:
  - (a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years;
  - (b) a county of the third class, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years; and
  - (c) a county of the fourth, fifth, or sixth class, the office may authorize a tax credit of 50% of new state revenues from the new commercial project over a period of up to 20 years.

Amended by Chapter 499, 2023 General Session

**63N-2-105 Requirements for claiming tax credit -- Application for tax credit certificate -- Procedure.**

- (1) A business entity may claim a tax credit under this part if the office:
  - (a) determines that the business entity is eligible for a tax credit under Section 63N-2-104.1;
  - (b) enters into a written agreement with the business entity in accordance with Section 63N-2-104.2; and
  - (c) issues a tax credit certificate to the business entity in accordance with this section.
- (2) A business entity seeking to receive a tax credit shall provide the office with:
  - (a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;
  - (b) documentation of the new state revenues from the business entity's new commercial project that were paid during a calendar year;
  - (c) known or expected detriments to the state or existing businesses in the state;
  - (d) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
  - (e) a document that expressly directs and authorizes the Department of Workforce Services to disclose to the office the business entity's unemployment insurance contribution reports that would otherwise be subject to confidentiality under Section 35A-4-312; and
  - (f) documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement.
- (3)

- (a)
  - (i) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.
  - (ii) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(d).
- (b)
  - (i) The office shall submit the document described in Subsection (2)(e) to the Department of Workforce Services.
  - (ii) Upon receipt of the document described in Subsection (2)(e), the Department of Workforce Services shall provide the office with the information that the Department of Workforce Services is directed or authorized to provide to the office in accordance with Subsection (2)(e).
- (4) If the returns and other information provided under Subsections (2) and (3) provide the office with a reasonable justification for authorizing or continuing a tax credit, the office shall:
  - (a) determine the amount of the tax credit to be granted to the business entity, consistent with the terms of the written agreement;
  - (b) issue a tax credit certificate to the business entity; and
  - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (5)
  - (a) A business entity may claim a tax credit in the amount listed on the tax credit certificate on its tax return.
  - (b) A business entity that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Amended by Chapter 200, 2022 General Session

**63N-2-106 Reports -- Posting monthly and annual reports -- Audit and study of tax credits.**

- (1) The office shall include the following information in the annual written report described in Section 63N-1a-306:
  - (a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;
  - (b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;
  - (c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;
  - (d) the economic impact on the state from new state revenues and the provision of tax credits under this part;
  - (e) the estimated costs and economic benefits of the tax credit commitments made by the office;
  - (f) the actual costs and economic benefits of the tax credit commitments made by the office; and
  - (g) tax credit commitments made by the office, with the associated calculation.
- (2) Each month, the office shall post on its website and on a state website:
  - (a) the new tax credit commitments made by the office during the previous month; and
  - (b) the estimated costs and economic benefits of those tax credit commitments.
- (3)

- (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:
  - (i) conduct an audit of the tax credits allowed under Section 63N-2-105;
  - (ii) study the tax credits allowed under Section 63N-2-105; and
  - (iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.
- (b) The audit shall include an evaluation of:
  - (i) the cost of the tax credits;
  - (ii) the purposes and effectiveness of the tax credits;
  - (iii) the extent to which the state benefits from the tax credits; and
  - (iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.
- (c) The office shall provide the results of the audit described in this Subsection (3):
  - (i) in the written annual report described in Subsection (1); and
  - (ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.

Amended by Chapter 282, 2021 General Session

**63N-2-107 Reports of new state revenues, partial rebates, and tax credits.**

- (1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a)
    - (i) the total estimated amount of new state revenues created from new commercial projects;
    - (ii) the estimated amount of new state revenues from new commercial projects that will be generated from:
      - (A) sales tax;
      - (B) income tax; and
      - (C) corporate franchise and income tax; and
    - (iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and
  - (b) the total estimated amount of tax credits that the office projects that business entities will qualify to claim under this part.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) each new written agreement that the office entered into since the last report;
  - (b) the estimated amount of new state revenues that will be generated under each written agreement described in Subsection (2)(a);
  - (c) the estimated maximum amount of tax credits that a business entity could qualify for under each written agreement described in Subsection (2)(a); and
  - (d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.
- (3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

- (4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Amended by Chapter 200, 2022 General Session

**63N-2-109 Payment of partial rebates.**

- (1) As used in this section:
  - (a) "Account" means the Economic Incentive Restricted Account created in Subsection (2).
  - (b) "Partial rebate" means an agreement between the office and a business entity under which the state agrees to pay back to the business entity a portion of new state revenue generated by a business entity's new commercial project.
- (2)
  - (a) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.
  - (b) The account shall consist of money transferred into the account by the Division of Finance from the General Fund as provided in this section.
  - (c) The Division of Finance shall make payments from the account as required by this section.
- (3) The Division of Finance shall make partial rebate payments due under an agreement initially entered into by the office before May 5, 2008, as provided in this section.
- (4)
  - (a) Each business entity seeking a partial rebate shall follow the procedures and requirements of this Subsection (4) to obtain a partial rebate.
  - (b) Within 90 days of the end of each calendar year, a business entity seeking a partial rebate shall:
    - (i) provide the office with documentation of the new state revenue that the business entity generated during the preceding calendar year;
    - (ii) provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
    - (iii) ensure that the documentation includes:
      - (A) the types of taxes and corresponding amounts of taxes paid directly to the State Tax Commission; and
      - (B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the State Tax Commission.
  - (c) The office shall:
    - (i) audit or review the documentation for accuracy;
    - (ii) based on the office's analysis of the documentation, determine the amount of a partial rebate that the business entity earned under the agreement; and
    - (iii) submit to the Division of Finance:
      - (A) a request for payment of a partial rebate to the business entity;
      - (B) the name and address of the payee; and
      - (C) any other information requested by the Division of Finance.



- (5) Upon receipt of a request for payment of a partial rebate from the office, the Division of Finance shall:
- (a) transfer from the General Fund to the restricted account the amount contained in the request for payment of a partial rebate after reducing the amount transferred by any unencumbered balances in the restricted account; and
  - (b) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(3)(c), after receiving a request for payment of a partial rebate and making the transfer required by Subsection (5)(a), pay the partial rebate from the account.

Enacted by Chapter 190, 2016 General Session

**63N-2-110 Rulemaking authority.**

The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this part.

Enacted by Chapter 200, 2022 General Session

**Part 2  
Enterprise Zone Act**

**63N-2-201 Title.**

This part is known as the "Enterprise Zone Act."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-202 Definitions.**

As used in this part:

- (1) "Business entity" means an entity, sole proprietorship, or individual:
  - (a) including a claimant, estate, or trust; and
  - (b) under which or by whom business is conducted or transacted.
- (2) "Claimant" means a resident or nonresident person that has:
  - (a) Utah taxable income as defined in Section 59-7-101; or
  - (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.
- (3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- (5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:
  - (a) claim:
    - (i) as provided by statute; and
    - (ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:
      - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
      - (B) Title 59, Chapter 10, Individual Income Tax Act; and

- (b) carry forward or carry back:
  - (i) if allowed by statute; and
  - (ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:
    - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
    - (B) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.
- (8) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Amended by Chapter 465, 2019 General Session

**63N-2-203 Powers of the office.**

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;
- (2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;
- (3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;
- (4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;
- (5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and
- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
  - (a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;
  - (b) the total amount awarded in tax credits for each development zone;
  - (c) the number of new full-time employee positions reported to obtain tax credits in each development zone;
  - (d) the amount of tax credits awarded for rehabilitating a building in each development zone;
  - (e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and
  - (f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

Amended by Chapter 282, 2021 General Session

**63N-2-204 Criteria for designation of enterprise zones -- Application.**

- (1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:
  - (a) verifies that the county has a population of not more than 70,000; and
  - (b) provides clear evidence of the need for development in the county.
- (2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:
  - (a) verifies that the municipality has a population that does not exceed 20,000;

- (b) verifies that the municipality is within a county that has a population of not more than 70,000; and
  - (c) provides clear evidence of the need for development in the municipality.
- (3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:
- (a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;
  - (b) the county applicant or municipal applicant has a development plan that outlines:
    - (i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;
    - (ii) the specific investment or development reasonably expected to take place;
    - (iii) any commitments obtained from businesses;
    - (iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;
    - (v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and
    - (vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;
  - (c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;
  - (d) any additional information required by the office; and
  - (e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.
- (4) On or after January 1, 2021, no new enterprise zones shall be designated.

Amended by Chapter 360, 2020 General Session

**63N-2-205 Qualifying local contributions.**

- (1) An area may be designated as an enterprise zone only if the county applicant or municipal applicant agrees to make a qualifying local contribution.
- (2) The qualifying local contribution may vary depending on available resources, and may include such elements as:
  - (a) simplified procedures for obtaining permits;
  - (b) dedication of available government grants;
  - (c) dedication of training funds;
  - (d) waiver of business license fees;
  - (e) infrastructure improvements;
  - (f) private contributions;
  - (g) utility rate concessions;
  - (h) small business incubator programs; or
  - (i) management assistance programs.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-206 Eligibility review.**

- (1) The office shall:
  - (a) review and evaluate the applications submitted under Section 63N-2-204; and

(b) determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.

- (2)
- (a) The office shall designate enterprise zones.
  - (b) The office shall consider and evaluate an application using the following criteria:
    - (i) the pervasiveness of poverty, unemployment, and general distress in the proposed zone;
    - (ii) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the proposed zone, and the extent of property tax arrearages in the proposed zone;
    - (iii) the potential for new investment and economic development in the proposed zone;
    - (iv) the county applicant's or municipal applicant's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;
    - (v) the extent to which the projected development in the zone will provide employment to residents of the county and particularly individuals who are unemployed or who are economically disadvantaged;
    - (vi) the degree to which the county applicant's or municipal applicant's application promotes innovative solutions to economic development problems and demonstrates local initiative; and
    - (vii) other relevant factors that the office specifies in its recommendation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-207 Quarterly consideration.**

The office shall consider designating enterprise zones quarterly.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-208 Duration of designation.**

- (1) Each enterprise zone has a duration of five years.
- (2) On or after January 1, 2021, neither a municipality nor a county may reapply for an enterprise zone designation for an enterprise zone that has reached the end of the enterprise zone's five-year duration.

Amended by Chapter 360, 2020 General Session

**63N-2-209 Contingent designations.**

- (1) The office may accept applications for, and may at any time grant, a contingent designation of any county as an enterprise zone for purposes of seeking a designation of the county as a federally designated zone.
- (2) This designation does not entitle a business operating in that county to the tax incentives under this part.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-210 Revocation of designations.**

- (1) The office may revoke the designation of an enterprise zone if no businesses utilize the tax incentives during a calendar year.

- (2) Prior to that action, the office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Amended by Chapter 11, 2016 General Session

**63N-2-211 Disqualifying transfers.**

Except in a county of the first or second class, tax incentives provided by this part are not available to a business entity that closes or permanently curtails operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Amended by Chapter 11, 2016 General Session

**63N-2-212 Business entities qualifying for tax incentives.**

- (1) Except as otherwise provided in Subsection (2), the tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in:
  - (a) the county in which the enterprise zone is located; or
  - (b) an enterprise zone that is immediately adjacent and contiguous to the county in which the enterprise zone is located.
- (2) Subsection (1) does not apply to a business entity that has no employees.

Renumbered and Amended by Chapter 283, 2015 General Session

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

- (1) The office shall certify a business entity's eligibility for a tax credit described in this section.
- (2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:
  - (a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and
  - (b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.
- (3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:
  - (a) deny the tax credit; or
  - (b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.
- (4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:
  - (a) determine the amount of the tax credit to be granted to the business entity;
  - (b) issue a tax credit certificate to the business entity; and
  - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:
- (a) the form and content of an application for a tax credit under this section;
  - (b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and
  - (c) administration of the program, including relevant timelines and deadlines.
- (7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:
- (a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;
  - (b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:
    - (i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or
    - (ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;
  - (c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;
  - (d) an additional tax credit of \$200 may be claimed for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;
  - (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and
  - (f) an annual investment tax credit may be claimed in an amount equal to 5% of the first \$750,000 qualifying investment in plant, equipment, or other depreciable property.
- (8)
- (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.
  - (b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:
    - (i) the business entity has created a new full-time position within the enterprise zone; and
    - (ii) the total number of employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of employee positions that existed at the business entity in the previous taxable year.
  - (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).
- (9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

- (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade, residential rental property, or by a public utilities business.
- (11) A business entity that has no employees:
- (a) may not claim tax credits under Subsections (7)(a) through (d); and
  - (b) may claim tax credits under Subsections (7)(e) through (f).
- (12)
- (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.
  - (b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.
- (13)
- (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.
  - (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:
    - (i) schedule time on at least one committee agenda to conduct the review;
    - (ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;
    - (iii) ensure that the recommendations described in this section include an evaluation of:
      - (A) the cost of the tax credits to the state;
      - (B) the purpose and effectiveness of the tax credits; and
      - (C) the extent to which the state benefits from the tax credits; and
    - (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Amended by Chapter 282, 2021 General Session

**63N-2-214 Annual report.**

Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the office regarding the economic activity that has occurred in the zone following the designation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-215 Indian tribes -- Application.**

- (1) For purposes of this section:
- (a) "Indian reservation" has the same meaning as defined in Section 9-9-210.
  - (b) "Indian tribe" has the same meaning as defined in Section 9-9-402.
  - (c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).
- (2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.
- (3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections 63N-2-204(2)(a) and (b).

Amended by Chapter 79, 2019 General Session

### **Part 3**

## **Targeted Business Income Tax Credit in an Enterprise Zone**

#### **63N-2-301 Title.**

This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."

Enacted by Chapter 283, 2015 General Session

#### **63N-2-302 Definitions.**

As used in this part:

- (1) "Business applicant" means a business that:
  - (a) is a claimant, estate, or trust; and
  - (b) meets the criteria established in Section 63N-2-304.
- (2)
  - (a) Except as provided in Subsection (2)(b), "claimant" means a resident person or a nonresident person.
  - (b) "Claimant" does not include an estate or trust.
- (3) "Community investment project" means a project that includes one or more of the following criteria in addition to the normal operations of the business applicant:
  - (a) significant new employment; or
  - (b) significant new capital development.
- (4) "Enterprise zone" means an area within a county or municipality that has been designated as an enterprise zone by the office under Part 2, Enterprise Zone Act.
- (5) "Estate" means a resident estate or a nonresident estate.
- (6) "Refundable tax credit" means a tax credit that a claimant, estate, or trust may claim:
  - (a) as provided by statute; and
  - (b) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:
    - (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
    - (ii) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Targeted business income tax credit" means a refundable tax credit available under this part.
- (8) "Targeted business income tax credit eligibility certificate" means a document provided by the office to a business applicant before the applicant may claim a targeted business income tax credit under this part.
- (9) "Trust" means a resident trust or a nonresident trust.

Amended by Chapter 352, 2017 General Session

#### **63N-2-303 Duties of the office.**

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the effectiveness of the targeted business income tax credit in bringing significant new employment and significant new capital development to rural communities;



- (2) determine a business entity's eligibility for a targeted business income tax credit award;
- (3) ensure that tax credits are only awarded under this part to a business applicant that has satisfied performance benchmarks as determined by the office;
- (4) ensure that the amount of targeted business income tax credit awarded to a business applicant through a targeted business income tax credit eligibility certificate is no more than \$100,000 for the business applicant's taxable year;
- (5) ensure that the aggregate amount of targeted business income tax credits awarded to business applicants through targeted business income tax credit eligibility certificates is no more than \$300,000 for each fiscal year;
- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
  - (a) the identity of each business applicant that was provided a targeted business income tax credit eligibility certificate by the office during the year of the annual report; and
  - (b) the total amount awarded in targeted business income tax credit for each development zone; and
- (7) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding:
  - (a) the determination of what constitutes:
    - (i) significant new employment;
    - (ii) significant new capital development; and
    - (iii) a community investment project;
  - (b) the form and content of an application for a targeted business income tax credit eligibility certificate under this part;
  - (c) documentation or other requirements for a business applicant to receive a targeted business income tax credit eligibility certificate under this part; and
  - (d) administration of targeted business income tax credit awards and the issuing of targeted business income tax credit eligibility certificates, including relevant timelines and deadlines.

Amended by Chapter 282, 2021 General Session

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

- (1)
  - (a) For a taxable year that begins before January 1, 2023, a business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:
    - (i) is located in:
      - (A) an enterprise zone; and
      - (B) a county with a population of less than 25,000;
    - (ii) meets the requirements of Section 63N-2-212;
    - (iii) provides a community investment project within the enterprise zone; and
    - (iv) is not engaged in the following:
      - (A) construction;
      - (B) retail trade; or
      - (C) public utility activities.
  - (b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.
- (2)

- (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.
- (b) The application described in Subsection (2)(a) shall include:
  - (i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);
  - (ii) a plan developed by the business applicant that describes:
    - (A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;
    - (B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;
    - (C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;
    - (D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;
    - (E) any matching funds that will be used for the community investment project;
    - (F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and
    - (G) the requested amount of the targeted business income tax credit; and
  - (iii) any additional information required by the office.
- (3)
  - (a) The office shall:
    - (i) evaluate an application filed under Subsection (2);
    - (ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and
    - (iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.
  - (b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:
    - (i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);
    - (ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than \$100,000 for the business applicant in a taxable year; and
    - (iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.
  - (c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:
    - (i) certify that the business applicant is eligible for a targeted business income tax credit;
    - (ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with:

- (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or
  - (B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and
  - (iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.
- (4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed \$300,000 in any fiscal year.
- (5)
- (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.
  - (b) The office may audit a business applicant to ensure:
    - (i) eligibility for a targeted business income tax credit; and
    - (ii) compliance with this section.

Amended by Chapter 264, 2022 General Session

## **Part 5**

### **New Convention Facility Development Incentives**

#### **63N-2-501 Title.**

This part is known as "New Convention Facility Development Incentives."

Renumbered and Amended by Chapter 283, 2015 General Session

#### ***Contingently Superseded 1/1/2025***

#### **63N-2-502 Definitions.**

As used in this part:

- (1) "Agreement" means an agreement described in Section 63N-2-503.
- (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.
- (3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.
- (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.
- (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- (6) "Commission" means the Utah State Tax Commission.
- (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

- (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- (10) "Eligibility period" means:
  - (a) the period that:
    - (i) begins the date construction of a qualified hotel begins; and
    - (ii) ends:
      - (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
      - (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
  - (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
    - (i) begins no earlier than the date construction of a qualified hotel begins; and
    - (ii) is shorter than the period described in Subsection (10)(a).
- (11) "Endorsement letter" means a letter:
  - (a) from the county in which a qualified hotel is located or is proposed to be located;
  - (b) signed by the county executive; and
  - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community reinvestment agency of the host local government.
- (13) "Host local government" means:
  - (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
  - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
  - (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
  - (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
  - (a) Section 59-12-204;
  - (b) Section 59-12-301;
  - (c) Sections 59-12-352 and 59-12-353;
  - (d) Subsection 59-12-603(1)(a); or
  - (e) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.

- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
  - (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- (22) "Public infrastructure" means:
  - (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
  - (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
  - (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:
  - (a) requires a significant capital investment;
  - (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
  - (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- (25) "Review committee" means the independent review committee established under Section 63N-2-504.
- (26) "Significant capital investment" means an amount of at least \$200,000,000.
- (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(e)(i)(A).
- (29) "Third-party seller" means a person who is a seller in a transaction:
  - (a) occurring other than on hotel property;
  - (b) that is:
    - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
    - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
  - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 459, 2023 General Session

***Contingently Effective 1/1/2025***

**63N-2-502 Definitions.**

As used in this part:

- (1) "Agreement" means an agreement described in Section 63N-2-503.
- (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the

- county assessment rolls the year before the year during which construction on the qualified hotel begins.
- (3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.
- (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.
- (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- (6) "Commission" means the Utah State Tax Commission.
- (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.
- (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- (10) "Eligibility period" means:
- (a) the period that:
    - (i) begins the date construction of a qualified hotel begins; and
    - (ii) ends:
      - (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
      - (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
  - (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
    - (i) begins no earlier than the date construction of a qualified hotel begins; and
    - (ii) is shorter than the period described in Subsection (10)(a).
- (11) "Endorsement letter" means a letter:
- (a) from the county in which a qualified hotel is located or is proposed to be located;
  - (b) signed by the county executive; and
  - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community reinvestment agency of the host local government.
- (13) "Host local government" means:
- (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
  - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
- (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and

- (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
  - (a) Section 59-12-204;
  - (b) Section 59-12-301;
  - (c) Sections 59-12-352 and 59-12-353;
  - (d) Subsection 59-12-603(1)(a); or
  - (e) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
  - (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- (22) "Public infrastructure" means:
  - (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
  - (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
  - (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:
  - (a) requires a significant capital investment;
  - (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
  - (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- (25) "Review committee" means the independent review committee established under Section 63N-2-504.
- (26) "Significant capital investment" means an amount of at least \$200,000,000.
- (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), or (2)(e)(i) (A).
- (29) "Third-party seller" means a person who is a seller in a transaction:
  - (a) occurring other than on hotel property;
  - (b) that is:
    - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
    - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
  - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 459, 2023 General Session

**63N-2-503 Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.**

- (1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:
  - (a) for the development of a qualified hotel; and
  - (b) to authorize a convention incentive:
    - (i) to the qualified hotel owner or host local government, but not both;
    - (ii) for a period not to exceed the eligibility period;
    - (iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;
    - (iv) if:
      - (A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and
      - (B) all applicable requirements of this part and the agreement are met; and
    - (v) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).
- (2) An agreement under Subsection (1) shall:
  - (a) specify the requirements for the qualified hotel owner or host local government to qualify for a convention incentive;
  - (b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;
  - (c) require the amount of certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;
  - (d) with respect to the state portion of the convention incentive:
    - (i) specify the maximum dollar amount that the qualified hotel owner or host local government may receive, subject to a maximum of:
      - (A) for any calendar year, the amount of the state portion in that calendar year; and
      - (B) \$75,000,000 in the aggregate for the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the convention incentive amount under Subsection (1)(b)(iv) had not occurred; and
    - (ii) specify the maximum percentage of the state portion that may be used in calculating the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each calendar year and in the aggregate;
  - (e) establish a shorter period of time than the period described in Subsection 63N-2-502(10)(a) during which the qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;
  - (f) require the qualified hotel owner to retain books and records supporting a claim for the convention incentive as required by Section 59-1-1406;
  - (g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;
  - (h) limit the expenditure of funds received under the convention incentive as provided in Section 63N-2-512; and
  - (i) require the qualified hotel owner or host local government to submit to any audit and to provide any audit level review or other level of review the office considers appropriate for verification of any claim.



- (3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63N-2-508(3)(a).

Amended by Chapter 282, 2021 General Session

**63N-2-503.5 Convention Incentive Fund.**

- (1) There is created an expendable special revenue fund known as the Convention Incentive Fund.
- (2)
  - (a) The incentive fund shall be funded by new tax revenue, as provided in Subsection (3).
  - (b) No legislative appropriation is required to fund the incentive fund.
  - (c) All interest generated from the investment of money in the incentive fund shall be deposited into the incentive fund.
- (3)
  - (a) During the portion of the eligibility period specified by the office under Subsection 63N-2-505(7)(a), the commission shall cause new tax revenue to be deposited into the incentive fund as provided in this Subsection (3).
  - (b) To the extent the commission is able to identify sellers involved in transactions generating state taxes or local taxes before the payment of those taxes, the commission shall deposit new tax revenue directly into the incentive fund, notwithstanding Subsection 59-12-103(3) and before the allocations required by Section 59-12-204, Subsection 59-12-205(2), Section 59-12-401, Section 59-12-603, and Section 59-12-1102.
  - (c) The commission shall, within 30 days after the office provides the information required under Subsection 63N-2-505(7)(b):
    - (i) except as provided in Subsection (3)(d), withhold from distribution to counties, cities, and towns the local portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b) and transfer that local portion to the incentive fund; and
    - (ii) transfer to the incentive fund any state portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b).
  - (d) The commission may equalize over a 12-month period the withholding required under Subsection (3)(c)(i) for a county, city, or town that requests equalization.
- (4) One year after the end of the eligibility period, the commission shall transfer any money remaining in the incentive fund to the Stay Another Day and Bounce Back Fund created in Section 63N-2-511, except to the extent the money is needed to pay an unpaid certified claim.
- (5) Except as otherwise provided in this chapter, an agreement with or approval by a local government entity is not required for the use of the state portion or local portion to fund a convention incentive.
- (6) Distributions of money from the incentive fund shall be in accordance with Section 63N-2-505.

Enacted by Chapter 417, 2015 General Session

**63N-2-504 Independent review committee.**

- (1) In accordance with rules adopted by the office under Section 63N-2-509, the GO Utah board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.
- (2) The review committee shall consist of:
  - (a) one member appointed by the executive director to represent the office;

- (b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;
  - (c) two members appointed by:
    - (i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or
    - (ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;
  - (d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;
  - (e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;
  - (f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and
  - (g) one member appointed by the GO Utah board.
- (3)
- (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.
  - (b) A vacancy may be filled in the same manner as an appointment under Subsection (2).
- (4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.
- (5) The office shall provide any necessary staff support to the review committee.

Amended by Chapter 282, 2021 General Session

**63N-2-505 Submission of written claim for convention incentive -- Disclosure of tax returns and other information -- Determination of claim.**

- (1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:
- (a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and
  - (b) the office approves and certifies the claim, as provided in this section.
- (2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:
- (a) a written claim for a convention incentive;
  - (b)
    - (i) for a claim submitted by a qualified hotel owner:
      - (A) a certification by the individual signing the claim that the individual is duly authorized to sign the claim on behalf of the qualified hotel owner;
      - (B) documentation of the new tax revenue previously generated, itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;
      - (C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;
      - (D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other

- information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
- (E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
- (F) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
- (G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and
- (H) any other documentation that the agreement or office requires; and
- (ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;
- (c) if the host local government intends to assign the convention incentive to a community reinvestment agency, a document signed by the governing body members of the community reinvestment agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
- (d) an audit level attestation, or other level of review approved by the office, from an independent certified public accountant, hired by the claimant, attesting to the accuracy and validity of the amount of the state portion and the local portion being claimed by the claimant.
- (3)
- (a) The office shall submit to the commission the documents described in Subsections (2)(b)(i) (C), (D), and (E) and (2)(c) authorizing disclosure of the tax returns and other information.
- (b) Upon receipt of the documents described in Subsection (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.
- (4) If the office determines that the tax returns and other information are inadequate to enable the office to approve and certify a claim, the office shall inform the claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the claim.
- (5) If the office determines that the returns and other information, including any additional documentation provided under Subsection (4), comply with applicable requirements and provide reasonable justification to approve and certify the claim, the office shall:
- (a) approve and certify the claim;
- (b) determine the amount of the certified claim; and
- (c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).
- (6) The office shall pay claims from available money in the incentive fund at least annually.
- (7) For each certified claim, the office shall provide the commission:
- (a) for onsite revenue:
- (i) the identity of sellers operating upon the hotel property;
- (ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63N-2-503.5 for each seller operating upon the hotel property;

- (iii) the date that the commission is to stop depositing or transferring onsite revenue to the incentive fund under Section 63N-2-503.5 for each seller operating upon the hotel property; and
- (iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63N-2-503.5;
- (b) for construction revenue and offsite revenue:
  - (i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;
  - (ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and
  - (iii) the type of sales or use tax that constitutes the construction revenue of offsite revenue described in Subsection (7)(b)(ii); and
- (c) any other information the commission requires.

Amended by Chapter 350, 2016 General Session

**63N-2-507 Assigning convention incentive.**

- (1) A host local government that enters into an agreement with the office may, by resolution, assign a convention incentive to a community reinvestment agency, in accordance with rules adopted by the office.
- (2) A host local government that adopts a resolution assigning a convention incentive under Subsection (1) shall provide a copy of the resolution to the office.

Amended by Chapter 350, 2016 General Session

**63N-2-508 Payment of incremental property tax revenue.**

- (1) As used in this section:
  - (a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency, except for Subsection (2)(b), from tax increment revenue generated from the project area in which the hotel property is located.
  - (b) "Secured obligations" means bonds or other obligations of a host agency for the payment of which the host agency has, before March 13, 2015, pledged tax increment generated from the project area in which the hotel property is located.
  - (c) "Tax increment" means the same as that term is defined in Section 17C-1-102.
  - (d) "Tax increment shortfall" means the amount of displaced tax increment a host agency needs to receive, in addition to any other tax increment the host agency receives from the project area in which the hotel property is located, to provide the host agency sufficient tax increment funds to be able to pay the debt service on its secured obligations.
- (2)
  - (a) In accordance with rules adopted by the office and subject to Subsection (5), a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period.
  - (b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year, subject to Subsection (5).
  - (c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:

- (i) states the amount of displaced tax increment for that year;
  - (ii) states the number of years remaining in the eligibility period;
  - (iii) provides a detailed accounting of how the displaced tax increment was used; and
  - (iv) explains how the displaced tax increment will be used in the following taxable year.
- (3) Incremental property tax revenue may be used only for:
- (a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:
    - (i) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;
    - (ii) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or
    - (iii) any labor and overhead costs associated with the construction described in Subsections (3)(a)(i) and (ii); and
  - (b) public infrastructure.
- (4)
- (a) Incremental property tax:
    - (i) is not tax increment; and
    - (ii) is not subject to:
      - (A) Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act; or
      - (B) any other law governing tax increment, except as provided in Subsection (4)(c).
  - (b) The payment and use of incremental property tax, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.
  - (c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.
- (5)
- (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental property tax revenue that is displaced tax increment until after 30 days after the county provides the notice required under Subsection (2)(c).
  - (b) If, within 30 days after the county provides the notice required under Subsection (2)(c), a host agency provides written notice to the county that the host agency will experience a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the host agency displaced tax increment in the amount of the tax increment shortfall.

Amended by Chapter 350, 2016 General Session

**63N-2-509 Rulemaking authority -- Requirements for rules.**

- (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.
- (2) The rules the office makes under Subsection (1) shall:
  - (a) establish, consistent with this part, the conditions required for a convention incentive;
  - (b) require that a significant capital investment be made in the development of the hotel property;
  - (c) require a claimant to meet all applicable requirements in order to receive a distribution from the incentive fund;
  - (d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and

- (e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63N-2-504.

Renumbered and Amended by Chapter 283, 2015 General Session  
Amended by Chapter 417, 2015 General Session

**63N-2-510 Report by office -- Posting of report.**

- (1) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:
  - (a) the state's success in attracting new conventions and corresponding new state revenue;
  - (b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;
  - (c) the economic impact on the state related to generating new state revenue and providing convention incentives; and
  - (d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.
- (2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:
  - (a) referring to the two annual deposits required under Subsection 59-12-103(10); and
  - (b) notifying the Division of Finance that construction on the qualified hotel has begun.

Amended by Chapter 471, 2023 General Session

**63N-2-511 Stay Another Day and Bounce Back Fund.**

- (1) As used in this section:
  - (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).
  - (b) "Tourism board" means the Board of Tourism Development created in Section 63N-7-201.
- (2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.
- (3) The bounce back fund shall:
  - (a) be administered by the tourism board;
  - (b) earn interest; and
  - (c) be funded by:
    - (i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;
    - (ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and
    - (iii) any money that the Legislature chooses to appropriate to the bounce back fund.
- (4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.
- (5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Amended by Chapter 362, 2022 General Session

**63N-2-512 Hotel Impact Mitigation Fund.**

- (1) As used in this section:

- (a) "Affected hotel" means a hotel built in the state before July 1, 2014.
  - (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.
  - (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).
- (2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.
- (3) The mitigation fund shall:
- (a) be administered by the GO Utah board;
  - (b) earn interest; and
  - (c) be funded by:
    - (i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);
    - (ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and
    - (iii) any money deposited into the mitigation fund under Subsection (6).
- (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.
- (5)
- (a) In accordance with office rules, the GO Utah board shall annually pay up to \$2,100,000 of money in the mitigation fund:
    - (i) to affected hotels;
    - (ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and
    - (iii) to mitigate direct losses.
  - (b)
    - (i) If the amount the GO Utah board pays under Subsection (5)(a) in any year is less than \$2,100,000, the GO Utah board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).
    - (ii) The GO Utah board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the GO Utah board is required to pay to affected hotels under Subsection (5)(a).
- (6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Amended by Chapter 471, 2023 General Session

**63N-2-513 Authorized expenditures of convention incentive.**

- (1) A qualified hotel owner or host local government may spend money received from the state portion of a convention incentive only for a purpose described in Subsection 63N-2-508(2)(a).
- (2) A qualified hotel owner or host local government may spend money received from the local portion of a convention incentive only for:
  - (a) a purpose described in Subsection (1);
  - (b) public infrastructure; and
  - (c) other purposes as specified in the agreement.

Renumbered and Amended by Chapter 283, 2015 General Session  
Amended by Chapter 417, 2015 General Session

## **Part 8**

### **Technology and Life Science Economic Development Act**

#### **63N-2-801 Title.**

This part is known as the "Technology and Life Science Economic Development Act."

Renumbered and Amended by Chapter 283, 2015 General Session

#### **63N-2-802 Definitions.**

As used in this part:

- (1) "Claimant" means the same as that term is defined in Section 59-10-1002.
- (2) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
  - (a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and
  - (b) receives a tax credit certificate from the office in accordance with this part.
- (3) "Life science establishment" means the same as that term is defined in Section 59-10-1025.
- (4) "Tax credit" means a tax credit under Section 59-10-1025.
- (5) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.
- (6) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the tax credit certificate recipient;
  - (b) lists the tax credit certificate recipient's taxpayer identification number;
  - (c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and
  - (d) includes other information as determined by the office.
- (7) "Tax credit certificate recipient" means an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Amended by Chapter 354, 2016 General Session

#### **63N-2-803 Tax credits issued by office.**

- (1) The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.
- (2)
  - (a) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.
  - (b) For fiscal year 2016-17 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
  - (c) For fiscal year 2017-18 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.



- (3) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

Amended by Chapter 354, 2016 General Session

**63N-2-804 Person may not claim or pass through a tax credit without tax credit certificate.**

A person may not claim or pass through a tax credit unless the person has received a tax credit certificate from the office for the taxable year for which the person claims or passes through the tax credit.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-805 Application process.**

- (1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:
  - (a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (b) on a form and in the manner prescribed by the office.
- (2) The application shall include:
  - (a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and
  - (b) other documentation as required by the office.
- (3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:
  - (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
  - (b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.
- (4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.
- (5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:
  - (a) deny the tax credit; or
  - (b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-806 Criteria for tax credits.**

- (1) A tax credit applicant shall establish as part of the application required by Section 63N-2-805 that the tax credit applicant:

- (a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and
  - (b) will provide a long-term economic benefit to the state.
- (2) The office may not issue a tax credit certificate to a tax credit applicant if:
- (a) the tax credit applicant fails to meet the requirements of Subsection (1)(a); and
  - (b) the life science establishment does not enter into an agreement described in Section 63N-2-808 with the office.

Amended by Chapter 354, 2016 General Session

**63N-2-807 Rulemaking authority.**

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

- (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and
- (2) procedures for documenting the office's application of the criteria described in Subsection (1).

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-808 Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.**

- (1)
- (a) The office, with advice from the GO Utah board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.
  - (b) The agreement described in Subsection (1)(a) shall:
    - (i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;
    - (ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and
    - (iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.
- (2)
- (a) The office, with advice from the GO Utah board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.
  - (b) The agreement described in Subsection (2)(a):
    - (i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
    - (ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;
    - (iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and
    - (iv) may require the life science establishment to provide the office with other data that:

- (A) ensure compliance with the requirements of this chapter; and
- (B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Amended by Chapter 282, 2021 General Session

**63N-2-809 Issuance of tax credit certificates.**

- (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:
  - (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;
  - (b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and
  - (c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:
    - (i) the agreement with the office described in Section 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least \$1,000,000,000 in the state; and
    - (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000 in the state in accordance with the agreement with the office described in Section 63N-2-808.
- (2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-810 Reports on tax credit certificates.**

The office shall include the following information in the annual written report described in Section 63N-1a-306:

- (1) the total amount listed on tax credit certificates the office issues under this part;
- (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and
- (3) the economic impact on the state related to providing tax credits under this part.

Amended by Chapter 362, 2022 General Session

**63N-2-811 Reports of tax credits.**

- (1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) the total amount listed on tax credit certificates the office issues under this part; and
  - (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) each new agreement entered into by the office since the last report;
  - (b) the total amount listed on tax credit certificates the office issues under this part; and

(c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Amended by Chapter 382, 2021 General Session