

**Representative Brad R. Wilson** proposes the following substitute bill:

**1 ~~H~~→ ECONOMIC DEVELOPMENT AND THE ←~~H~~ UTAH SMALL BUSINESS JOBS ACT**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Brad R. Wilson

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7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions ~~H~~→ related ←~~H~~ to ~~H~~→ [create] economic development  
9a including creating ←~~H~~ a small business job tax credit and investment  
10 program.

11 **Highlighted Provisions:**

12 This bill:

12a ~~H~~→ ► addresses the Industrial Assistance Account; ←~~H~~

- 13 ► addresses the relationship between the premium tax and corporate taxes;
- 14 ► establishes a tax credit against premium tax liability;
- 15 ► provides a sunset date;
- 16 ► enacts the Utah Small Business Jobs Act, including:
  - 17 • defining terms;
  - 18 • providing for the certification of qualified equity investments;
  - 19 • granting rulemaking authority to the office;
  - 20 • allowing for recapture of the tax credit after a time to cure;
  - 21 • requiring, under certain circumstances, a refundable performance deposit;
  - 22 • creating the Small Business Jobs Performance Guarantee Account;
  - 23 • establishing investment requirements;
  - 24 • providing for ceasing of certification;
  - 25 • imposing limitations on fees being paid;

**2nd Sub. S.B. 233**



- 26 • imposing new capital requirements;
- 27 • requiring reporting;
- 28 • requiring revenue impact assessment; and
- 29 ▶ makes technical and conforming amendments.

30 **Money Appropriated in this Bill:**

31 This bill appropriates in fiscal year 2015:

- 32 ▶ to the Governor's Office of Economic Development - Business Development, as an
- 33 ongoing appropriation:
- 34 • from Dedicated Credits Revenue, \$100,000.

35 **Other Special Clauses:**

36 This bill takes effect on September 2, 2014.

37 **Utah Code Sections Affected:**

38 AMENDS:

39 31A-3-102, as last amended by Laws of Utah 1994, Chapter 243

40 59-7-102, as last amended by Laws of Utah 2012, Chapter 369

41 63I-1-263, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and

42 413

42a **Ĥ→ 63M-1-903, as last amended by Laws of Utah 2012, Chapters 18 and 208 ←Ĥ**

43 ENACTS:

44 59-9-107, Utah Code Annotated 1953

45 63M-1-3401, Utah Code Annotated 1953

46 63M-1-3402, Utah Code Annotated 1953

47 63M-1-3403, Utah Code Annotated 1953

48 63M-1-3404, Utah Code Annotated 1953

49 63M-1-3405, Utah Code Annotated 1953

50 63M-1-3406, Utah Code Annotated 1953

51 63M-1-3407, Utah Code Annotated 1953

52 63M-1-3408, Utah Code Annotated 1953

53 63M-1-3409, Utah Code Annotated 1953

54 63M-1-3410, Utah Code Annotated 1953

55 63M-1-3411, Utah Code Annotated 1953

56 63M-1-3412, Utah Code Annotated 1953

212 2017.

212a **H→ Section 5. Section 63M-1-903 is amended to read:**

212b **63M-1-903. Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.**

212c **(1) There is created a restricted account within the General Fund known as the "Industrial**  
212d **Assistance Account" of which:**

212e **(a) up to 50% may be used in economically disadvantaged rural areas;**

212f **(b) up to 25% may be used to take timely advantage of economic opportunities as they arise;**

212g **(c) up to 4% may be used to promote business and economic development in rural areas of the**  
212h **state with the Business Expansion and Retention Initiative; and**

212i **(d) up to \$3,000,000 [~~one-time shall~~] may be used for the purpose of incubating technology**  
212j **solutions related to economic and workforce development.**

212k **(2) The administrator shall administer:**

212l **(a) the restricted account created under Subsection (1), under the policy direction of the**  
212m **board; and**

212n **(b) the Business Expansion and Retention Initiative for the rural areas of the state.**

212o **(3) The administrator may hire appropriate support staff to perform the duties required**  
212p **under this section.**

212q **(4) The cost of administering the restricted account shall be paid from money in the restricted**  
212r **account.**

212s **(5) Interest accrued from investment of money in the restricted account shall remain in the**  
212t **restricted account. ←H**

213 Section **H→ [5] 6 ←H** . Section 63M-1-3401 is enacted to read:

214 **Part 34. Utah Small Business Jobs Act**

215 **63M-1-3401. Title.**

216 This part is known as the "Utah Small Business Jobs Act."

217 Section **H→ [6] 7 ←H** . Section 63M-1-3402 is enacted to read:

218 **63M-1-3402. Definitions.**

219 As used in this part:

220 (1) "Affiliate" means an entity that directly, or indirectly through one or more  
221 intermediaries, controls, or is controlled by, or is under common control with, the entity  
222 specified.

223 (2) "Applicable percentage" means:

224 (a) 0% for the first two credit allowance dates;

225 (b) 12% for the next three credit allowance dates; and

226 (c) 11% for the next two credit allowance dates.

274 (i) is acquired on or after September 2, 2014, at its original issuance solely in exchange  
 275 for cash;

276 (ii) has at least 85% of its cash purchase price used by the qualified community  
 277 development entity to make qualified low-income community investments in qualified active  
 278 low-income community businesses located in this state by the first anniversary of the initial  
 279 credit allowance date; and

280 (iii) is designated by the qualified community development entity as a qualified equity  
 281 investment and is certified by the office pursuant to Section 63M-1-3403.

282 (b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a  
 283 qualified equity investment that does not meet the provisions of Subsection (10)(a) if the  
 284 investment was a qualified equity investment in the hands of a prior holder.

285 (11) "Qualified low-income community investment" means a capital or equity  
 286 investment in, or a loan to, a qualified active low-income community business, except, with  
 287 respect to any one qualified active low-income community business, the maximum amount of  
 288 qualified low-income community investments made in such business, on a collective basis with  
 289 all of the business's affiliates, with the proceeds of qualified equity investments certified under  
 290 Section 63M-1-3403 shall be \$4,000,000, exclusive of qualified low-income community  
 291 investments made with repaid or redeemed qualified low-income community investments or  
 292 interest or profits realized on the repaid or redeemed qualified low-income community  
 293 investments.

294 (12) "Tax credit certificate" is a certificate issued by the office under Subsection  
 295 63M-1-3403(11) to an entity eligible for a tax credit under Section 59-9-107 that:

296 (a) lists the name of the entity eligible for a tax credit;

297 (b) lists the entity's taxpayer identification number;

298 (c) lists the amount of tax credit that the office determines the entity is eligible for the  
 299 calendar year; and

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

301 Section ~~H~~→ [7] § ~~H~~ . Section 63M-1-3403 is enacted to read:

302 **63M-1-3403. Certification of qualified equity investments -- Issuance of tax credit**  
 303 **related certificates.**

304 (1) A qualified community development entity that seeks to have an equity investment

336 \$40,000,000 in qualified low-income community investments under the Federal New Markets  
 337 Tax Credit Program ~~H→~~ and other state's new markets tax credit programs ~~←H~~ with a  
 337a maximum qualified low-income community investment size of  
 338 \$4,000,000 per ~~H→~~ [qualified active low-income community] ~~←H~~ business ~~H→~~ [under the  
 338a Federal New  
 339 Markets Tax Credit Program] ~~←H~~ .

340 (2) (a) Within 30 days after receipt of a completed application containing the  
 341 information set forth in Subsection (1), including, if applicable, the refundable performance  
 342 deposit, the office shall grant or deny the application in full or in part.

343 (b) If the office denies any part of the application, the office shall inform the applicant  
 344 of the grounds for the denial. If the applicant provides additional information required by the  
 345 office or otherwise completes its application within 15 days of the notice of denial, the  
 346 application shall be considered completed as of the original date of submission.

347 (c) If the applicant fails to provide the information or complete its application within  
 348 the 15-day period:

349 (i) the application is denied;

350 (ii) the applicant shall resubmit an application in full with a new submission date; and

351 (iii) the office shall return any refundable performance deposit required by Subsection  
 352 63M-1-3406(1).

353 (3) (a) If the application is complete, the office shall certify the proposed equity  
 354 investment or long-term debt security as a qualified equity investment, subject to the limitation  
 355 contained in Subsection (6).

356 (b) The office shall provide written notice of the certification to the qualified  
 357 community development entity.

358 (4) The office shall certify qualified equity investments in the order applications are  
 359 received by the office. Applications received on the same day are considered to have been  
 360 received simultaneously.

361 (5) For applications that are complete and received on the same day, the office shall  
 362 certify, consistent with remaining qualified equity investment capacity, qualified equity  
 363 investments of applicants as follows:

364 (a) First, the office shall certify applications by applicants that agree to designate  
 365 qualified equity investments as federal qualified equity investments in accordance with  
 366 Subsection (1)(f) in proportionate percentages based upon the ratio of the amount of qualified