

**WORKING FAMILIES EMPLOYMENT AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca P. Edwards**

Senate Sponsor: Brian E. Shiozawa

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tax credit incentives for economic development.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ provides that the Governor's Office of Economic Development may consider the

following when awarding economic development tax credits:

- certain working parent benefits;
- hiring practices favorable to veterans; and
- the strategic benefit to the state.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63N-2-103**, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283 and last amended by Coordination Clause, Laws of Utah 2015, Chapter 344

**63N-2-104**, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and



28 amended by Laws of Utah 2015, Chapter 283

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

31 Section 1. Section **63N-2-103** is amended to read:

32 **63N-2-103. Definitions.**

33 As used in this part:

34 (1) "Business entity" means a person that enters into an agreement with the office to  
35 initiate a new commercial project in Utah that will qualify the person to receive a tax credit  
36 under Section [59-7-614.2](#) or [59-10-1107](#).

37 (2) "Community development and renewal agency" has the same meaning as that term  
38 is defined in Section [17C-1-102](#).

39 (3) "Development zone" means an economic development zone created under Section  
40 [63N-2-104](#).

41 (4) "High paying jobs" means:

42 (a) with respect to a business entity, the aggregate average annual gross wages, not  
43 including healthcare or other paid or unpaid benefits, of newly created full-time employment  
44 positions in a business entity that are at least 110% of the average wage of a community in  
45 which the employment positions will exist;

46 (b) with respect to a county, the aggregate average annual gross wages, not including  
47 healthcare or other paid or unpaid benefits, of newly created full-time employment positions in  
48 a new commercial project within the county that are at least 110% of the average wage of the  
49 county in which the employment positions will exist; or

50 (c) with respect to a city or town, the aggregate average annual gross wages, not  
51 including healthcare or other paid or unpaid benefits of newly created full-time employment  
52 positions in a new commercial project within the city or town that are at least 110% of the  
53 average wages of the city or town in which the employment positions will exist.

54 (5) "Local government entity" means a county, city, or town that enters into an  
55 agreement with the office to have a new commercial project that:

56 (a) is initiated within the county's, city's, or town's boundaries; and

57 (b) qualifies the county, city, or town to receive a tax credit under Section [59-7-614.2](#).

58 (6) (a) "New commercial project" means an economic development opportunity that

59 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

60 (b) "New commercial project" does not include retail business.

61 (7) (a) "New incremental jobs" means full-time employment positions that are filled by  
62 employees who work at least 30 hours per week and that are:

63 (i) with respect to a business entity, created in addition to the baseline count of  
64 employment positions that existed within the business entity before the new commercial  
65 project;

66 (ii) with respect to a county, created as a result of a new commercial project with  
67 respect to which the county or a community development and renewal agency seeks to claim a  
68 tax credit under Section 59-7-614.2; or

69 (iii) with respect to a city or town, created as a result of a new commercial project with  
70 respect to which the city, town, or a community development and renewal agency seeks to  
71 claim a tax credit under Section 59-7-614.2.

72 (b) "New incremental jobs" may include full-time equivalent positions that are filled by  
73 more than one employee, if each employee who works less than 30 hours per week is provided  
74 benefits comparable to a full-time employee.

75 (c) "New incremental jobs" does not include jobs that are shifted from one jurisdiction  
76 in the state to another jurisdiction in the state.

77 (8) "New state revenues" means:

78 (a) with respect to a business entity:

79 (i) incremental new state sales and use tax revenues that a business entity pays under  
80 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a  
81 development zone;

82 (ii) incremental new state tax revenues that a business entity pays as a result of a new  
83 commercial project in a development zone under:

84 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

85 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and  
86 Information;

87 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

88 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

89 (E) a combination of Subsections (8)(a)(ii)(A) through (D);

90 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,  
91 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by  
92 employees of a new or expanded industrial, manufacturing, distribution, or business service  
93 within a new commercial project as evidenced by payroll records that indicate the amount of  
94 employee income taxes withheld and transmitted to the State Tax Commission by the new or  
95 expanded industrial, manufacturing, distribution, or business service within the new  
96 commercial project; or

97 (iv) a combination of Subsections (8)(a)(i) through (iii); or

98 (b) with respect to a local government entity:

99 (i) incremental new state sales and use tax revenues that are collected under Title 59,  
100 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development  
101 zone;

102 (ii) incremental new state tax revenues that are collected as a result of a new  
103 commercial project in a development zone under:

104 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

105 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and  
106 Information;

107 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

108 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or

109 (E) a combination of Subsections (8)(b)(ii)(A) through (D);

110 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,  
111 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by  
112 employees of a new or expanded industrial, manufacturing, distribution, or business service  
113 within a new commercial project as evidenced by payroll records that indicate the amount of  
114 employee income taxes withheld and transmitted to the State Tax Commission by the new or  
115 expanded industrial, manufacturing, distribution, or business service within the new  
116 commercial project; or

117 (iv) a combination of Subsections (8)(b)(i) through (iii).

118 (9) "Significant capital investment" means an amount of at least \$10,000,000 to  
119 purchase capital or fixed assets, which may include real property, personal property, and other  
120 fixtures related to a new commercial project:

- 121 (a) that represents an expansion of existing operations in the state; or
- 122 (b) that maintains or increases the business entity's existing work force in the state.
- 123 (10) "Tax credit" means an economic development tax credit created by Section
- 124 [59-7-614.2](#) or [59-10-1107](#).
- 125 (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax
- 126 credit certificate for a taxable year.
- 127 (12) "Tax credit certificate" means a certificate issued by the office that:
- 128 (a) lists the name of the business entity, local government entity, or community
- 129 development and renewal agency to which the office authorizes a tax credit;
- 130 (b) lists the business entity's, local government entity's, or community development and
- 131 renewal agency's taxpayer identification number;
- 132 (c) lists the amount of tax credit that the office authorizes the business entity, local
- 133 government entity, or community development and renewal agency for the taxable year; and
- 134 (d) may include other information as determined by the office.
- 135 (13) (a) "Working parent benefits" means non-wage compensation in addition to
- 136 normal wages that are provided to an employee who is the parent of one or more dependent
- 137 children.
- 138 (b) "Working parent benefits" may include:
- 139 (i) parental leave;
- 140 (ii) on-site child care or a child-care subsidy;
- 141 (iii) a flexible work schedule;
- 142 (iv) adoption benefits;
- 143 (v) support for a parent of a child with special needs;
- 144 (vi) paid sick leave; and
- 145 (vii) paid family care leave.
- 146 Section 2. Section **63N-2-104** is amended to read:
- 147 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**
- 148 **of tax credit.**
- 149 (1) The office, with advice from the board, may create an economic development zone
- 150 in the state if the following requirements are satisfied:
- 151 (a) the area is zoned commercial, industrial, manufacturing, business park, research

152 park, or other appropriate business related use in a community-approved master plan;

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

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

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

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

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

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

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

166 (iv) the new commercial project includes the creation of high paying jobs in the state,  
167 significant capital investment in the state, or significant purchases from vendors and providers  
168 in the state, or a combination of these three economic factors;

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

170 (vi) a business entity, a local government entity, or a community development and  
171 renewal agency to which a local government entity assigns a tax credit under this section meets  
172 the requirements of Section [63N-2-105](#).

173 (c) In determining the maximum potential amount and duration of a tax credit offered  
174 to a business entity or local government entity under this part, the office may consider, along  
175 with other discretionary criteria, whether the new commercial project will provide:

176 (i) working parent benefits to employees;

177 (ii) hiring practices favorable to veterans; or

178 (iii) a strategic benefit to the state.

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

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

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

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

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

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

195 (ii) If the eligible business entity makes capital expenditures in the state of  
196 \$1,500,000,000 or more associated with a new commercial project, the office may:

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

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

202 (C) offer an incentive under this Subsection (3)(c)(ii) or modify an existing incentive  
203 previously granted under Subsection (3)(c)(i) that is based on the baseline measurements  
204 described in Subsection (3)(c)(ii)(B), except that the incentive may not authorize or commit to  
205 authorize a tax credit of more than 60% of new state revenues in any one year.

206 (d) (i) A local government entity may by resolution assign a tax credit authorized by  
207 the office to a community development and renewal agency.

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

210 (iii) If a local government entity assigns a tax credit to a community development and  
211 renewal agency, the written agreement described in Subsection (3)(a) shall:

212 (A) be between the office, the local government entity, and the community  
213 development and renewal agency;

214 (B) establish the obligations of the local government entity and the community  
215 development and renewal agency; and

216 (C) establish the extent to which any of the local government entity's obligations are  
217 transferred to the community development and renewal agency.

218 (iv) If a local government entity assigns a tax credit to a community development and  
219 renewal agency:

220 (A) the community development and renewal agency shall retain records as described  
221 in Subsection (4)(d); and

222 (B) a tax credit certificate issued in accordance with Section 63N-2-106 shall list the  
223 community development and renewal agency as the named applicant.

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

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

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

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

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

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