

HB0408S01 compared with HB0408

~~deleted text~~ shows text that was in HB0408 but was deleted in HB0408S01.

inserted text shows text that was not in HB0408 but was inserted into HB0408S01.

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Representative Stephen G. Handy proposes the following substitute bill:

TAX CREDITS FOR EDUCATION FINANCING

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses financing for certain public education projects.

Highlighted Provisions:

This bill:

- ▶ enacts Title 53A, Chapter 32, Energy Efficient Initiative Bonds Act, including provisions related to the following:
 - defining terms;
 - creating an application process for a school governing authority to fund certain energy efficient projects with energy efficient initiative bonds;
 - creating a process for the State Board of Education to approve applications;
 - providing for the issuance of energy efficient initiative bonds;
 - establishing a limitation on the aggregate amount of energy efficient initiative

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bonds that may be outstanding; and

- describing the information that must be provided to the State Tax Commission; and
- ▶ provides that certain taxpayers may receive a refundable corporate or individual income tax credit if the taxpayer holds energy efficient initiative bonds on certain dates of the taxable year.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53A-32-101, Utah Code Annotated 1953

53A-32-102, Utah Code Annotated 1953

53A-32-201, Utah Code Annotated 1953

53A-32-202, Utah Code Annotated 1953

53A-32-203, Utah Code Annotated 1953

59-7-621, Utah Code Annotated 1953

~~{59-11-1110}~~ **59-10-1111**, Utah Code Annotated 1953

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

Section 1. Section **53A-32-101** is enacted to read:

CHAPTER 32. ENERGY EFFICIENT INITIATIVE BOND ACT

Part 1. General Provisions

53A-32-101. Title.

This chapter is known as the "Energy Efficient Initiative Bond Act."

Section 2. Section **53A-32-102** is enacted to read:

53A-32-102. Definitions.

As used in this chapter:

(1) "Aggregate amount of outstanding bonds" means the sum of the following:

(a) the aggregate amount of bond principal designated under Subsection

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53A-32-202(1)(d) for which bonds have not yet been issued; and

(b) the aggregate amount of bond principal remaining for qualified energy efficient projects designated under Subsection 53A-32-202(1)(c) for which bonds have been issued.

(2) "Applicable credit rate" means the same as that term is defined in Section 59-7-621.

(3) "Board" means the State Board of Education.

(4) "Bond applicant" means a school governing authority that makes an application to the board under this chapter.

(5) "Credit allowance date" means the same as that term is defined in Section 59-7-621.

(6) "Energy efficient initiative bond" or "bond" means a bond:

(a) that is issued by:

(i) a school governing authority; or

(ii) a local building authority that was created by a school governing authority;

(b) that is used entirely to pay for:

(i) a qualified energy efficient project; or

(ii) costs associated with the bond, including:

(A) debt service;

(B) capitalized interest; or

(C) bond issuance;

(c) that matures no more than 15 years from the date the bond is issued; and

(d) **that is** issued in accordance with:

(i) this title; or

(ii) Title 17D, Chapter 2, Local Building Authority Act.

(7) (a) "Energy efficient project" means a project that is designed to reduce energy consumption or operating costs and increase overall energy efficiency.

(b) "Energy efficient project" includes:

(i) insulation of the building structure and systems within the building;

(ii) window and door system modification or replacement;

(iii) automatic energy control systems;

(iv) heating, ventilating, or air conditioning system modification or replacement;

(v) lighting fixture modification or replacement;

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(vi) energy recovery systems;

(vii) cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings;

(viii) energy conservation measures that provide long-term operating cost reductions;

(ix) replacement of a school bus manufactured before 2002 with a new school bus that uses alternative fuel or clean diesel fuel;

(x) installation of an alternative fuel fueling station:

(A) for a school bus that uses alternative fuel; and

(B) that may be accessed by a governmental entity or the public to fuel an alternative fuel vehicle;

(xi) retrofit of a bus shop to service and maintain a school bus that uses alternative fuel;

(xii) water conservation, including indoor and outdoor water facilities; or

(xiii) other projects that reduce energy consumption or operating costs and increase overall energy efficiency as determined by the board through administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(9) "Qualified energy efficient project" means an energy efficient project that the board has approved to be funded by energy efficient initiative bonds.

(10) "School governing authority" means:

(a) a local school board under Chapter 3, Local School Boards; or

(b) a charter school governing board.

(11) "Tax credit certificate" means a certificate issued by a school governing authority that lists:

(a) the name and address of a bondholder that holds a bond issued by the school governing authority;

(b) the applicable credit rate for the bond; and

(c) the outstanding face amount of the bond on each credit allowance date in the prior year that the bondholder holds the bond.

Section 3. Section **53A-32-201** is enacted to read:

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Part 2. Application for Bonds and Bond Issuance

53A-32-201. Application process -- Incomplete application.

(1) A school governing authority that seeks to obtain approval for an energy efficient initiative bond shall file an application with the board.

(2) The school governing authority shall provide the following to the board as part of its application:

(a) a description of the proposed project to be funded by the bond;

(b) an estimation of the expected reduction in energy consumption and operating costs due to the proposed project;

(c) an explanation of how the proposed project increases overall energy efficiency;

(d) the amount necessary to complete the proposed project;

(e) the expected interest rate of the bond; and

(f) other information the board requires by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) If the board determines that the information a bond applicant provides is incomplete, the board shall:

(a) inform the bond applicant that the application is incomplete; and

(b) ask the bond applicant to submit additional information.

Section 4. Section **53A-32-202** is enacted to read:

53A-32-202. Designation of projects for bonds -- Outstanding bonds limitation -- Retracting a designation -- Rulemaking.

(1) Subject to the other provisions of this section, the board shall:

(a) determine whether a proposed project is an energy efficient project;

(b) prioritize the energy efficient projects;

(c) designate energy efficient projects as qualified energy efficient projects; and

(d) designate a maximum bond principal amount for each qualified energy efficient project.

(2) (a) The aggregate amount of outstanding bonds may not exceed \$50,000,000.

(b) The board may not make a designation under Subsection (1)(d) that causes the aggregate amount of outstanding bonds to exceed \$50,000,000.

(3) The board may retract a designation under Subsection (1)(c) if a school governing

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authority:

(a) provides written notice to the board that the designation is no longer necessary;

(b) does not issue the bond within the time period required by the board under

Subsection (4)(c); or

(c) uses some other method to pay for the qualified energy efficient project designated under Subsection (1)(c).

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

(a) criteria for prioritizing energy efficient projects under Subsection (1)(b);

(b) procedures for documenting criteria described in Subsection (4)(a);

(c) a reasonable time period for purposes of Subsection (3)(b); and

(d) requirements for an agreement that a school governing authority or a local building authority may enter into to issue bonds, including:

(i) requirements for paying bond principal; and

(ii) other requirements determined by the board.

Section 5. Section **53A-32-203** is enacted to read:

53A-32-203. Issuance of bonds -- Provision of information to bondholders, State Tax Commission, and school governing authorities.

(1) Subject to the requirements of this chapter, a school governing authority or a local building authority may enter into an agreement to issue energy efficient initiative bonds.

(2) ~~Beginning the year after a school governing authority issues a bond, the~~ (a) A school governing authority shall annually issue, on or before January 31, a tax credit certificate to a bondholder that holds a bond on a credit allowance date in the prior year.

(b) A school governing authority shall annually provide, on or before January 31, ~~the following information~~ a copy of a tax credit certificate issued under Subsection (2)(a) to the ~~Utah~~ State Tax Commission~~.~~

~~_____ (a) the name and mailing address of each bondholder that holds the energy efficient initiative bond;~~

~~_____ (b) the applicable credit rate for the bond; and~~

~~_____ (c) the outstanding face amount of the bond on each credit allowance date for each bondholder}.~~

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(3) ~~{A}~~If a bondholder ~~{that}~~ sells or exchanges a bond, the new bondholder shall provide the school governing authority that issued the bond with the new bondholder's name and mailing address ~~{of the new bondholder}~~ within 30 days of the ~~{sell}~~sale or exchange.

Section 6. Section **59-7-621** is enacted to read:

59-7-621. Refundable energy efficient initiative bond tax credit.

(1) As used in this section:

(a) "Applicable credit rate" means a rate:

(i) equal to the rate described in Section 54A(b)(3), Internal Revenue Code; and

(ii) determined on the first day on which there is a binding, written contract for the sale or exchange of the energy efficient initiative bond.

(b) "Credit allowance date" means:

(i) March 15 of the taxable year;

(ii) June 15 of the taxable year;

(iii) September 15 of the taxable year; or

(iv) December 15 of the taxable year.

(c) "Energy efficient initiative bond" or "bond" ~~{has}~~ means the same ~~{meaning}~~ as that term is defined in Section 53A-32-102.

(d) "School governing authority" means the same as that term is defined in Section 53A-32-102.

(e) "Tax credit certificate" means the same as that term is defined in Section 53A-32-102.

(2) For a taxable year beginning on or after January 1, 2017, a taxpayer that holds an energy efficient initiative bond on a credit allowance date may claim a refundable tax credit as provided in this section.

(3) (a) Subject to Subsection (3)(b), the tax credit under Subsection (2) is equal to the product of:

(i) a fraction the numerator of which is the applicable credit rate, and the denominator of which is four; and

(ii) the outstanding face amount of the bond on the credit allowance date the taxpayer holds the bond.

(b) If the taxpayer holds the bond on more than one credit allowance date during the

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taxable year, the taxpayer shall calculate the amount of the tax credit under Subsection (2) as follows:

(i) complete the calculation described in Subsection (3)(a) for each credit allowance date during the taxable year on which the taxpayer holds the bond; and

(ii) ~~calculate the sum of~~ **add together** the amounts calculated under Subsection (3)(b)(i).

(4) A taxpayer may not claim a tax credit under this section for a taxable year if the taxpayer does not hold a tax credit certificate for that taxable year.

(5) A taxpayer may not carry forward or carry back a tax credit under this section.

~~(4)6~~ For a taxable year, a taxpayer may not receive a tax credit under this section and Section 59-10-1110.

~~(5)7~~ (a) In accordance with any rules prescribed by the commission under Subsection ~~(5)7~~(b), the commission shall make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a taxpayer as required by Subsection ~~(5)7~~(a).

Section 7. Section ~~{59-11-1110}~~ **59-10-1111** is enacted to read:

~~{59-11-1110}~~59-10-1111. Refundable energy efficient initiative bond tax credit.

(1) As used in this section:

(a) "Applicable credit rate" means ~~a rate:~~

~~— (i) equal to the rate described in Section 54A(b)(3), Internal Revenue Code; and~~

~~— (ii) determined on the first day on which there is a binding, written contract for the sale or exchange of the energy efficient initiative bond;~~ the same as that term is defined in Section 59-7-621.

(b) "Credit allowance date" means ~~+~~

~~— (i) March 15 of the taxable year;~~

~~— (ii) June 15 of the taxable year;~~

~~— (iii) September 15 of the taxable year; or~~

~~— (iv) December 15 of the taxable year;~~ the same as that term is defined in Section 59-7-621.

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(c) "Energy efficient initiative bond" or "bond" ~~{has}~~ means the same ~~{meaning}~~ as that term is defined in Section 53A-32-102.

(d) "School governing authority" means the same as that term is defined in Section 53A-32-102.

(e) "Tax credit certificate" means the same as that term is defined in Section 53A-32-102.

(2) For a taxable year beginning on or after January 1, 2017, a claimant, estate, or trust that holds an energy efficient initiative bond on a credit allowance date may claim a refundable tax credit as provided in this section.

(3) (a) Subject to Subsection (3)(b), the tax credit under Subsection (2) is equal to the product of:

(i) a fraction the numerator of which is the applicable credit rate, and the denominator of which is four; and

(ii) the outstanding face amount of the bond on the credit allowance date the taxpayer holds the bond.

(b) If the taxpayer holds the bond on more than one credit allowance date during the taxable year, the taxpayer shall calculate the amount of the tax credit under Subsection (2) as follows:

(i) complete the calculation described in Subsection (3)(a) for each credit allowance date during the taxable year on which the taxpayer holds the bond; and

(ii) ~~{calculate the sum of}~~ add together the amounts calculated under Subsection (3)(b)(i).

(4) A taxpayer may not claim a tax credit under this section for a taxable year if the taxpayer does not hold a tax credit certificate for that taxable year.

(5) A taxpayer may not carry forward or carry back a tax credit under this section.

~~(4)~~6 For a taxable year, a claimant, estate, or trust may not receive a tax credit under this section and Section 59-7-621.

~~(5)~~7 (a) In accordance with any rules prescribed by the commission under Subsection ~~(5)~~7(b), the commission shall make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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commission may make rules providing procedures for making a refund to a taxpayer as required by Subsection (~~5~~7)(a).

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel†~~