

RURAL TAX CREDIT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to state tax credits in an enterprise zone.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a state nonrefundable tax credit for certain contributions to a nonprofit corporation related to an approved project in an enterprise zone;
- ▶ provides the requirements for the Governor's Rural Partnership Board and the Governor's Office of Economic Development to approve a project in an enterprise zone; and
- ▶ provides the requirements for receiving a tax credit certificate from the Governor's Office of Economic Development related to a contribution to a nonprofit corporation in an enterprise zone for an approved project.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-10-103, as last amended by Laws of Utah 2014, Chapter 259



28 [63N-2-203](#), as last amended by Laws of Utah 2016, Chapter 11

29 ENACTS:

30 [59-7-614.11](#), Utah Code Annotated 1953

31 [59-10-1038](#), Utah Code Annotated 1953

32 [63N-2-213.5](#), Utah Code Annotated 1953



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

35 Section 1. Section **59-7-614.11** is enacted to read:

36 **59-7-614.11. Nonrefundable nonprofit contribution tax credit.**

37 (1) As used in this section, "office" means the Governor's Office of Economic
38 Development created in Section [63N-1-201](#).

39 (2) Subject to the provisions of this section, a taxpayer that is a corporation may claim
40 a nonrefundable nonprofit contribution tax credit if the taxpayer meets the requirements for the
41 tax credit described in Section [63N-2-213.5](#).

42 (3) The nonprofit contribution tax credit under this section is the amount listed as the
43 tax credit amount on the tax credit certificate that the office issues to the taxpayer for the
44 taxable year.

45 (4) A taxpayer may carry forward a tax credit under this section for a period that does
46 not exceed the next three taxable years, if the amount of the tax credit exceeds the taxpayer's
47 tax liability under this chapter for that taxable year.

48 (5) (a) On or before October 1, 2018, and every five years after October 1, 2018, the
49 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
50 make recommendations to the Legislative Management Committee concerning whether the tax
51 credit should be continued, modified, or repealed.

52 (b) The Revenue and Taxation Interim Committee shall ensure that recommendations
53 under this Subsection (5) include an evaluation of:

- 54 (i) the cost of the tax credit to the state;
- 55 (ii) the purpose and effectiveness of the tax credit; and
- 56 (iii) the extent to which the state benefits from the tax credit.

57 Section 2. Section **59-10-1038** is enacted to read:

58 **59-10-1038. Nonrefundable nonprofit contribution tax credit.**

59 (1) As used in this section, "office" means the Governor's Office of Economic
60 Development created in Section 63N-1-201.

61 (2) Subject to the provisions of this section, a taxpayer may claim a nonrefundable
62 nonprofit contribution tax credit if the taxpayer meets the requirements for the tax credit
63 described in Section 63N-2-213.5.

64 (3) The nonprofit contribution tax credit under this section is the amount listed as the
65 tax credit amount on the tax credit certificate that the office issues to the taxpayer for the
66 taxable year.

67 (4) A taxpayer may carry forward a tax credit under this section for a period that does
68 not exceed the next three taxable years, if the amount of the tax credit exceeds the taxpayer's
69 tax liability under this chapter for that taxable year.

70 (5) (a) On or before October 1, 2018, and every five years after October 1, 2018, the
71 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
72 make recommendations to the Legislative Management Committee concerning whether the tax
73 credit should be continued, modified, or repealed.

74 (b) The Revenue and Taxation Interim Committee shall ensure that recommendations
75 under this Subsection (5) include an evaluation of:

- 76 (i) the cost of the tax credit to the state;
77 (ii) the purpose and effectiveness of the tax credit; and
78 (iii) the extent to which the state benefits from the tax credit.

79 Section 3. Section **63C-10-103** is amended to read:

80 **63C-10-103. Duties.**

81 (1) The board shall:

82 (a) serve as an advisory board to:

83 (i) the governor on rural economic and planning issues; and

84 (ii) the Governor's Office of Economic Development on rural economic development
85 issues;

86 (b) prepare an annual strategic plan that:

87 (i) identifies rural economic development, planning, and leadership training challenges,
88 opportunities, priorities, and objectives; and

89 (ii) includes a work plan for accomplishing the objectives referred to in Subsection

- 90 (1)(b)(i);
- 91 (c) identify local, regional, and statewide rural economic development and planning
- 92 priorities;
- 93 (d) study and take input on issues relating to local, regional, and statewide rural
- 94 economic development, including challenges, opportunities, best practices, policy, planning,
- 95 and collaboration;
- 96 (e) advocate for rural needs, programs, policies, opportunities, and other issues relating
- 97 to rural economic development and planning; ~~and~~
- 98 (f) review projects proposed by nonprofit corporations in enterprise zones as described
- 99 in Subsection 63N-2-213.5(4); and
- 100 ~~(f)~~ (g) no later than October 1 of each year, submit to the governor and to the
- 101 Legislature an annual report, in accordance with Section 68-3-14, that provides:
- 102 (i) an overview of the rural economy in the state;
- 103 (ii) a summary of current issues and policy matters relating to rural economic
- 104 development; and
- 105 (iii) a statement of the board's initiatives, programs, and economic development
- 106 priorities.
- 107 (2) The board may engage in activities necessary to fulfill the board's duties, including:
- 108 (a) propose or support rural economic development legislation; and
- 109 (b) create one or more subcommittees.
- 110 Section 4. Section 63N-2-203 is amended to read:
- 111 **63N-2-203. Powers of the office.**
- 112 The office shall:
- 113 (1) monitor the implementation and operation of this part and conduct a continuing
- 114 evaluation of the progress made in the enterprise zones;
- 115 (2) evaluate an application for designation as an enterprise zone from a county
- 116 applicant or a municipal applicant and determine if the applicant qualifies for that designation;
- 117 (3) provide technical assistance to county applicants and municipal applicants in
- 118 developing applications for designation as enterprise zones;
- 119 (4) assist county applicants and municipal applicants designated as enterprise zones in
- 120 obtaining assistance from the federal government and agencies of the state;

121 (5) assist a qualified business entity in obtaining the benefits of an incentive or
122 inducement program authorized by this part; and

123 (6) as part of the annual written report described in Section [63N-1-301](#), prepare an
124 annual evaluation that provides:

125 (a) based on data from the State Tax Commission, the total amount of tax credits
126 claimed under this part;

127 (b) the total amount awarded in tax credits for each development zone;

128 (c) the number of new full-time employee positions reported to obtain tax credits in
129 each development zone;

130 (d) the amount of tax credits awarded for rehabilitating a building in each development
131 zone;

132 (e) the amount of tax credits awarded for investing in a plant, equipment, or other
133 depreciable property in each development zone; ~~[and]~~

134 (f) the list of approved projects under Section [63N-2-213.5](#) and the aggregate value of
135 the tax credit certificates issued during the office's fiscal year related to contributions to those
136 approved projects; and

137 ~~[(f)]~~ (g) recommendations regarding the effectiveness of the program and any
138 suggestions for legislation.

139 Section 5. Section [63N-2-213.5](#) is enacted to read:

140 **[63N-2-213.5](#). State tax credits for contributions to a nonprofit corporation.**

141 (1) As used in this section:

142 (a) (i) "Approved project" means a project:

143 (A) undertaken by a nonprofit corporation whose primary purpose is community and
144 economic development;

145 (B) that is located or proposed to be located in an existing enterprise zone;

146 (C) that has been approved by the legislative body of the county or of the municipality
147 where the project is located or is proposed to be located;

148 (D) that has been reviewed and approved in accordance with this section by the
149 Governor's Rural Partnership Board, created in Section [63C-10-102](#); and

150 (E) that has been reviewed and approved by the office in accordance with this section.

151 (ii) "Approved project" may include:

- 152 (A) a community event that will foster community and economic development;
- 153 (B) the building or renovating of a museum;
- 154 (C) the building or renovating of a tourist or visitor center;
- 155 (D) the building or renovating of a theater; or
- 156 (E) the building or renovating of a building where the use of the building will foster
- 157 community and economic development.

158 (iii) "Approved project" may not include:

- 159 (A) the building or renovating of a state-owned building;
- 160 (B) providing or funding scholarships; or
- 161 (C) the building or renovating of a housing project.

162 (b) "Nonprofit contribution tax credit" means a nonrefundable tax credit related to

163 contributions to a nonprofit corporation for an approved project in an enterprise zone.

164 (c) "Nonprofit corporation" means a private corporation that is exempt from federal

165 income taxation under Section 501(c)(3), Internal Revenue Code.

166 (2) In accordance with this section, a claimant who is issued a nonprofit contribution

167 tax credit certificate by the office under this section may claim a nonprofit contribution tax

168 credit in the amount specified on the nonprofit contribution tax credit certificate.

169 (3) The total amount of the nonprofit contribution tax credits issued by the office under

170 this section for all claimants may not exceed \$75,000 in any office fiscal year.

171 (4) (a) A nonprofit corporation that is seeking the Governor's Rural Partnership Board

172 review and approval of a project for the purposes of this section shall submit an application to

173 the Governor's Rural Partnership Board on or before June 30 of the calendar year in which the

174 nonprofit corporation will undertake the project.

175 (b) The application shall include:

176 (i) documentation to demonstrate that the project has been approved by the legislative

177 body of the county or of the municipality where the project is located or is proposed to be

178 located;

179 (ii) documentation to demonstrate that the project meets the definition and

180 requirements of an approved project described in this section, including how the project will

181 foster community and economic development; and

182 (iii) a budget for the project, including how much money for the project is intended to

183 be funded from contributions from potential claimants.

184 (5) (a) A nonprofit corporation that is seeking the office's review and approval of a
185 project for the purposes of this section shall submit an application to the office on or before
186 July 31 of the calendar year in which the nonprofit corporation will undertake the project.

187 (b) The application shall include:

188 (i) documentation to demonstrate that the project has been approved by the legislative
189 body of the county or of the municipality where the project is located or is proposed to be
190 located;

191 (ii) documentation to demonstrate that the project has been approved by the Governor's
192 Rural Partnership Board as described in Subsection (4);

193 (iii) documentation to demonstrate that the project meets the definition and
194 requirements of an approved project described in this section;

195 (iv) a budget for the project, including how much money for the project is intended to
196 be funded from contributions from potential claimants; and

197 (v) an agreement to provide post-performance reporting related to the project as
198 required by the office.

199 (6) (a) If a project is approved by the office in accordance with Subsection (5), the
200 office shall provide the nonprofit corporation with a document describing the approved amount
201 of nonprofit contribution tax credits available to a potential claimant who makes a contribution
202 to the nonprofit corporation for an approved project and the nonprofit corporation's
203 requirements for post-performance reporting to the office.

204 (b) Subject to Subsection (3), the office shall ensure that a document described in this
205 Subsection (6) includes:

206 (i) the amount of total contributions to the nonprofit corporation that qualify for a
207 nonprofit contribution tax credit, which may not exceed the amount the nonprofit corporation
208 has provided in its budget for the project as described in Subsections (4)(b)(iii) and (5)(b)(iv);
209 and

210 (ii) the percentage of the contribution that may be returned to the potential claimant in
211 the form of nonprofit contribution tax credits, which may not exceed 50% of the contributions
212 to the nonprofit corporation for an approved project.

213 (7) The office shall certify a claimant's eligibility for a nonprofit contribution tax credit

214 described in this section.

215 (8) Before a claimant may receive a nonprofit contribution tax credit certificate
216 described in this section, a nonprofit corporation that receives a document, in accordance with
217 Subsection (6), describing the approved amount of nonprofit contribution tax credits shall:

218 (a) provide a list of each potential claimant that has contributed to the approved project
219 during the calendar year and the amount of money contributed by each potential claimant; and

220 (b) evidence that the money donated from each potential claimant was spent by the
221 nonprofit corporation on an approved project.

222 (9) A claimant seeking to receive a nonprofit contribution tax credit as provided in this
223 section shall provide the office with an application for the nonprofit contribution tax credit in a
224 form approved by the office, including documentation that demonstrates the claimant and the
225 nonprofit corporation have met the requirements for the claimant to receive the nonprofit
226 contribution tax credit, including providing evidence of the amount of the contribution made to
227 a nonprofit corporation for an approved project.

228 (10) If, after the review of an application and documentation provided by a claimant as
229 described in Subsection (9), the office determines that the application and documentation are
230 inadequate to provide a reasonable justification for authorizing the nonprofit contribution tax
231 credit, the office shall:

232 (a) deny the nonprofit contribution tax credit; or

233 (b) inform the claimant that the application or documentation was inadequate and ask
234 the claimant to submit additional documentation.

235 (11) If, after review of an application and documentation provided by a claimant as
236 described in Subsection (9), the office determines that the application and documentation
237 provide reasonable justification for authorizing a nonprofit contribution tax credit, the office
238 shall:

239 (a) determine the amount of the nonprofit contribution tax credit to be granted to the
240 claimant;

241 (b) issue a nonprofit contribution tax credit certificate to the claimant; and

242 (c) provide a duplicate copy of the nonprofit contribution tax credit certificate to the
243 State Tax Commission.

244 (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

245 the office shall make rules describing:

246 (a) the form and content of an application for a nonprofit corporation to make a project
247 an approved project;

248 (b) the documentation requirements for a claimant to receive a nonprofit contribution
249 tax credit certificate under this section; and

250 (c) administration of the program, including rules that ensure the aggregate value of
251 nonprofit contribution tax credit certificates issued by the office under this section does not
252 exceed \$100,000 in any office fiscal year.

Legislative Review Note
Office of Legislative Research and General Counsel