

HB0219S01 compared with HB0219

~~text~~ shows text that was in HB0219 but was deleted in HB0219S01.

Inserted text shows text that was not in HB0219 but was inserted into HB0219S01.

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Representative Scott D. Sandall proposes the following substitute bill:

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

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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

63N-2-203, as last amended by Laws of Utah 2016, Chapter 11

ENACTS:

59-7-614.11, Utah Code Annotated 1953

59-10-1038, Utah Code Annotated 1953

63N-2-213.5, Utah Code Annotated 1953

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

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

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

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

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

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

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

(5) (a) On or before October 1, 2018, and every five years after October 1, 2018, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax

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credit should be continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

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

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

63C-10-103. Duties.

(1) The board shall:

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- (a) serve as an advisory board to:
 - (i) the governor on rural economic and planning issues; and
 - (ii) the Governor's Office of Economic Development on rural economic development issues;
- (b) prepare an annual strategic plan that:
 - (i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and
 - (ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i);
- (c) identify local, regional, and statewide rural economic development and planning priorities;
- (d) study and take input on issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;
- (e) advocate for rural needs, programs, policies, opportunities, and other issues relating to rural economic development and planning; ~~and~~
- (f) review projects in enterprise zones proposed by nonprofit corporations headquartered in enterprise zones as described in Subsection 63N-2-213.5(~~4~~6); and
- ~~(f)~~ (g) no later than October 1 of each year, submit to the governor and to the Legislature an annual report, in accordance with Section 68-3-14, that provides:
 - (i) an overview of the rural economy in the state;
 - (ii) a summary of current issues and policy matters relating to rural economic development; and
 - (iii) a statement of the board's initiatives, programs, and economic development priorities.
- (2) The board may engage in activities necessary to fulfill the board's duties, including:
 - (a) propose or support rural economic development legislation; and
 - (b) create one or more subcommittees.

Section 4. Section **63N-2-203** is amended to read:

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

The office shall:

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(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-1-301, 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) the list of approved projects under Section 63N-2-213.5 and the aggregate value of the tax credit certificates issued ~~during the office's fiscal year~~ related to contributions to those approved projects; and

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

Section 5. Section **63N-2-213.5** is enacted to read:

63N-2-213.5. State tax credits for contributions to a nonprofit corporation.

(1) As used in this section:

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

(A) undertaken by a nonprofit corporation ~~whose~~ headquartered in an enterprise zone

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and where the primary purpose of the project is community and economic development:

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

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

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

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

~~†~~ (ii) "Approved project" may include:

(A) a community event or project that will foster community and economic development;

(B) the building or renovating of, or the acquisition of property for, a museum;

(C) the building or renovating of, or the acquisition of property for, a tourist or visitor center;

(D) the building or renovating of, or the acquisition of property for, a theater; or

(E) the building or renovating of, or the acquisition of property for, a building where the use of the building will foster community and economic development.

(iii) "Approved project" may not include:

(A) the building or renovating of a state-owned building;

(B) providing or funding scholarships; or

(C) the building or renovating of a housing project.

(b) "Nonprofit contribution tax credit" means a nonrefundable tax credit related to contributions to a nonprofit corporation for an approved project in an enterprise zone.

(c) "Nonprofit corporation" means a private corporation that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(2) In accordance with this section, a claimant who is issued a nonprofit contribution tax credit certificate by the office under this section may claim a nonprofit contribution tax credit in the amount specified on the nonprofit contribution tax credit certificate.

(3) The total amount of the nonprofit contribution tax credits issued by the office under this section for all claimants may not exceed \$75,000 in any office fiscal calendar year.

(4) (a) A nonprofit corporation that is seeking the Governor's Rural Partnership Board's office's review and approval of a project for the purposes of this section shall submit an

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application to the ~~{Governor's Rural Partnership Board}~~ office on or before ~~{June 30}~~ July 1 of the calendar year in which the nonprofit corporation will undertake the project.

(b) The application shall include:

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

(ii) documentation to demonstrate that the project meets the definition and requirements of an approved project described in this section ~~{, including how the project will foster community and economic development; and~~

~~—— (iii) a budget for the project, including how much money for the project is intended to be funded from contributions from potential claimants;~~

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

~~—— (b) The application shall include:~~

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

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

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

~~—— (iv);~~

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

(~~{v}~~iv) an agreement to provide post-performance reporting related to the project as required by the office.

(~~{6}~~5) The office shall review each application received in accordance with Subsection (4) and on or before August 1 submit to the Governor's Rural Partnership Board each application for a project that, except for the review and approval of the Governor's Rural Partnership Board, meets the requirements of Subsections (1)(a) and (4).

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(6) (a) The Governor's Rural Partnership Board shall review each application for a project received from the office in accordance with Subsection (5) to determine whether the project is an approved project and determine the amount of nonprofit contribution tax credits available to potential claimants that make contributions toward the approved project.

(b) The Governor's Rural Partnership Board may not approve available nonprofit contribution tax credits in a calendar year:

(i) in an amount more than \$75,000 for all approved projects combined;

(ii) for any one project, in an amount more than 50% of the total amount the nonprofit corporation has provided in the nonprofit corporation's budget for the project; and

(iii) for any claimant, in an amount more than 50% of the claimant's contribution to the nonprofit corporation for the project.

(c) In reviewing each application for a project under this Subsection (6), the Governor's Rural Partnership Board may prioritize which projects to approve based upon:

(i) the limitations regarding the amount of available nonprofit contribution tax credits described in Subsection (6)(b); and

(ii) which projects the Governor's Rural Partnership Board determines will best contribute to rural community and economic development in the state.

(7) On or before September 1, the Governor's Rural Partnership Board shall provide a list to the office of approved projects and the amount of nonprofit contribution tax credits available to potential claimants that make contributions toward each approved project.

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

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

(i) the amount of total contributions to the nonprofit corporation that qualify for a nonprofit contribution tax credit, which may not exceed the amount the nonprofit corporation has provided in ~~fits~~ the nonprofit corporation's budget for the project as described in

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~~{Subsections}~~ Subsection (4)(b)(iii) ~~and (5)(b)(iv)~~; and

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

~~{7}9~~ The office shall certify a claimant's eligibility for a nonprofit contribution tax credit described in this section.

~~{8}10~~ Before a claimant may receive a nonprofit contribution tax credit certificate described in this section, a nonprofit corporation that receives a document, in accordance with Subsection ~~{6}8~~, describing the approved amount of nonprofit contribution tax credits shall provide:

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

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

~~{9}11~~ A claimant seeking to receive a nonprofit contribution tax credit as provided in this section shall provide the office with an application for the nonprofit contribution tax credit in a form approved by the office, including documentation that demonstrates the claimant and the nonprofit corporation have met the requirements for the claimant to receive the nonprofit contribution tax credit, including providing evidence of the amount of the contribution made to a nonprofit corporation for an approved project.

~~{10}12~~ If, after the review of an application and documentation provided by a claimant as described in Subsection ~~{9}11~~, the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the nonprofit contribution tax credit, the office shall:

(a) deny the nonprofit contribution tax credit; or

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

~~{11}13~~ If, after review of an application and documentation provided by a claimant as described in Subsection ~~{9}11~~, the office determines that the application and documentation provide reasonable justification for authorizing a nonprofit contribution tax

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credit, the office shall:

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

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

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

(~~12~~14) 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 nonprofit corporation to make a project an approved project;

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

(c) administration of the program, including rules that ensure the aggregate value of nonprofit contribution tax credit certificates issued by the office under this section does not exceed ~~100~~75,000 in any ~~office fiscal~~calendar year.

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Legislative Review Note

Office of Legislative Research and General Counsel