

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: Ralph Okerlund

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:

This bill provides retrospective operation.

Utah Code Sections Affected:



26 AMENDS:

27 [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 in enterprise zones proposed by nonprofit corporations
99 headquartered in enterprise zones as described in Subsection 63N-2-213.5(6); 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 related to contributions to those approved projects; and

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

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

139 **[63N-2-213.5](#). State tax credits for contributions to a nonprofit corporation.**

140 (1) As used in this section:

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

142 (A) undertaken by a nonprofit corporation headquartered in an enterprise zone and

143 where the primary purpose of the project is community and economic development;

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

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

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

149 (ii) "Approved project" may include:

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

171 (4) (a) A nonprofit corporation that is seeking the office's review and approval of a

172 project for the purposes of this section shall submit an application to the office on or before

173 July 1 of the calendar year in which the nonprofit corporation will undertake the project.

174 (b) The application shall include:

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

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

177 located;

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

179 requirements of an approved project described in this section;

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

181 be funded from contributions from potential claimants; and

182 (iv) an agreement to provide post-performance reporting related to the project as
183 required by the office.

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

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

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

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

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

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

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

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

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

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

208 (8) (a) If a project is approved in accordance with Subsection (6), the office shall
209 provide the nonprofit corporation with a document describing the approved amount of
210 nonprofit contribution tax credits available to potential claimants who make contributions to
211 the nonprofit corporation for an approved project and the nonprofit corporation's requirements

212 for post-performance reporting to the office.

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

215 (i) the amount of total contributions to the nonprofit corporation that qualify for a
216 nonprofit contribution tax credit, which may not exceed the amount the nonprofit corporation
217 has provided in the nonprofit corporation's budget for the project as described in Subsection
218 (4)(b)(iii); and

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

222 (9) The office shall certify a claimant's eligibility for a nonprofit contribution tax credit
223 described in this section.

224 (10) Before a claimant may receive a nonprofit contribution tax credit certificate
225 described in this section, a nonprofit corporation that receives a document, in accordance with
226 Subsection (8), describing the approved amount of nonprofit contribution tax credits shall
227 provide:

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

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

232 (11) A claimant seeking to receive a nonprofit contribution tax credit as provided in
233 this section shall provide the office with an application for the nonprofit contribution tax credit
234 in a form approved by the office, including documentation that demonstrates the claimant and
235 the nonprofit corporation have met the requirements for the claimant to receive the nonprofit
236 contribution tax credit, including providing evidence of the amount of the contribution made to
237 a nonprofit corporation for an approved project.

238 (12) If, after the review of an application and documentation provided by a claimant as
239 described in Subsection (11), the office determines that the application and documentation are
240 inadequate to provide a reasonable justification for authorizing the nonprofit contribution tax
241 credit, the office shall:

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

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

245 (13) If, after review of an application and documentation provided by a claimant as
246 described in Subsection (11), the office determines that the application and documentation
247 provide reasonable justification for authorizing a nonprofit contribution tax credit, the office
248 shall:

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

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

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

254 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
255 the office shall make rules describing:

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

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

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

263 **Section 6. Retrospective operation.**

264 This bill has retrospective operation for a taxable year beginning on or after January 1,
265 2017.