

WORKFORCE DEVELOPMENT INCENTIVES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines the term "working parent benefits"; and
- ▶ provides that the Governor's Office of Economic Development may consider

whether an employer will provide working parent benefits when awarding certain economic development tax credits.

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 2016, Chapter 350

63N-2-104, as last amended by Laws of Utah 2018, Chapter 281

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

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

63N-2-103. Definitions.



28 As used in this part:

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

32 (2) "Community reinvestment agency" has the same meaning as that term is defined in
33 Section [17C-1-102](#).

34 (3) "Development zone" means an economic development zone created under Section
35 [63N-2-104](#).

36 (4) "High paying jobs" means:

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

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

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

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

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

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

53 (6) (a) "New commercial project" means an economic development opportunity that
54 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.

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

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

58 (i) with respect to a business entity, created in addition to the baseline count of

59 employment positions that existed within the business entity before the new commercial
60 project;

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

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

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

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

72 (8) "New state revenues" means:

73 (a) with respect to a business entity:

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

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

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

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

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

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

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

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

90 expanded industrial, manufacturing, distribution, or business service within the new
91 commercial project; or
92 (iv) a combination of Subsections (8)(a)(i) through (iii); or
93 (b) with respect to a local government entity:
94 (i) incremental new state sales and use tax revenues that are collected under Title 59,
95 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development
96 zone;
97 (ii) incremental new state tax revenues that are collected as a result of a new
98 commercial project in a development zone under:
99 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
100 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
101 Information;
102 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;
103 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; or
104 (E) a combination of Subsections (8)(b)(ii)(A) through (D);
105 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
106 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
107 employees of a new or expanded industrial, manufacturing, distribution, or business service
108 within a new commercial project as evidenced by payroll records that indicate the amount of
109 employee income taxes withheld and transmitted to the State Tax Commission by the new or
110 expanded industrial, manufacturing, distribution, or business service within the new
111 commercial project; or
112 (iv) a combination of Subsections (8)(b)(i) through (iii).
113 (9) "Significant capital investment" means an amount of at least \$10,000,000 to
114 purchase capital or fixed assets, which may include real property, personal property, and other
115 fixtures related to a new commercial project:
116 (a) that represents an expansion of existing operations in the state; or
117 (b) that maintains or increases the business entity's existing work force in the state.
118 (10) "Tax credit" means an economic development tax credit created by Section
119 [59-7-614.2](#) or [59-10-1107](#).
120 (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax

121 credit certificate for a taxable year.

122 (12) "Tax credit certificate" means a certificate issued by the office that:

123 (a) lists the name of the business entity, local government entity, or community
124 development and renewal agency to which the office authorizes a tax credit;

125 (b) lists the business entity's, local government entity's, or community development and
126 renewal agency's taxpayer identification number;

127 (c) lists the amount of tax credit that the office authorizes the business entity, local
128 government entity, or community development and renewal agency for the taxable year; and

129 (d) may include other information as determined by the office.

130 (13) (a) "Working parent benefits" means nonwage compensation in addition to normal
131 wages that are provided to an employee who is the parent or guardian of one or more dependent
132 children.

133 (b) "Working parent benefits" may include:

134 (i) on-site child care, near-site child care, or a child-care subsidy;

135 (ii) a flexible work schedule;

136 (iii) a matched flexible spending account for child care;

137 (iv) paid family care leave; and

138 (v) a partnership with a local child-care provider to secure stable placement for
139 children of an employee.

140 Section 2. Section **63N-2-104** is amended to read:

141 **63N-2-104. Creation of economic development zones -- Tax credits -- Assignment**
142 **of tax credit.**

143 (1) The office, with advice from the board, may create an economic development zone
144 in the state if the following requirements are satisfied:

145 (a) the area is zoned commercial, industrial, manufacturing, business park, research
146 park, or other appropriate business related use in a community-approved master plan;

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

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

150 (2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
151 the office shall make rules establishing the requirements for a business entity or local

152 government entity to qualify for a tax credit for a new commercial project in a development
153 zone under this part.

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

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

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

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

160 (iv) the new commercial project includes the creation of high paying jobs in the state,
161 significant capital investment in the state, or significant purchases from vendors, contractors, or
162 service providers in the state, or a combination of these three economic factors;

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

164 (vi) a business entity, a local government entity, or a community reinvestment agency
165 to which a local government entity assigns a tax credit under this section meets the
166 requirements of Section [63N-2-105](#).

167 (c) In determining the maximum potential amount and duration of a tax credit offered
168 to a business entity or local government entity under this part, the office may consider, along
169 with other discretionary criteria, whether the new commercial project will provide working
170 parent benefits to employees.

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

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

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

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

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

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

187 (ii) If the eligible business entity makes capital expenditures in the state of
188 \$1,500,000,000 or more associated with a new commercial project, the office may:

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

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

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

198 (d) (i) A local government entity may by resolution assign a tax credit authorized by
199 the office to a community reinvestment agency.

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

202 (iii) If a local government entity assigns a tax credit to a community reinvestment
203 agency, the written agreement described in Subsection (3)(a) shall:

204 (A) be between the office, the local government entity, and the community
205 reinvestment agency;

206 (B) establish the obligations of the local government entity and the community
207 reinvestment agency; and

208 (C) establish the extent to which any of the local government entity's obligations are
209 transferred to the community reinvestment agency.

210 (iv) If a local government entity assigns a tax credit to a community reinvestment
211 agency:

212 (A) the community reinvestment agency shall retain records as described in Subsection
213 (4)(d); and

214 (B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the
215 community reinvestment agency as the named applicant.

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

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

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

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

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

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