

## SB0200S01 compared with SB0200

~~{deleted text}~~ shows text that was in SB0200 but was deleted in SB0200S01.

Inserted text shows text that was not in SB0200 but was inserted into SB0200S01.

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Senator Scott D. Sandall proposes the following substitute bill:

### RURAL ECONOMIC DEVELOPMENT MODIFICATIONS

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor: ~~{~~ Carl R. Albrecht

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to economic development.

##### Highlighted Provisions:

This bill:

- ▶ modifies enterprise zone provisions overseen by the Governor's Office of Economic Development (GOED);
- ▶ modifies provisions related to economic development tax increment financing;
- ▶ repeals provisions related to certain GOED administered economic development programs;
- ▶ defines terms, including "rural county";
- ▶ creates the Rural County Economic Development Grant Program (grant program);
- ▶ describes the requirements and purposes of the grant program;

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- ▶ describes the requirements for a rural county to apply for a grant under the grant program;
- ▶ describes the requirements of GOED in administering the grant program; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the ~~{Governor's}~~Governor's Office of Economic Development -- Rural County Economic Development Grant Program, as ~~{a one-time}~~an ongoing appropriation:
  - from the General Fund, ~~{\$2}~~\$8,000,000

~~This bill appropriates in fiscal year 2021:}; and~~

- ▶ to the ~~{Governor's}~~Governor's Office of Economic Development -- Rural County Economic Development Grant Program, as ~~{an ongoing}~~a one-time appropriation:
  - from the General Fund, ~~{\$10}~~One-time, (\$6,000,000).

### Other Special Clauses:

This bill provides retrospective operation.

### Utah Code Sections Affected:

AMENDS:

**59-7-610**, as last amended by Laws of Utah 2015, Chapter 283

**59-7-614.10**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

**59-10-210**, as last amended by Laws of Utah 2015, Chapter 283

**59-10-1007**, as last amended by Laws of Utah 2015, Chapter 283

**59-10-1037**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

**63C-10-103**, as last amended by Laws of Utah 2018, Chapter 204

**63N-2-103**, as last amended by Laws of Utah 2016, Chapter 350

**63N-2-203**, as last amended by Laws of Utah 2017, Chapter 252

**63N-2-204**, as last amended by Laws of Utah 2016, Chapter 11

**63N-2-208**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-2-213**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1

**63N-2-403**, as renumbered and amended by Laws of Utah 2015, Chapter 283

**63N-2-705**, as renumbered and amended by Laws of Utah 2015, Chapter 283

ENACTS:

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63N-4-501, Utah Code Annotated 1953

63N-4-502, Utah Code Annotated 1953

63N-4-503, Utah Code Annotated 1953

63N-4-504, Utah Code Annotated 1953

63N-4-505, Utah Code Annotated 1953

63N-4-506, Utah Code Annotated 1953

### REPEALS:

[59-7-614.11, as enacted by Laws of Utah 2017, Chapter 252](#)

[59-10-1039, as enacted by Laws of Utah 2017, Chapter 252](#)

63N-2-213.5, as enacted by Laws of Utah 2017, Chapter 252

63N-2-301, as enacted by Laws of Utah 2015, Chapter 283

63N-2-302, as last amended by Laws of Utah 2017, Chapter 352

63N-2-303, as last amended by Laws of Utah 2017, Chapter 352

63N-2-304, as last amended by Laws of Utah 2017, Chapter 352

63N-2-305, as last amended by Laws of Utah 2017, Chapter 352

63N-3-104, as last amended by Laws of Utah 2018, Chapter 204

63N-3-104.5, as enacted by Laws of Utah 2018, Chapter 204

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

Section 1. Section **59-7-610** is amended to read:

**59-7-610. Recycling market development zones tax credit.**

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section 63N-2-402 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or

(II) reduce or reuse postconsumer waste material.

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(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:

- (A) on a form provided by the commission; and
- (B) before a taxpayer is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried over for credit against the business' income taxes in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a business on the business' state income tax return within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the taxpayer may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim

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or carry forward a tax credit described in Subsection (1)(a):

(i) if the taxpayer may claim or carry forward the tax credit in accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 63N-2-213.

~~[(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section 63N-2-305.]~~

Section 2. Section **59-7-614.10** is amended to read:

### **59-7-614.10. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a corporation that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) ~~{}~~ Subject ~~{}~~ For a taxable year ending on or before December 31, 2019, and subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

(3) The enterprise zone 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 business entity for ~~the~~ a taxable year ending on or before December 31, 2019.

(4) A business entity 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 business entity's tax liability under this chapter for that taxable year.

~~[(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.]~~

~~[(6)]~~ (5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations

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concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection [(6)] (5)(b)(ii), for purposes of the study required by this Subsection [(6)] (5), the office shall provide by electronic means the following information for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

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

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

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) any other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection [(6)] (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection [(6)] (5)(b)(ii)(A), reporting the information described in Subsection [(6)] (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [(6)] (5)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection [(6)] (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [(6)] (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection [(6)] (5)(a) 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 **59-10-210** is amended to read:

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### 59-10-210. Fiduciary adjustments.

(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202; or

(v) Section 63N-2-213[~~; or~~].

~~[(vi) Section 63N-2-305.]~~

(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary's share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method

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described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

- (i) in allocating the fiduciary adjustments described in Subsection (2); and
- (ii) if the inequity is substantial:
  - (A) in amount; and
  - (B) in relation to the total amount of the fiduciary adjustments described in Subsection

(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

- (i) in allocating the fiduciary adjustments described in Subsection (2); and
- (ii) if the inequity is substantial:
  - (A) in amount; and
  - (B) in relation to the total amount of the fiduciary adjustments described in Subsection

(2).

Section 4. Section **59-10-1007** is amended to read:

### **59-10-1007. Recycling market development zones tax credit.**

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

(a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for machinery and equipment used directly in:

- (A) commercial composting; or
- (B) manufacturing facilities or plant units that:
  - (I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or
  - (II) reduce or reuse postconsumer waste material.

(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling



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process:

(A) on a form provided by the commission; and

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

(4) The commission shall make rules governing what information shall be filed with the commission to verify the entitlement to and amount of a tax credit.

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

(b) For a taxable year other than a taxable year during which the claimant, estate, or trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

(i) if the claimant, estate, or trust may claim or carry forward the tax credit in

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accordance with Subsections (1) and (2); and

(ii) subject to Subsections (3) and (4).

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63N-2-213.

~~[(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section 63N-2-305.]~~

Section 5. Section **59-10-1037** is amended to read:

### **59-10-1037. Nonrefundable enterprise zone tax credit.**

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as that term is defined in Section 63N-2-202.

(b) "Office" means the Governor's Office of Economic Development created in Section 63N-1-201.

(2) ~~{(a)}~~ ~~{ }~~ Subject ~~{ }~~ For a taxable year beginning on or before December 31, 2019, and subject to the provisions of this section, a business entity may claim a nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

~~{~~ ~~——~~ ~~(b) A business entity may not receive a tax credit under this section for a taxable year beginning on or after January 1, 2020.~~

~~}~~ (3) The enterprise zone 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 business entity for [the] a taxable year ending on or before December 31, 2019.

(4) A business entity 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 business entity's tax liability under this chapter for that taxable year.

~~[(5) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.]~~

~~{(6)}~~ (5) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim

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Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) (i) Except as provided in Subsection [(6)] (5)(b)(ii), for purposes of the study required by this Subsection [(6)] (5), the office shall provide by electronic means the following information, if available to the office, for each calendar year to the Office of the Legislative Fiscal Analyst:

(A) the amount of tax credits provided in each development zone;

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

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

(D) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone;

(E) the information related to the tax credit contained in the office's latest report under Section 63N-1-301; and

(F) other information that the Office of the Legislative Fiscal Analyst requests.

(ii) (A) In providing the information described in Subsection [(6)] (5)(b)(i), the office shall redact information that identifies a recipient of a tax credit under this section.

(B) If, notwithstanding the redactions made under Subsection [(6)] (5)(b)(ii)(A), reporting the information described in Subsection [(6)] (5)(b)(i) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [(6)] (5)(b)(i) in the aggregate for all development zones that receive the tax credit under this section.

(c) As part of the study required by this Subsection [(6)] (5), the Office of the Legislative Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and analysis of the information provided to the Office of the Legislative Fiscal Analyst by the office under Subsection [(6)] (5)(b).

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection [(6)] (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

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(iii) the extent to which the state benefits from the tax credit.

Section 6. Section **63C-10-103** is amended to read:

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

(1) The board shall:

(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(6);]~~

~~[(g) review applications for cash awards, grants, loans, or other financial assistance under:]~~

~~[(i) the Rural Fast Track Program described in Section 63N-3-104; and]~~

~~[(ii) the Business Expansion and Retention Initiative described in Section 63N-3-104.5; and]~~

~~[(h)]~~ (f) no later than October 1 of each year, submit to the governor, the Legislature, and the Economic Development and Workforce Services Interim Committee an annual report, in accordance with Section 68-3-14, that provides:

(i) an overview of the rural economy in the state;

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

### **63N-2-103. Definitions.**

As used in this part:

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

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

(3) "Development zone" means an economic development zone created under Section 63N-2-104.

(4) "High paying jobs" means[?] newly created full-time employment positions where the aggregate average annual gross wages of the employment positions, not including health care or other paid or unpaid benefits, are at least:

(a) 110% of the average wage of the county in which the employment positions exist for a county of the first or second class; or

(b) 100% of the average wage of the county in which the employment positions exist for a county of the third, fourth, fifth, or sixth class.

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

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

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~~county in which the employment positions will exist; or]~~

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

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

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

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

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

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

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

(i) with respect to a business entity, created in addition to the baseline count of employment positions that existed within the business entity before the new commercial project;

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

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

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

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

(8) "New state revenues" means:

(a) with respect to a business entity:

(i) incremental new state sales and use tax revenues that a business entity pays under

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Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;

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

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

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

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

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

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

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

(iv) a combination of Subsections (8)(a)(i) through (iii); or

(b) with respect to a local government entity:

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

(ii) incremental new state tax revenues that are collected as a result of a new commercial project in a development zone under:

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

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

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

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

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

(iii) incremental new state tax revenues paid as individual income taxes under Title 59,

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Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(b)(i) through (iii).

(9) "Significant capital investment" means an amount of at least \$10,000,000 to purchase capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project:

(a) that represents an expansion of existing operations in the state; or

(b) that maintains or increases the business entity's existing work force in the state.

(10) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

(11) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

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

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

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

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

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

Section 8. Section **63N-2-203** is amended to read:

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

The office shall:

(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;



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(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 related to contributions to those approved projects; and]~~

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

Section 9. Section **63N-2-204** is amended to read:

### **63N-2-204. Criteria for designation of enterprise zones -- Application.**

(1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:

(a) verifies that the county has a population of not more than 70,000; and

(b) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality has a population that does not exceed 20,000;

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(b) verifies that the municipality is within a county that has a population of not more than 70,000; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;

(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;

(d) any additional information required by the office; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

(4) On or after January 1, 2019, no new enterprise zones shall be designated.

Section 10. Section **63N-2-208** is amended to read:

### **63N-2-208. Duration of designation.**

(1) Each enterprise zone has a duration of five years~~[, at the end of which the county may reapply for the designation].~~

(2) On or after January 1, 2019, a county may not reapply for an enterprise zone

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designation for an enterprise zone that has reached the end of the enterprise zone's five-year duration.

Section 11. Section **63N-2-213** is amended to read:

### **63N-2-213. State tax credits.**

(1) (a) The office shall certify a business entity's eligibility for a tax credit described in this section.

(b) A business entity may not receive a tax credit under this section for a taxable year beginning on or after January 1, 2020.

(2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:

(a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and

(b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.

(3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:

(a) deny the tax credit; or

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

(4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity;

(b) issue a tax credit certificate to the business entity; and

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

(5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.

(6) 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 tax credit under this section;

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(b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

(c) administration of the program, including relevant timelines and deadlines.

(7) ~~[Subject]~~ For a taxable year that ends on or before December 31, 2019, and subject to the limitations of Subsections (8) through (10), ~~[and]~~ if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;

(b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:

(i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or

(ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;

(c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of \$200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(f) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30

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full-time employee positions in a taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of full-time employee positions that existed at the business entity in the previous three taxable years.

(c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).

(9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(11) A business entity that has no employees:

(a) may not claim tax credits under Subsections (7)(a) through (d); and

(b) may claim tax credits under Subsections (7)(e) through (f).

~~[(12) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-305.]~~

~~[(13)]~~ (12) (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required by Subsection ~~[(13)]~~ (12)(a), the Revenue and Taxation Interim Committee shall:

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- (i) schedule time on at least one committee agenda to conduct the review;
- (ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;
- (iii) ensure that the recommendations described in this section include an evaluation of:
  - (A) the cost of the tax credits to the state;
  - (B) the purpose and effectiveness of the tax credits; and
  - (C) the extent to which the state benefits from the tax credits; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 12. Section **63N-2-403** is amended to read:

### **63N-2-403. Duties of the office.**

The office shall:

- (1) facilitate recycling development zones through state support of county incentives which encourage development of manufacturing enterprises that use recycling materials currently collected;
- (2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;
- (3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;
- (4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;
- (5) assist a qualified business in obtaining the benefits of an incentive or inducement program authorized by this part;
- (6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone; and
- (7) include in the annual written report described in Section [~~63N-2-304~~] 63N-1-301, an evaluation of the effectiveness of the program and recommendations for legislation.

Section 13. Section **63N-2-705** is amended to read:

### **63N-2-705. Reporting.**

The office shall provide the following information in the annual written report

## SB0200S01 compared with SB0200

described in Section [~~63N-2-301~~] 63N-1-301:

(1) the office's success in attracting alternative energy manufacturing projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 14. Section **63N-4-501** is enacted to read:

### **Part 5. Rural County Economic Development Grant Program**

#### **63N-4-501. Title.**

This part is known as the "Rural County Economic Development Grant Program."

Section 15. Section **63N-4-502** is enacted to read:

#### **63N-4-502. Definitions.**

As used in this part:

(1) "Grant" means a grant available under the Rural County Economic Development Grant Program created in this part.

(2) "Grant program" means the Rural County Economic Development Grant Program created in Section 63N-4-503.

(3) "Rural county" means a county of the third class, fourth class, fifth class, or sixth class.

(4) "Rural partnership board" means the Governor's Rural Partnership Board created in Section 63C-10-102.

(5) "Qualifying strategic economic development plan" means a rural county economic development plan created by a rural county, or by a rural county with the assistance of the Office of Rural Development, to address the economic development needs of the rural county and which has been reviewed and approved by GOED.

Section 16. Section **63N-4-503** is enacted to read:

#### **63N-4-503. Creation and purpose of the Rural County Economic Development Grant Program.**

(1) There is created the Rural County Economic Development Grant Program.

(2) The grant program shall be administered by GOED and the Office of Rural

## SB0200S01 compared with SB0200

### Development.

(3) In administering the grant program, GOED and the Office of Rural Development shall award grants to rural counties to address the economic development needs of rural counties in accordance with the provisions of this part, which needs may include:

(a) training and technical assistance, such as project planning, business counseling and training, market research, professional and technical reports, or product or service improvements;

(b) economic development funding for specific communities within a rural county;

(c) technology-based economic development;

(d) feasibility studies and business plans;

(e) the creation or support of business incubators;

(f) long-term strategic planning for specific business sectors; and

(g) creating or improving a rural county's qualifying strategic economic development plan.

Section 17. Section **63N-4-504** is enacted to read:

### **63N-4-504. Requirements for awarding a grant.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, GOED shall make rules establishing the eligibility and reporting criteria for a rural county to receive a grant under this part, including:

(a) the form and process for a rural county submitting an application to the Office of Rural Development for a grant;

(b) the method of scoring and prioritizing grant program applications from rural counties;

(c) the reporting, auditing, and post-performance requirements for a rural county that receives a grant under the grant program; and

(d) any deadlines that shall be met by a rural county when applying for a grant under the grant program.

(2) In determining the award of a grant, GOED and the Office of Rural Development may prioritize applications that demonstrate any combination of the following:

(a) that the county has or is actively pursuing the creation of an effective qualifying strategic economic development plan;



## **SB0200S01 compared with SB0200**

- (b) consistency with local economic development priorities;
- (c) an effective plan to measure and report results;
- (d) economic need;
- (e) utilization of local financial or in-kind resources in combination with a grant;
- (f) evidence that jobs will be created; and
- (g) evidence that there will be a positive return on investment.

(3) Subject to legislative appropriation, a grant may only be awarded to a rural county by the executive director after the following requirements have been met:

(a) the Office of Rural Development has scored and prioritized one or more grant applications from rural counties in accordance with this part and rules made by the office as described in Subsection (1);

(b) the results of the scoring and prioritization of one or more grant applications are provided to the rural partnership board for the rural partnership board's review and recommendations related to awarding grants under the grant program;

(c) the rural partnership board may reject an application for a grant if the rural partnership board determines that the proposed use of the grant would lack positive economic impact, is inconsistent with the state economic development strategy, or would negatively impact municipalities within the rural county; and

(d) after the rural partnership board provides a positive recommendation for one or more grant applications, the grant applications are provided for final approval to the Board of Business and Economic Development.

Section 18. Section **63N-4-505** is enacted to read:

### **63N-4-505. Indian tribes -- Application.**

(1) For purposes of this section:

(a) "Indian tribe" has the same meaning as defined in Subsection 9-9-402(6).

(b) "Tribal applicant" means the governing authority of an Indian tribe that applies for a grant in accordance with Subsection (2) and the grant program created in Section 63N-4-503.

(2) (a) An Indian tribe may apply for a grant under the grant program.

(b) A tribal applicant shall follow the application procedure for a rural county as described in this part.

Section 19. Section **63N-4-506** is enacted to read:

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### **63N-4-506. Reporting.**

GOED shall include in the annual written report described in Section 63N-1-301, a report describing:

- (1) grant recipients and the amounts of grant money received by each grant recipient;
- (2) an evaluation of the effectiveness of awarded grants in improving economic development in rural counties receiving grants; and
- (3) any recommendations to improve or modify the grant program.

### **Section 20. Repealer.**

This bill repeals:

**Section 59-7-614.11, Nonrefundable nonprofit contribution tax credit.**

**Section 59-10-1039, Nonrefundable nonprofit contribution tax credit.**

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

**Section 63N-2-301, Title.**

**Section 63N-2-302, Definitions.**

**Section 63N-2-303, Duties of the office.**

**Section 63N-2-304, Application for targeted business income tax credit.**

**Section 63N-2-305, Targeted business income tax credit structure -- Revenue and Taxation Interim Committee study.**

**Section 63N-3-104, Rural Fast Track Program -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.**

**Section 63N-3-104.5, Business Expansion and Retention Initiative -- Creation -- Funding -- Qualifications for program participation -- Awards -- Reports.**

### **Section 21. Appropriations.**

~~{~~ **Subsection (13)(a). Fiscal Year 2020 Appropriations:**

~~}~~ The following sums of money are appropriated for the fiscal year beginning July 1, 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for fiscal year 2020. ~~{~~ Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

### **ITEM 1**

To the ~~{~~ Governor's **Governor's** Office of Economic Development -- Rural County

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Economic

Development Grant Program

From General Fund, One-time \$2,000,000

Schedule of Programs:

Rural County Economic Development Grant

Program \$2,000,000

Subsection (13)(b). Fiscal Year 2021 Appropriations:

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

HEM 2

To the Governor's Office of Economic Development -- Rural County Economic

Development Grant Program \$8,000,000

From General Fund, One-time (\$10) (\$6,000,000)

Schedule of Programs:

Rural County Economic Development Grant

Grant Program \_\_\_\_\_

\$10 \$2,000,000

**Section 22. Retrospective operation.**

The repeal of Sections 59-7-614.11, 59-10-1039, 63N-2-213.5, 63N-2-301, 63N-2-302, 63N-2-303, 63N-2-304, and 63N-2-305 in this bill have retrospective operation for a taxable year beginning on or after January 1, 2019.