

Representative Douglas V. Sagers proposes the following substitute bill:

ENTERPRISE ZONE TAX CREDIT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas V. Sagers

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the enterprise zone income tax credits.

Highlighted Provisions:

This bill:

▶ authorizes enterprise zone income tax credits for:

- the creation of certain full-time jobs in a business that produces, processes, distributes, or dispenses hydrogen fuel; and
- certain investments in plant, equipment, or other depreciable property used to produce, process, distribute, or dispense hydrogen fuel;

▶ allows a taxpayer to claim enterprise zone income tax credits against taxes owed under the Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



26 AMENDS:

27 [59-7-614.10](#), as last amended by Laws of Utah 2019, Chapter 247

28 [59-10-1037](#), as last amended by Laws of Utah 2019, Chapter 247

29 [63N-2-213](#), as last amended by Laws of Utah 2019, Chapter 247

30 ENACTS:

31 [59-8-301](#), Utah Code Annotated 1953



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

34 Section 1. Section [59-7-614.10](#) is amended to read:

35 **[59-7-614.10. Nonrefundable enterprise zone tax credit.](#)**

36 (1) As used in this section:

37 (a) "Business entity" means a corporation that meets the definition of "business entity"

38 as that term is defined in Section [63N-2-202](#).

39 (b) "Office" means the Governor's Office of Economic Development created in Section

40 [63N-1-201](#).

41 (2) Subject to the provisions of this section, a business entity may claim a

42 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

43 (3) The enterprise zone tax credit under this section is the amount listed as the tax

44 credit amount on the tax credit certificate that the office issues to the business entity for the

45 taxable year.

46 (4) A business entity may carry forward a tax credit under this section for a period that

47 does not exceed the next three taxable years, if the amount of the tax credit exceeds the

48 business entity's tax liability under this chapter for that taxable year.

49 (5) A business entity may not claim or carry forward a tax credit [~~available~~] under this

50 [~~part~~] section for a taxable year during which the business entity has claimed the targeted

51 business income tax credit [~~available~~] under Section [59-7-624](#).

52 (6) (a) In accordance with Section [59-7-159](#), the Revenue and Taxation Interim

53 Committee shall study the tax credit allowed by this section and make recommendations

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

55 (b) (i) Except as provided in Subsection (6)(b)(ii), for purposes of the study required by

56 this Subsection (6), the office shall provide by electronic means the following information for

57 each calendar year to the Office of the Legislative Fiscal Analyst:

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

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

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

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

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

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

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

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

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

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

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

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

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

84 Section 2. Section 59-8-201 is enacted to read:

85 **Part 3. Tax Credits**

86 **59-8-301. Nonrefundable enterprise zone tax credit.**

87 (1) As used in this section:

88 (a) "Business entity" means an organization subject to the tax imposed by this part that
89 is a business entity as defined in Section 63N-2-202.

90 (b) "Office" means the Governor's Office of Economic Development created in Section
91 63N-1-201.

92 (2) Subject to the provisions of this section, a business entity may claim a
93 nonrefundable enterprise zone tax credit as described in Section 63N-2-213.

94 (3) The enterprise zone tax credit under this section is the amount listed as the tax
95 credit amount on the tax credit certificate that the office issues to the business entity for the
96 taxable year.

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

100 (5) (a) The Revenue and Taxation Interim Committee shall study the tax credit allowed
101 by this section:

102 (i) as part of the Revenue and Taxation Interim Committee's study under Subsection
103 59-7-164.10(6); and

104 (ii) make recommendations concerning whether the tax credit should be continued,
105 modified, or repealed.

106 (b) Except as provided in Subsection (5)(c), for purposes of the study required by this
107 Subsection (5), the office shall provide by electronic means the following information for each
108 calendar year to the Office of the Legislative Fiscal Analyst:

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

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

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

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

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

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

119 (c) (i) In providing the information described in Subsection (5)(a), the office shall
120 redact information that identifies a recipient of a tax credit under this section.

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

126 (d) As part of the study required by this Subsection (5), the Office of the Legislative
127 Fiscal Analyst shall report to the Revenue and Taxation Interim Committee a summary and
128 analysis of the information provided to the Office of the Legislative Fiscal Analyst by the
129 office under Subsection (5)(b).

130 (e) The Revenue and Taxation Interim Committee shall ensure that the
131 recommendations described in Subsection (5)(a) include an evaluation of:

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

135 Section 3. Section **59-10-1037** is amended to read:

136 **59-10-1037. Nonrefundable enterprise zone tax credit.**

137 (1) As used in this section:

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

140 (b) "Office" means the Governor's Office of Economic Development created in Section
141 [63N-1-201](#).

142 (2) Subject to the provisions of this section, a business entity may claim a
143 nonrefundable enterprise zone tax credit as described in Section [63N-2-213](#).

144 (3) The enterprise zone tax credit under this section is the amount listed as the tax
145 credit amount on the tax credit certificate that the office issues to the business entity for the
146 taxable year.

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

150 (5) A business entity may not claim or carry forward a tax credit [~~available~~]
151 [~~part~~] section for a taxable year during which the business entity has claimed the targeted
152 business income tax credit [~~available~~] under Section 59-10-1112.

153 (6) (a) In accordance with Section 59-10-137, the Revenue and Taxation Interim
154 Committee shall study the tax credit allowed by this section and make recommendations
155 concerning whether the tax credit should be continued, modified, or repealed.

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

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

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

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

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

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

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

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

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

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

180 (d) The Revenue and Taxation Interim Committee shall ensure that the

181 recommendations described in Subsection (6)(a) include an evaluation of:

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

185 Section 4. Section **63N-2-213** is amended to read:

186 **63N-2-213. State tax credits.**

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

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

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

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

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

198 (a) deny the tax credit; or

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

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

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

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

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

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

209 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
210 office shall make rules describing:

211 (a) the form and content of an application for a tax credit under this section;

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

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

215 (7) Subject to the limitations of Subsections (8) through (10), and if the requirements
216 of this part are met, the following nonrefundable tax credits against a tax under Title 59,
217 Chapter 7, Corporate Franchise and Income Taxes, Title 59, Chapter 8, Gross Receipts Tax on
218 Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Title 59,
219 Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:

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

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

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

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

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

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

236 (e) an additional tax credit of \$750 may be claimed if the new full-time employee
237 position created within the enterprise zone is in a business entity that produces or processes
238 hydrogen for use as a fuel;

239 (f) an additional tax credit of \$750 may be claimed if the new full-time employee
240 position created within the enterprise zone is in a business entity that distributes or dispenses
241 hydrogen fuel;

242 [~~e~~] (g) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in

243 the enterprise zone that has been vacant for two years or more; ~~and~~

244 ~~(f)~~ (h) an annual investment tax credit of 10% of the first \$250,000 in investment,
245 and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
246 property~~[-]; and~~

247 (i) an additional annual investment tax credit of 10% of the first \$250,000 investment,
248 5% of the next \$1,000,000 investment, and 2.5% of the next \$2,000,000 investment, in plant,
249 equipment, or other depreciable property used primarily:

250 (i) to produce or process hydrogen for use as a fuel; or

251 (ii) to distribute or dispense hydrogen fuel.

252 (8) (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax
253 credit under Subsections (7)(a) through ~~(f)~~ (f) may claim the tax credit for no more than 30
254 full-time employee positions in a taxable year.

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

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

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

265 (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a)
266 through ~~(f)~~ (f).

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

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

273 (11) A business entity that has no employees:

274 (a) may not claim tax credits under Subsections (7)(a) through [~~(d)~~] (f); and
275 (b) may claim tax credits under Subsections [~~(7)(e)~~] (7)(g) through [(f)] (i).
276 (12) (a) A business entity may not claim or carry forward a tax credit available under
277 this part for a taxable year during which the business entity has claimed the targeted business
278 income tax credit available under Section 63N-2-304.
279 (b) A business entity may not claim or carry forward a tax credit available under this
280 section for a taxable year during which the business entity claims or carries forward a tax credit
281 available under Section 59-7-610 or 59-10-1007.
282 (13) (a) On or before November 30, 2018, and every three years after 2018, the
283 Revenue and Taxation Interim Committee shall review the tax credits provided by this section
284 and make recommendations concerning whether the tax credits should be continued, modified,
285 or repealed.
286 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation
287 Interim Committee shall:
288 (i) schedule time on at least one committee agenda to conduct the review;
289 (ii) invite state agencies, individuals, and organizations concerned with the credits
290 under review to provide testimony;
291 (iii) ensure that the recommendations described in this section include an evaluation of:
292 (A) the cost of the tax credits to the state;
293 (B) the purpose and effectiveness of the tax credits; and
294 (C) the extent to which the state benefits from the tax credits; and
295 (iv) undertake other review efforts as determined by the chairs of the Revenue and
296 Taxation Interim Committee.
297 Section 5. **Effective date.**
298 This bill takes effect for a taxable year beginning on or after January 1, 2021.