

**UTAH RURAL JOBS ACT AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nelson T. Abbott**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill modifies the Utah Rural Jobs Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes additional nonrefundable tax credits related to investments in eligible small businesses located in specified counties;
- ▶ requires each eligible small business that receives a growth investment to submit a document that directs and authorizes the State Tax Commission to disclose to the GO Utah office the eligible small business's returns;
- ▶ addresses the method for allocating new annual jobs at an eligible small business that receives a growth investment from more than one rural investment company;
- ▶ establishes a deadline for each rural investment company to exit the program; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides retrospective operation.

**Utah Code Sections Affected:**

AMENDS:

**59-7-621**, as last amended by Laws of Utah 2021, Chapter 282

**59-10-1038**, as last amended by Laws of Utah 2021, Chapter 282

- 30 [63N-4-302](#), as last amended by Laws of Utah 2020, Chapter 354
- 31 [63N-4-303](#), as enacted by Laws of Utah 2017, Chapter 274
- 32 [63N-4-305](#), as enacted by Laws of Utah 2017, Chapter 274
- 33 [63N-4-307](#), as enacted by Laws of Utah 2017, Chapter 274
- 34 [63N-4-309](#), as enacted by Laws of Utah 2017, Chapter 274

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

37 Section 1. Section **59-7-621** is amended to read:

38 **59-7-621. Nonrefundable rural job creation tax credit.**

39 (1) As used in this section, "office" means the Governor's Office of Economic  
40 Opportunity created in Section [63N-1a-301](#).

41 (2) Subject to the other provisions of this section, a taxpayer may claim a  
42 nonrefundable tax credit for rural job creation as provided in this section.

43 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
44 tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs  
45 Act, to the taxpayer for the taxable year.

46 ~~[(4) A taxpayer may carry forward a tax credit under this section for the next seven  
47 taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this  
48 chapter for the taxable year in which the taxpayer claims the tax credit.]~~

49 (4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability  
50 under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer  
51 may carry forward the tax credit for:

52 (a) the next seven taxable years, if the credit-eligible contribution as defined in Section  
53 [63N-4-302](#) is made before November 1, 2022; or

54 (b) the next four taxable years, if the credit-eligible contribution as defined in Section  
55 [63N-4-302](#) is made on or after November 1, 2022.

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

57 **59-10-1038. Nonrefundable rural job creation tax credit.**

58 (1) As used in this section, "office" means the Governor's Office of Economic  
59 Opportunity created in Section [63N-1a-301](#).

60 (2) Subject to the other provisions of this section, a taxpayer may claim a  
61 nonrefundable tax credit for rural job creation as provided in this section.

62 (3) The tax credit under this section is the amount listed as the tax credit amount on a  
63 tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs  
64 Act, to the taxpayer for the taxable year.

65 ~~[(4) A taxpayer may carry forward a tax credit under this section for the next seven  
66 taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this  
67 chapter for the taxable year in which the taxpayer claims the tax credit.]~~

68 (4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability  
69 under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer  
70 may carry forward the tax credit for:

71 (a) the next seven taxable years, if the credit-eligible contribution as defined in Section  
72 [63N-4-302](#) is made before November 1, 2022; or

73 (b) the next four taxable years, if the credit-eligible contribution as defined in Section  
74 [63N-4-302](#) is made on or after November 1, 2022.

75 Section 3. Section **63N-4-302** is amended to read:

76 **63N-4-302. Definitions.**

77 As used in this part:

78 (1) (a) "Affiliate" means a person that directly, or indirectly through one or more  
79 intermediaries, controls, is controlled by, or is under common control with another person.

80 (b) For the purposes of this part, a person controls another person if the person holds,  
81 directly or indirectly, the majority voting or ownership interest in the controlled person or has  
82 control over the day-to-day operations of the controlled person by contract or by law.

83 (2) "Claimant" means a resident or nonresident person that has state taxable income.

84 (3) "Closing date" means the date on which a rural investment company ~~[has collected]~~  
85 collects:

86            (a) all of the investments described in Subsection 63N-4-303(7) related to phase one  
87 investment authority; or

88            (b) all of the investments described in Subsection 63N-4-303(7) related to phase two  
89 investment authority.

90            (4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a  
91 rural investment company that is or will be eligible for a tax credit as evidenced by notification  
92 issued by the office under Subsection 63N-4-303(5)(c).

93            (b) The investment shall purchase an equity interest in the rural investment company or  
94 purchase, at par value or premium, a debt instrument issued by the rural investment company  
95 that has a maturity date at least five years after the closing date.

96            (5) "Eligible small business" means a business that at the time of an initial growth  
97 investment in the business by a rural investment company:

98            (a) has fewer than 150 employees;

99            (b) has less than \$10,000,000 in net income for the preceding taxable year;

100            (c) maintains the business's principal business operations in the state; and

101            (d) is engaged in an industry related to:

102            (i) aerospace;

103            (ii) defense;

104            (iii) energy and natural resources;

105            (iv) financial services;

106            (v) life sciences;

107            (vi) outdoor products;

108            (vii) software development;

109            (viii) information technology;

110            (ix) manufacturing; or

111            (x) agribusiness.

112            (6) (a) "Excess return" means the difference between:

113            (i) the present value of all growth investments made by a rural investment company on

114 the day the rural investment company applies to exit the program under Section 63N-4-309,  
115 including the present value of all distributions and gains from the growth investments; and

116 (ii) the sum of the amount of the original growth investment and an amount equal to  
117 any projected increase in the equity holder's federal or state tax liability, including penalties and  
118 interest, related to the equity holder's ownership, management, or operation of the rural  
119 investment company.

120 (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is  
121 equal to zero.

122 (7) "Federally licensed rural business investment company" means a person licensed as  
123 a rural business investment company under 7 U.S.C. Sec. 2009cc.

124 (8) "Federally licensed small business investment company" means a person licensed  
125 as a small business investment company under 15 U.S.C. Sec. 681.

126 (9) (a) "Full-time employee" means an employee that throughout the year works at  
127 least 30 hours per week or meets the customary practices accepted by that industry as full time.

128 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
129 office may make rules that establish additional hour or other criteria to determine what  
130 constitutes a full-time employee.

131 (10) (a) "Growth investment" means any capital or equity investment in an eligible  
132 small business or any loan made from the investment authority to an eligible small business  
133 with a stated maturity at least one year after the date of issuance.

134 (b) "Growth investment" does not include, with respect to phase two investment  
135 authority:

136 (i) a secured loan or a revolving line of credit to an eligible small business, unless the  
137 eligible small business sought and was denied similar financing from a commercial bank, as  
138 established by an affidavit from the president or chief executive officer of the eligible small  
139 business; or

140 (ii) any portion of an investment, including any amount reinvested, in an eligible small  
141 business that, when added to existing investments in the eligible small business from all rural

142 investment companies under phase two investment authority, exceeds \$15,000,000.

143 (11) (a) "High wage" means a wage that is at least 100% of the county average wage.

144 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
145 office may make rules that establish additional criteria to determine what constitutes a high  
146 wage.

147 (12) "Investment authority" means the minimum amount of investment a rural  
148 investment company must make in eligible small businesses in order for credit-eligible  
149 contributions to the rural investment company to qualify for a rural job creation tax credit  
150 under Section [59-7-621](#) or [59-10-1038](#).

151 (13) (a) "New annual jobs" means the difference between:

152 (i) (A) the monthly average of full-time employees that are paid a high wage at an  
153 eligible small business for the preceding calendar year; or

154 (B) if the preceding calendar year contains the initial growth investment, the monthly  
155 average of full-time employees that are paid a high wage at an eligible small business for the  
156 months including and after the initial growth investment and before the end of the preceding  
157 calendar year; and

158 (ii) the number of full-time employees that are paid a high wage at the eligible small  
159 business on the date of the initial growth investment.

160 (b) If the amount calculated in Subsection (13)(a) is less than zero, the new annual jobs  
161 amount is equal to zero.

162 (14) "Phase one investment authority" means investment authority the office grants a  
163 rural investment company based on an application submitted under Subsection  
164 [63N-4-303\(1\)\(b\)\(i\)](#).

165 (15) "Phase two investment authority" means investment authority the office grants a  
166 rural investment company based on an application submitted under Subsection  
167 [63N-4-303\(1\)\(b\)\(ii\)](#).

168 [~~14~~] (16) (a) "Principal business operations" means the location where at least 60% of  
169 a business's employees work or where employees that are paid at least 60% of a business's

170 payroll work.

171 (b) For the purposes of this part, an out-of-state business that agrees to relocate  
172 employees to this state to establish the business's principal business operations in this state  
173 using the proceeds of a growth investment is considered to have the business's principal  
174 business operations in this state if the business satisfies the requirements of Subsection ~~[(14)]~~  
175 (16)(a) within 180 days after receiving the growth investment, unless the office agrees to a later  
176 date.

177 ~~[(15)]~~ (17) "Program" means the provisions of this part applicable to a rural investment  
178 company.

179 ~~[(16)]~~ (18) "Rural county" means:

180 (a) with respect to phase one investment authority, any county in this state except Salt  
181 Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties[-]; or

182 (b) with respect to phase two investment authority, any county in this state except Salt  
183 Lake, Utah, Davis, and Weber counties.

184 ~~[(17)]~~ (19) "Rural investment company" means a person approved by the office under  
185 Section [63N-4-303](#).

186 ~~[(18)]~~ (20) (a) "State reimbursement amount" means the difference between:

187 (i) 50% of the rural investment company's credit-eligible capital contributions; and

188 (ii) the product of:

189 (A) the total sum of new annual jobs reported to the ~~[state in the rural investment~~  
190 ~~company's exit report described in Section [63N-4-309](#)]~~ office; and

191 (B) \$20,000 with respect to phase one investment authority, or \$15,000 with respect to  
192 phase two investment authority.

193 (b) If the amount calculated in Subsection ~~[(18)]~~ (20)(a) is less than zero, the state  
194 reimbursement amount is equal to zero.

195 ~~[(19)]~~ (21) "Tax credit" means a rural job creation tax credit created by Section  
196 [59-7-621](#) or [59-10-1038](#).

197 ~~[(20)]~~ (22) "Tax credit certificate" means a certificate issued by the office that:

- 198 (a) lists the name of the person to which the office authorizes a tax credit;
- 199 (b) lists the person's taxpayer identification number;
- 200 (c) lists the amount of tax credit that the office authorizes the person to claim for the
- 201 taxable year; and
- 202 (d) may include other information as determined by the office.

203 Section 4. Section **63N-4-303** is amended to read:

204 **63N-4-303. Application, approval, and allocations.**

205 (1) (a) A person seeking approval as a rural investment company shall submit an

206 application to the office.

207 (b) (i) [The] For the investment authority described in Subsection (6)(a)(i), the office

208 shall begin accepting applications on November 1, 2017.

209 (ii) For the investment authority described in Subsection (6)(a)(ii), the office shall

210 begin accepting applications on November 1, 2022.

211 (2) An application submitted under Subsection (1) shall be in a form and in accordance

212 with procedures prescribed by the office, and shall include the following:

213 (a) the total investment authority sought by the applicant, which may not exceed

214 \$42,000,000;

215 (b) a copy of the applicant's or an affiliate of the applicant's license as a federally

216 licensed rural business investment company or as a federally licensed small business

217 investment company;

218 (c) evidence that before the date the application is submitted, the applicant or affiliates

219 of the applicant have invested at least \$50,000,000 in nonpublic companies located in counties

220 in the United States with fewer than 50,000 inhabitants;

221 (d) a signed affidavit from each claimant that commits to make a credit-eligible capital

222 contribution to the applicant, stating the amount of that commitment; and

223 (e) the sum of all credit-eligible capital contribution commitments described in

224 Subsection (2)(d), which must equal 58% of the total investment authority sought by the

225 applicant.



226 (3) The office shall:  
227 (a) review and evaluate the applications submitted under this section within 30 days of  
228 receipt in the order in which the applications are received; and  
229 (b) consider applications received on the same day to have been received  
230 simultaneously.

231 (4) (a) If, after review and evaluation of an application, the office determines that the  
232 application does not meet the requirements of Subsection (2), the office shall:  
233 (i) deny the application; or  
234 (ii) (A) notify the applicant that the application was inadequate and allow the applicant  
235 to provide additional information to the office to complete, clarify, or cure defects identified by  
236 the office in the application; and  
237 (B) inform the applicant that the additional information described in Subsection  
238 (4)(a)(ii)(A) must be received by the office within five days of the notice in order to be  
239 considered.

240 (b) If an applicant submits additional information to the office in accordance with  
241 Subsection (4)(a)(ii), the office shall:  
242 (i) consider the application to have been received on the date it was originally received  
243 by the office; and  
244 (ii) review and evaluate the additional information within 10 days of receiving the  
245 additional information.

246 (5) If, after review and evaluation of an application submitted under this section and  
247 any additional information submitted in accordance with Subsection (4)(a)(ii), the office  
248 determines that the application meets the requirements of Subsection (2), the office shall:  
249 (a) determine the amount of investment authority to award the applicant in accordance  
250 with Subsection (6);  
251 (b) provide to the applicant a written notice of approval as a rural investment company  
252 specifying the amount of the applicant's investment authority; and  
253 (c) notify each claimant whose affidavit was included in the application under

254 Subsection (2) that the claimant qualifies for a tax credit that will be issued in accordance with  
255 Section [63N-4-304](#).

256 (6) (a) (i) ~~[The]~~ For the first application period described in Subsection (1)(b)(i), the  
257 office may not approve more than \$42,000,000 in total investment authority and not more than  
258 \$24,360,000 in total credit-eligible contributions under this part.

259 (ii) For the second application period described in Subsection (1)(b)(ii), the office may  
260 not approve more than \$42,000,000 in total investment authority and not more than  
261 \$24,360,000 in total credit-eligible contributions under this part.

262 (b) Subject to Subsection (6)(d), if an application is approved under Subsection (5), the  
263 office shall approve the amount of investment authority requested on the application.

264 (c) (i) ~~[The]~~ During the first application period described in Subsection (1)(b)(i), the  
265 office may continue to accept applications under this section until the amount of approved  
266 investment authority reaches \$42,000,000.

267 (ii) During the second application period described in Subsection (1)(b)(ii), the office  
268 may continue to accept applications under this section until the amount of approved investment  
269 authority reaches \$42,000,000.

270 (d) If the office approves multiple applications received simultaneously under  
271 Subsection (3) and the total amount of investment authority requested on those applications  
272 exceeds the amount of investment authority remaining, the office shall proportionally reduce  
273 the investment authority and credit-eligible capital contributions for each of these applications  
274 as necessary to avoid exceeding the amount of investment authority and credit-eligible capital  
275 contributions remaining.

276 (7) Within 65 days after the day on which a rural investment company receives  
277 approval under Subsection (5)(b), the rural investment company shall:

278 (a) collect the total amount of committed credit-eligible capital contributions from each  
279 claimant whose affidavit was included in the application under Subsection (2);

280 (b) collect one or more cash equity investments contributed by affiliates of the rural  
281 investment company, including employees, officers, and directors of such affiliates, that equal

282 at least 10% of the rural investment company's investment authority;

283 (c) collect one or more cash investments that, when added to the amounts collected  
284 under Subsections (7)(a) and (b), equal the rural investment company's investment authority;  
285 and

286 (d) send sufficient documentation to the office to prove that the amounts described in  
287 this Subsection (7) have been collected.

288 (8) If the rural investment company fails to fully comply with Subsection (7):

289 (a) the rural investment company's approval shall lapse and the corresponding  
290 investment authority and credit-eligible capital contributions shall not count toward the limits  
291 on the program size described in Subsection (6);

292 (b) if the office awards lapsed investment authority to a rural investment company, the  
293 office shall first award lapsed investment authority pro rata to each rural investment company  
294 that was awarded less than the requested investment authority under Subsection (6)(d), which a  
295 rural investment company may allocate to the rural investment company's investors at the  
296 company's discretion; and

297 (c) the office may award any remaining investment authority to new applicants.

298 Section 5. Section **63N-4-305** is amended to read:

299 **63N-4-305. Revocation of tax credit certificates and exit.**

300 (1) Except as provided in Subsection (2), the office shall revoke a tax credit certificate  
301 issued under Section **63N-4-304** if the rural investment company in which the credit-eligible  
302 capital contribution was made does any of the following before the rural investment company  
303 exits the program in accordance with Section **63N-4-309**:

304 (a) fails to invest 100% of the rural investment company's investment authority in  
305 growth investments in this state within three years of the closing date;

306 (b) fails to maintain growth investments in this state equal to 100% of the rural  
307 investment company's investment authority until the seventh anniversary of the closing date in  
308 accordance with this section;

309 (c) makes a distribution or payment that results in the rural investment company having

310 less than 100% of the rural investment company's investment authority invested in growth  
311 investments in this state or available for investment in growth investments and held in cash and  
312 other marketable securities;

313 (d) (i) with respect to phase one investment authority, fails to maintain growth  
314 investments equal to 70% of the rural investment company's investment authority in eligible  
315 small businesses that maintain their principal business operations in a rural county; or

316 (ii) with respect to phase two investment authority, fails to maintain growth  
317 investments equal to 100% of the rural investment company's investment authority in eligible  
318 small businesses that maintain their principal business operations in a rural county;

319 (e) invests more than \$5,000,000 from the investment authority in the same eligible  
320 small business, including amounts invested in affiliates of the eligible small business, exclusive  
321 of growth investments made with repaid or redeemed growth investments or interest or profits  
322 realized on the repaid or redeemed growth investments; [~~or~~]

323 (f) makes a growth investment in an eligible small business that directly, or indirectly  
324 through an affiliate:

325 (i) owns or has the right to acquire an ownership interest in the rural investment  
326 company, an affiliate of the rural investment company, or an investor in the rural investment  
327 company; or

328 (ii) makes a loan to or an investment in the rural investment company, an affiliate of  
329 the rural investment company, or an investor in the rural investment company[-]; or

330 (g) fails to timely provide a document described in Subsection 63N-4-307(1)(d).

331 (2) (a) (i) For the purposes of Subsection (1), an investment is maintained even if the  
332 investment is sold or repaid if the rural investment company reinvests an amount equal to the  
333 capital returned or recovered by the fund from the original investment, exclusive of any profits  
334 realized, in other growth investments in this state within 12 months of the receipt of such  
335 capital.

336 (ii) Amounts received periodically by a rural investment company are treated as  
337 continually invested in growth investments if the amounts are reinvested in one or more growth

338 investments by the end of the following calendar year.

339 (iii) A rural investment company is not required to reinvest capital returned from  
340 growth investments after the sixth anniversary of the closing date and such growth investments  
341 are considered as being held continuously by the rural investment company through the seventh  
342 anniversary of the closing date.

343 (b) (i) Subsection [~~(1)(f)~~] (1)(g) does not apply to investments in publicly traded  
344 securities by an eligible small business or an owner or affiliate of an eligible small business.

345 (ii) Under Subsection [~~(1)(f)~~] (1)(g), a rural investment company is not considered an  
346 affiliate of a business concern solely as a result of the rural investment company's growth  
347 investment.

348 (c) A growth investment in an eligible small business that is not located in a rural  
349 county may count toward the requirements of Subsection (1)(d) if the office determines that the  
350 eligible small business is located in an economically disadvantaged rural area as defined by  
351 rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative  
352 Rulemaking Act.

353 (3) (a) Before revoking one or more tax credit certificates under this section, the office  
354 shall notify the rural investment company of the reasons for the pending revocation.

355 (b) If the rural investment company corrects any violation outlined in the notice to the  
356 satisfaction of the office within 90 days after the day on which the notice was sent, the office  
357 may not revoke the tax credit certificate.

358 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
359 office may make rules that establish criteria to determine what constitutes a correction under  
360 Subsection (3)(b).

361 (4) If tax credit certificates are revoked under this section:

362 (a) (i) the rural investment company shall make a cash distribution to the office in an  
363 amount equal to the sum of all tax credits awarded to persons that have made credit-eligible  
364 contributions to the rural investment company; and

365 (ii) if the rural investment company is able to provide documentation to the office that

366 proves that a tax credit described in Subsection (4)(a)(i) has not been claimed, the amount  
367 owed under Subsection (4)(a)(i) shall be reduced by the amount of the unclaimed tax credit;

368 (b) the rural investment company's investment authority and credit-eligible capital  
369 contributions will not count toward the limits on the program size described in Subsection  
370 63N-4-303(6);

371 (c) if the office awards lapsed investment authority to a rural investment company, the  
372 office shall first award lapsed investment authority pro rata to each rural investment company  
373 that was awarded less than the requested investment authority under Subsection  
374 63N-4-303(6)(d), which a rural investment company may allocate to the rural investment  
375 company's investors at the rural investment company's discretion; and

376 (d) the office may award any remaining investment authority to new applicants.

377 (5) The office may not revoke a tax credit certificate after a rural investment company  
378 has exited the program in accordance with Section 63N-4-309.

379 Section 6. Section 63N-4-307 is amended to read:

380 **63N-4-307. Reporting obligations -- Authorization to disclose tax information --**  
381 **Credit for new annual jobs.**

382 (1) A rural investment company shall submit an annual report to the office on or before  
383 the last day of February for each [~~previous~~] preceding calendar year until the rural investment  
384 company [~~has exited~~] exits the program in accordance with Section 63N-4-309. The annual  
385 report shall provide documentation as to the rural investment company's growth investments  
386 and include:

387 (a) a bank statement evidencing each growth investment;

388 (b) the name, location, and industry of each business concern receiving a growth  
389 investment, including either the determination letter set forth in Section 63N-4-306 or evidence  
390 that the business qualified as an eligible small business at the time the investment was made;

391 (c) the number of new annual jobs at each eligible small business for the preceding  
392 calendar year, accompanied by a report from a third-party accounting firm attesting that the  
393 number of new annual jobs was calculated in accordance with procedures approved by the

394 office; ~~and~~

395 (d) unless provided in a previously submitted annual report, for each eligible small  
396 business to which the rural investment company provided a growth investment during the  
397 preceding calendar year, a document that expressly directs and authorizes the State Tax  
398 Commission to disclose to the office the eligible small business's returns and other information  
399 that would otherwise be subject to confidentiality under Section 59-1-403; and

400 ~~(e)~~ (e) any other information required by the office.

401 (2) For the annual report due in 2022, each rural investment company shall submit the  
402 documents described in Subsection (1)(d) on or before July 1, 2022.

403 ~~(3)~~ (3) (a) Within 60 days of receipt of an annual report, the office shall provide  
404 written confirmation to the rural investment company of the number of new annual jobs the  
405 rural investment company has been credited with for the ~~previous~~ preceding calendar year.

406 (b) When granting credit for one or more new annual jobs at an eligible small business  
407 that received or held a growth investment from more than one rural investment company during  
408 the preceding calendar year, the office shall allocate credit for each new annual job between the  
409 rural investment companies:

410 (i) in proportion to each rural investment company's share of the total growth  
411 investments the eligible small business received during the calendar year; or

412 (ii) in accordance with any written agreement between the rural investment companies.

413 ~~(4)~~ (4) By the fifth business day after the third anniversary of the closing date, a rural  
414 investment company shall submit a report to the office providing evidence that the rural  
415 investment company is in compliance with the investment requirements of Section 63N-4-305.

416 (5) In accordance with rules made by the office, a rural investment company that  
417 receives phase one investment authority and phase two investment authority shall submit an  
418 annual report under this section that provides separate information related to the phase one  
419 investment authority and the phase two investment authority.

420 (6) (a) The office shall submit the document described in Subsection (1)(d) to the State  
421 Tax Commission.

422 (b) Upon receipt of a document described in Subsection (1)(d), the State Tax  
423 Commission shall provide the office with the returns and other information the office requests  
424 and that the State Tax Commission is directed and authorized to provide.

425 Section 7. Section **63N-4-309** is amended to read:

426 **63N-4-309. Exit.**

427 (1) (a) On or after the seventh anniversary of the closing date, [~~a~~] and on or before the  
428 twelfth anniversary of the closing date, each rural investment company [~~may~~] shall apply to the  
429 office to exit the program and no longer be subject to this part.

430 (b) A rural investment company that receives phase one investment authority and phase  
431 two investment authority shall separately apply to exit the program in relation to the phase one  
432 investment authority and the phase two investment authority.

433 (2) An application submitted under Subsection (1) shall be in a form and in accordance  
434 with procedures prescribed by the office and shall include a calculation of the state  
435 reimbursement amount.

436 (3) In evaluating the exit application, if no tax credit certificates have been revoked and  
437 the rural investment company has not received a notice of revocation that has remained  
438 uncorrected under Subsection **63N-4-305**(3)(b), the rural investment company is eligible for  
439 exit.

440 (4) (a) The office shall respond to the application within 30 days of receipt and include  
441 confirmation of the state reimbursement amount.

442 (b) The office shall not unreasonably deny an application submitted under this section.

443 (c) If the office denies the application, the office shall provide the reasons for the  
444 determination to the rural investment company.

445 (5) If a rural investment company fails to submit an exit application in accordance with  
446 Subsection (1), the office shall:

447 (a) calculate the state reimbursement amount using the best available information; and

448 (b) provide the confirmation described in Subsection (4)(a) within 30 days of the  
449 twelfth anniversary of the closing date.



450            [~~(5)~~] (6) Within 60 days after the day on which the confirmation of the state  
451 reimbursement amount is received by the rural investment company, the rural investment  
452 company shall make a cash distribution to the state in an amount equal to the lesser of:

- 453            (a) the state reimbursement amount; and
- 454            (b) the excess return.

455            [~~(6)~~] (7) The office shall notify the rural investment company once payments equal to  
456 the amount described in Subsection (4) have been received.

457            [~~(7)~~] (8) Any amounts collected under this section shall be deposited into the General  
458 Fund.

459            Section 8. **Retrospective operation.**

460            The changes to Sections [59-7-621](#) and [59-10-1038](#) have retrospective operation for a  
461 taxable year beginning on or after January 1, 2022.