

ENTERPRISE ZONE TAX CREDIT AMENDMENTS

2022 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 for a specified time, an enterprise zone income tax credit for certain investments in a plant, equipment, or other depreciable property used to:

- produce or process hydrogen for use as a fuel; or
- 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:

AMENDS:

59-7-614.10, as last amended by Laws of Utah 2021, Chapter 282

59-10-1037, as last amended by Laws of Utah 2021, Chapter 282



28 **63I-2-263**, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

29 **63N-2-213**, as last amended by Laws of Utah 2021, Chapter 282

30 ENACTS:

31 **59-8-201**, 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 Opportunity created in Section
40 **63N-1a-301**.

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 under this [part]
50 section for a taxable year during which the business entity has claimed the targeted business
51 income tax credit 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~~] [63N-1a-306](#); 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 2. Tax Credits**

86 **59-8-201. 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 Opportunity created in Section
91 63N-1a-301.

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:

101 (i) study the tax credit allowed by this section as part of the Revenue and Taxation
102 Interim Committee's study under Subsection 59-7-614.10(6); and

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104 modified, or repealed.

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

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

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

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

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

115 (v) the information related to the tax credit contained in the office's latest report under
116 Section 63N-1a-306; and

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

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

120 (ii) If, notwithstanding the redactions made under Subsection (5)(c)(i), reporting the

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

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

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

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

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

135 **59-10-1037. Nonrefundable enterprise zone tax credit.**

136 (1) As used in this section:

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

139 (b) "Office" means the Governor's Office of Economic Opportunity created in Section
140 [63N-1a-301](#).

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

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

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

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

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

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

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

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

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

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

165 (E) the information related to the tax credit contained in the office's latest report under
166 Section 63N-1a-306; and

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

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

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

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

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

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

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

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

184 Section 4. Section **63I-2-263** is amended to read:

185 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

186 [~~(1) Section 63A-3-111 is repealed June 30, 2021.~~]

187 [~~(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is~~
188 ~~repealed July 1, 2021.~~]

189 [~~(3)~~] (1) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology
190 Commission is repealed July 1, 2023.

191 [~~(4)~~] (2) Section 63G-1-502 is repealed July 1, 2022.

192 [~~(5)~~] (3) The following sections regarding the World War II Memorial Commission are
193 repealed on July 1, 2022:

194 (a) Section 63G-1-801;

195 (b) Section 63G-1-802;

196 (c) Section 63G-1-803; and

197 (d) Section 63G-1-804.

198 [~~(6)~~] (4) Section 63H-7a-303 is repealed July 1, 2024.

199 [~~(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.~~]

200 [~~(8)~~] (5) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

201 [~~(9)~~] (6) Section 63M-7-217 is repealed on July 1, 2022.

202 (7) Subsection 63N-2-213(7)(g), which provides a tax credit related to property
203 primarily used to produce or process hydrogen for fuel or to distribute or dispense hydrogen
204 fuel, is repealed January 1, 2029.

205 [~~(10)~~] (8) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is
206 repealed January 1, 2024.

207 [~~(11) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed~~
208 ~~December 31, 2021.~~]

209 Section 5. Section **63N-2-213** is amended to read:

210 **63N-2-213. State tax credits.**

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

213 (2) A business entity seeking to receive a tax credit as provided in this section shall

214 provide the office with:

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

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

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

222 (a) deny the tax credit; or

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

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

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

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

230 (c) provide a digital record of the tax credit certificate to the State Tax Commission.

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

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

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

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

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

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

244 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time

245 employee position created within the enterprise zone;

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

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

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

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

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

260 (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
261 enterprise zone that has been vacant for two years or more, including that the building has had
262 or contained no occupants, tenants, furniture, or personal property for two years or more, in the
263 time period immediately before the rehabilitation; ~~and~~

264 (f) an annual investment tax credit may be claimed in an amount equal to 5% of the first
265 \$750,000 qualifying investment in plant, equipment, or other depreciable property[-]; and

266 (g) for a taxable year beginning on or after January 1, 2023, and before January 1,
267 2027, an additional annual investment tax credit of 10% of the first \$250,000 investment, 5%
268 of the next \$1,000,000 investment, and 2.5% of the next \$2,000,000 investment, in a plant,
269 equipment, or other depreciable property primarily used:

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

271 (ii) to distribute or dispense hydrogen fuel.

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

275 (b) A business entity that received a tax credit for one or more new full-time employee

276 positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for
277 a new full-time employee position in a subsequent taxable year under Subsections (7)(a)
278 through (d) if:

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

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

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

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

290 (10) Tax credits under [~~Subsections (7)(a) through (f)~~] Subsection (7) may not be
291 claimed by a business entity primarily engaged in retail trade, residential rental property, or by
292 a public utilities business.

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

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

295 (b) may claim tax credits under Subsections (7)(e) through [~~(f)~~] (g).

296 (12) (a) A business entity may not claim or carry forward a tax credit available under
297 this part for a taxable year during which the business entity has claimed the targeted business
298 income tax credit available under Section 63N-2-304.

299 (b) A business entity may not claim or carry forward a tax credit available under this
300 section for a taxable year during which the business entity claims or carries forward a tax credit
301 available under Section 59-7-610 or 59-10-1007.

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

306 (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation

307 Interim Committee shall:

308 (i) schedule time on at least one committee agenda to conduct the review;

309 (ii) invite state agencies, individuals, and organizations concerned with the credits
310 under review to provide testimony;

311 (iii) ensure that the recommendations described in this section include an evaluation of:

312 (A) the cost of the tax credits to the state;

313 (B) the purpose and effectiveness of the tax credits; and

314 (C) the extent to which the state benefits from the tax credits; and

315 (iv) undertake other review efforts as determined by the chairs of the Revenue and
316 Taxation Interim Committee.

317 Section 6. **Effective date.**

318 This bill takes effect for a taxable year beginning on or after January 1, 2023.