

RURAL JOB CREATION TAX CREDIT

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill modifies the rural job creation tax credit.

Highlighted Provisions:

This bill:

- ▶ expands the rural job creation tax credit by allowing the tax credit to be claimed by admitted insurers; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63N-4-302, as last amended by Laws of Utah 2019, Chapter 465

ENACTS:

59-9-108, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-9-108** is enacted to read:**59-9-108. Nonrefundable rural job creation tax credit.**

(1) As used in this section, "office" means the Governor's Office of Economic Development created in Section [63N-1-201](#).

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

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

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

(5) An entity required to pay a retaliatory tax levied under this chapter for a reason other than claiming the tax credit may claim the tax credit after the retaliatory tax amount is calculated, and the tax credit may be used to offset retaliatory tax liability.

(6) Notwithstanding the other provisions of this section, this section does not apply to an admitted insurer to the extent that the admitted insurer writes workers' compensation insurance in this state and has premiums taxed under Subsection [59-9-101](#)(2).

(7) (a) On or before November 30, 2021, and every three years after 2021, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (7)(a), the Revenue and Taxation Interim Committee shall:

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

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

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

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

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

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

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

Section 2. Section **63N-4-302** is amended to read:

63N-4-302. Definitions.

As used in this part:

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

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

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

(3) "Closing date" means the date on which a rural investment company has collected all of the investments described in Subsection **63N-4-303**(7).

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

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

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

(a) has fewer than 150 employees;

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

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

(d) is engaged in an industry related to:

(i) aerospace;

(ii) defense;

(iii) energy and natural resources;

(iv) financial services;

(v) life sciences;

(vi) outdoor products;

(vii) software development;

(viii) information technology;

(ix) manufacturing; or

(x) agribusiness.

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

(i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and

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

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

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

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

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

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

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

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

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

(12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit

under Section [59-7-621](#), [59-9-108](#), or [59-10-1038](#).

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

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

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

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

(b) If the amount calculated in Subsection ~~[(2)(a)]~~ [\(13\)\(a\)](#) is less than zero, the new annual jobs amount is equal to zero.

(14) (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.

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

(15) "Program" means the provisions of this part applicable to a rural investment company.

(16) "Rural county" means any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

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

(18) (a) "State reimbursement amount" means the difference between:

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

(ii) the product of:

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

152 (B) \$20,000.

153 (b) If the amount calculated in Subsection (18)(a) is less than zero, the state
154 reimbursement amount is equal to zero.

155 (19) "Tax credit" means a rural job creation tax credit created by Section [59-7-621](#),
156 [59-9-108](#), or [59-10-1038](#).

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

158 (a) lists the name of the person to which the office authorizes a tax credit;

159 (b) lists the person's taxpayer identification number;

160 (c) lists the amount of tax credit that the office authorizes the person to claim for the
161 taxable year; and

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

163 Section 3. **Effective date.**

164 This bill takes effect for a taxable year beginning on or after January 1, 2021.