GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT REVISIONS

2015 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies provisions of the Governor's Office of Economic Development (GOED) and other related provisions.

Highlighted Provisions:

This bill:

- creates Title 63N, Governor's Office of Economic Development;
- recodifies the statutory provisions of GOED and other related provisions;
- modifies the organization of GOED, the Board of Business and Economic Development, and the Governor's Economic Development Coordinating Council; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-9, as enacted by Laws of Utah 2014, Chapter 429

26-18-14, as enacted by Laws of Utah 2008, Chapter 383

26-18-18, as enacted by Laws of Utah 2013, Chapter 477

31A-2-201.2, as last amended by Laws of Utah 2013, Chapter 319

31A-2-212, as last amended by Laws of Utah 2013, Chapter 341

31A-2-218, as enacted by Laws of Utah 2008, Chapter 383

31A-22-613.5, as last amended by Laws of Utah 2012, Chapter 279

31A-22-635, as last amended by Laws of Utah 2014, Chapters 290 and 300

32 **31A-22-726**, as enacted by Laws of Utah 2011, Chapter 278
33 **31A-23a-402**, as last amended by Laws of Utah 2013, Chapter 319
34 **31A-30-102**, as last amended by Laws of Utah 2014, Chapters 290 and 300
35 **31A-30-116**, as enacted by Laws of Utah 2012, Chapter 279
36 **31A-30-117**, as last amended by Laws of Utah 2014, Chapter 425
37 **31A-30-202**, as last amended by Laws of Utah 2010, Chapter 68
38 **31A-30-204**, as last amended by Laws of Utah 2010, Chapter 68
39 **31A-30-208**, as last amended by Laws of Utah 2013, Chapters 319 and 341
40 **31A-30-302**, as enacted by Laws of Utah 2014, Chapter 425
41 **35A-1-104.5**, as last amended by Laws of Utah 2012, Chapter 119
42 **53A-1-410**, as last amended by Laws of Utah 2014, Chapter 372
43 **59-7-610**, as last amended by Laws of Utah 2008, Chapter 382
44 **59-7-614.2**, as last amended by Laws of Utah 2012, Chapters 246 and 410
45 **59-7-614.5**, as last amended by Laws of Utah 2012, Chapter 246
46 **59-7-614.6**, as last amended by Laws of Utah 2012, Chapter 423
47 **59-7-614.8**, as enacted by Laws of Utah 2012, Chapter 410
48 **59-7-616 (Effective 01/01/15)**, as enacted by Laws of Utah 2014, Chapter 429
49 **59-10-210**, as last amended by Laws of Utah 2008, Chapters 382 and 389
50 **59-10-1007**, as last amended by Laws of Utah 2008, Chapter 382
51 **59-10-1025**, as last amended by Laws of Utah 2012, Chapter 423
52 **59-10-1030**, as enacted by Laws of Utah 2012, Chapter 410
53 **59-10-1107**, as last amended by Laws of Utah 2012, Chapters 246 and 410
54 **59-10-1108**, as last amended by Laws of Utah 2012, Chapter 246
55 **59-10-1109**, as last amended by Laws of Utah 2012, Chapter 423
56 **59-10-1110 (Effective 01/01/15)**, as enacted by Laws of Utah 2014, Chapter 429
57 **59-12-103**, as last amended by Laws of Utah 2014, Chapters 380 and 429
58 **59-12-301**, as last amended by Laws of Utah 2012, Chapter 369
59 **63A-3-402**, as last amended by Laws of Utah 2014, Chapters 64 and 185
60 **63E-1-102**, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
61 **63F-1-205**, as last amended by Laws of Utah 2014, Chapter 196
62 **63G-2-305**, as last amended by Laws of Utah 2014, Chapters 90 and 320

63 **63G-6a-303**, as last amended by Laws of Utah 2014, Chapter 196
64 **63G-6a-304**, as renumbered and amended by Laws of Utah 2012, Chapter 347
65 **63G-6a-305**, as last amended by Laws of Utah 2013, Chapter 445
66 **63G-6a-711**, as last amended by Laws of Utah 2013, Chapter 445
67 **63I-1-263**, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419,
68 429, and 435
69 **63I-2-263**, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
70 **63I-4a-102**, as last amended by Laws of Utah 2014, Chapter 320
71 **63J-1-315**, as enacted by Laws of Utah 2011, Chapter 211
72 **63J-1-602.4**, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189
73 **63J-4-603**, as last amended by Laws of Utah 2013, Chapters 101 and 337
74 **63J-7-102**, as last amended by Laws of Utah 2014, Chapter 320
75 **63M-2-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
76 **79-4-1103**, as enacted by Laws of Utah 2014, Chapter 313
77 ENACTS:
78 **63N-2-301**, Utah Code Annotated 1953
79 **63N-5-110**, Utah Code Annotated 1953
80 **63N-12-201**, Utah Code Annotated 1953
81 RENUMBERS AND AMENDS:
82 **63G-19-101**, (Renumbered from 63M-1-1001, as renumbered and amended by Laws of
83 Utah 2008, Chapter 382)
84 **63G-19-102**, (Renumbered from 63M-1-1002, as renumbered and amended by Laws of
85 Utah 2008, Chapter 382)
86 **63G-19-103**, (Renumbered from 63M-1-1003, as renumbered and amended by Laws of
87 Utah 2008, Chapter 382)
88 **63N-1-101**, (Renumbered from 63M-1-101, as renumbered and amended by Laws of
89 Utah 2008, Chapter 382)
90 **63N-1-102**, (Renumbered from 63M-1-102, as renumbered and amended by Laws of
91 Utah 2008, Chapter 382)
92 **63N-1-201**, (Renumbered from 63M-1-201, as last amended by Laws of Utah 2014,

93 Chapter 371)
94 **63N-1-202**, (Renumbered from 63M-1-202, as renumbered and amended by Laws of
95 Utah 2008, Chapter 382)
96 **63N-1-203**, (Renumbered from 63M-1-203, as last amended by Laws of Utah 2008,
97 Chapter 352 and renumbered and amended by Laws of Utah 2008, Chapter 382)
98 **63N-1-204**, (Renumbered from 63M-1-205, as renumbered and amended by Laws of
99 Utah 2008, Chapter 382)
100 **63N-1-301**, (Renumbered from 63M-1-206, as enacted by Laws of Utah 2014, Chapter
101 371)
102 **63N-1-401**, (Renumbered from 63M-1-302, as last amended by Laws of Utah 2010,
103 Chapter 286)
104 **63N-1-402**, (Renumbered from 63M-1-303, as last amended by Laws of Utah 2014,
105 Chapter 173)
106 **63N-1-501**, (Renumbered from 63M-1-1303, as enacted by Laws of Utah 2011, Chapter
107 236)
108 **63N-1-502**, (Renumbered from 63M-1-1304, as last amended by Laws of Utah 2014,
109 Chapter 371)
110 **63N-2-101**, (Renumbered from 63M-1-2401, as enacted by Laws of Utah 2008, Chapter
111 372)
112 **63N-2-102**, (Renumbered from 63M-1-2402, as enacted by Laws of Utah 2008, Chapter
113 372)
114 **63N-2-103**, (Renumbered from 63M-1-2403, as last amended by Laws of Utah 2010,
115 Chapters 104 and 164)
116 **63N-2-104**, (Renumbered from 63M-1-2404, as last amended by Laws of Utah 2013,
117 Chapter 392)
118 **63N-2-105**, (Renumbered from 63M-1-2405, as last amended by Laws of Utah 2013,
119 Chapter 392)
120 **63N-2-106**, (Renumbered from 63M-1-2406, as last amended by Laws of Utah 2014,
121 Chapter 371)
122 **63N-2-107**, (Renumbered from 63M-1-2407, as last amended by Laws of Utah 2013,
123 Chapter 310)

124 **63N-2-108**, (Renumbered from 63M-1-2409, as enacted by Laws of Utah 2010, Chapter
125 164)
126 **63N-2-201**, (Renumbered from 63M-1-401, as renumbered and amended by Laws of
127 Utah 2008, Chapter 382)
128 **63N-2-202**, (Renumbered from 63M-1-402, as last amended by Laws of Utah 2011,
129 Chapter 84)
130 **63N-2-203**, (Renumbered from 63M-1-403, as last amended by Laws of Utah 2014,
131 Chapter 371)
132 **63N-2-204**, (Renumbered from 63M-1-404, as last amended by Laws of Utah 2013,
133 Chapter 358)
134 **63N-2-205**, (Renumbered from 63M-1-405, as renumbered and amended by Laws of
135 Utah 2008, Chapter 382)
136 **63N-2-206**, (Renumbered from 63M-1-406, as last amended by Laws of Utah 2011,
137 Chapter 84)
138 **63N-2-207**, (Renumbered from 63M-1-407, as renumbered and amended by Laws of
139 Utah 2008, Chapter 382)
140 **63N-2-208**, (Renumbered from 63M-1-408, as renumbered and amended by Laws of
141 Utah 2008, Chapter 382)
142 **63N-2-209**, (Renumbered from 63M-1-409, as renumbered and amended by Laws of
143 Utah 2008, Chapter 382)
144 **63N-2-210**, (Renumbered from 63M-1-410, as renumbered and amended by Laws of
145 Utah 2008, Chapter 382)
146 **63N-2-211**, (Renumbered from 63M-1-411, as renumbered and amended by Laws of
147 Utah 2008, Chapter 382)
148 **63N-2-212**, (Renumbered from 63M-1-412, as last amended by Laws of Utah 2011,
149 Chapter 84)
150 **63N-2-213**, (Renumbered from 63M-1-413, as last amended by Laws of Utah 2014,
151 Chapter 259)
152 **63N-2-214**, (Renumbered from 63M-1-414, as last amended by Laws of Utah 2011,
153 Chapter 84)

154 **63N-2-215**, (Renumbered from 63M-1-415, as last amended by Laws of Utah 2008,
155 Chapter 114 and renumbered and amended by Laws of Utah 2008, Chapter 382)
156 **63N-2-302**, (Renumbered from 63M-1-501, as renumbered and amended by Laws of
157 Utah 2008, Chapter 382)
158 **63N-2-303**, (Renumbered from 63M-1-502, as renumbered and amended by Laws of
159 Utah 2008, Chapter 382)
160 **63N-2-304**, (Renumbered from 63M-1-503, as renumbered and amended by Laws of
161 Utah 2008, Chapter 382)
162 **63N-2-305**, (Renumbered from 63M-1-504, as renumbered and amended by Laws of
163 Utah 2008, Chapter 382)
164 **63N-2-401**, (Renumbered from 63M-1-1101, as renumbered and amended by Laws of
165 Utah 2008, Chapter 382)
166 **63N-2-402**, (Renumbered from 63M-1-1102, as renumbered and amended by Laws of
167 Utah 2008, Chapter 382)
168 **63N-2-403**, (Renumbered from 63M-1-1103, as last amended by Laws of Utah 2014,
169 Chapter 371)
170 **63N-2-404**, (Renumbered from 63M-1-1104, as last amended by Laws of Utah 2009,
171 Chapter 183)
172 **63N-2-405**, (Renumbered from 63M-1-1105, as renumbered and amended by Laws of
173 Utah 2008, Chapter 382)
174 **63N-2-406**, (Renumbered from 63M-1-1106, as renumbered and amended by Laws of
175 Utah 2008, Chapter 382)
176 **63N-2-407**, (Renumbered from 63M-1-1107, as renumbered and amended by Laws of
177 Utah 2008, Chapter 382)
178 **63N-2-408**, (Renumbered from 63M-1-1108, as renumbered and amended by Laws of
179 Utah 2008, Chapter 382)
180 **63N-2-409**, (Renumbered from 63M-1-1109, as renumbered and amended by Laws of
181 Utah 2008, Chapter 382)
182 **63N-2-410**, (Renumbered from 63M-1-1110, as renumbered and amended by Laws of
183 Utah 2008, Chapter 382)
184 **63N-2-411**, (Renumbered from 63M-1-1111, as renumbered and amended by Laws of

185 Utah 2008, Chapter 382)
186 **63N-2-412**, (Renumbered from 63M-1-1112, as last amended by Laws of Utah 2011,
187 Chapter 392)
188 **63N-2-501**, (Renumbered from 63M-1-3401, as enacted by Laws of Utah 2014, Chapter
189 429)
190 **63N-2-502**, (Renumbered from 63M-1-3402, as enacted by Laws of Utah 2014, Chapter
191 429)
192 **63N-2-503**, (Renumbered from 63M-1-3403, as enacted by Laws of Utah 2014, Chapter
193 429)
194 **63N-2-504**, (Renumbered from 63M-1-3404, as enacted by Laws of Utah 2014, Chapter
195 429)
196 **63N-2-505**, (Renumbered from 63M-1-3405, as enacted by Laws of Utah 2014, Chapter
197 429)
198 **63N-2-506**, (Renumbered from 63M-1-3406, as enacted by Laws of Utah 2014, Chapter
199 429)
200 **63N-2-507**, (Renumbered from 63M-1-3407, as enacted by Laws of Utah 2014, Chapter
201 429)
202 **63N-2-508**, (Renumbered from 63M-1-3408, as enacted by Laws of Utah 2014, Chapter
203 429)
204 **63N-2-509**, (Renumbered from 63M-1-3409, as enacted by Laws of Utah 2014, Chapter
205 429)
206 **63N-2-510**, (Renumbered from 63M-1-3410, as enacted by Laws of Utah 2014, Chapter
207 429)
208 **63N-2-511**, (Renumbered from 63M-1-3411, as enacted by Laws of Utah 2014, Chapter
209 429)
210 **63N-2-512**, (Renumbered from 63M-1-3412, as enacted by Laws of Utah 2014, Chapter
211 429)
212 **63N-2-513**, (Renumbered from 63M-1-3413, as enacted by Laws of Utah 2014, Chapter
213 429)
214 **63N-2-601**, (Renumbered from 63M-1-3501, as enacted by Laws of Utah 2014, Chapter

215 435)
216 **63N-2-602**, (Renumbered from 63M-1-3502, as enacted by Laws of Utah 2014, Chapter
217 435)
218 **63N-2-603**, (Renumbered from 63M-1-3503, as enacted by Laws of Utah 2014, Chapter
219 435)
220 **63N-2-604**, (Renumbered from 63M-1-3504, as enacted by Laws of Utah 2014, Chapter
221 435)
222 **63N-2-605**, (Renumbered from 63M-1-3505, as enacted by Laws of Utah 2014, Chapter
223 435)
224 **63N-2-606**, (Renumbered from 63M-1-3506, as enacted by Laws of Utah 2014, Chapter
225 435)
226 **63N-2-607**, (Renumbered from 63M-1-3507, as enacted by Laws of Utah 2014, Chapter
227 435)
228 **63N-2-608**, (Renumbered from 63M-1-3508, as enacted by Laws of Utah 2014, Chapter
229 435)
230 **63N-2-609**, (Renumbered from 63M-1-3509, as enacted by Laws of Utah 2014, Chapter
231 435)
232 **63N-2-610**, (Renumbered from 63M-1-3510, as enacted by Laws of Utah 2014, Chapter
233 435)
234 **63N-2-611**, (Renumbered from 63M-1-3511, as enacted by Laws of Utah 2014, Chapter
235 435)
236 **63N-2-612**, (Renumbered from 63M-1-3512, as enacted by Laws of Utah 2014, Chapter
237 435)
238 **63N-2-701**, (Renumbered from 63M-1-3101, as enacted by Laws of Utah 2012, Chapter
239 410)
240 **63N-2-702**, (Renumbered from 63M-1-3102, as enacted by Laws of Utah 2012, Chapter
241 410)
242 **63N-2-703**, (Renumbered from 63M-1-3103, as enacted by Laws of Utah 2012, Chapter
243 410)
244 **63N-2-704**, (Renumbered from 63M-1-3104, as enacted by Laws of Utah 2012, Chapter
245 410)

246 **63N-2-705**, (Renumbered from 63M-1-3105, as last amended by Laws of Utah 2014,
247 Chapter 371)
248 **63N-2-801**, (Renumbered from 63M-1-2901, as enacted by Laws of Utah 2011, Chapter
249 306)
250 **63N-2-802**, (Renumbered from 63M-1-2902, as last amended by Laws of Utah 2012,
251 Chapter 423)
252 **63N-2-803**, (Renumbered from 63M-1-2903, as last amended by Laws of Utah 2012,
253 Chapter 423)
254 **63N-2-804**, (Renumbered from 63M-1-2904, as enacted by Laws of Utah 2011, Chapter
255 306)
256 **63N-2-805**, (Renumbered from 63M-1-2905, as last amended by Laws of Utah 2012,
257 Chapter 423)
258 **63N-2-806**, (Renumbered from 63M-1-2906, as enacted by Laws of Utah 2011, Chapter
259 306)
260 **63N-2-807**, (Renumbered from 63M-1-2907, as enacted by Laws of Utah 2011, Chapter
261 306)
262 **63N-2-808**, (Renumbered from 63M-1-2908, as last amended by Laws of Utah 2012,
263 Chapter 423)
264 **63N-2-809**, (Renumbered from 63M-1-2909, as last amended by Laws of Utah 2012,
265 Chapter 423)
266 **63N-2-810**, (Renumbered from 63M-1-2910, as last amended by Laws of Utah 2014,
267 Chapter 371)
268 **63N-2-811**, (Renumbered from 63M-1-2911, as last amended by Laws of Utah 2013,
269 Chapter 310)
270 **63N-3-101**, (Renumbered from 63M-1-901, as renumbered and amended by Laws of
271 Utah 2008, Chapter 382)
272 **63N-3-102**, (Renumbered from 63M-1-902, as last amended by Laws of Utah 2010,
273 Chapters 245 and 278)
274 **63N-3-103**, (Renumbered from 63M-1-903, as last amended by Laws of Utah 2014,
275 Chapter 435)

276 **63N-3-104**, (Renumbered from 63M-1-904, as last amended by Laws of Utah 2014,
277 Chapter 371)
278 **63N-3-105**, (Renumbered from 63M-1-906, as last amended by Laws of Utah 2012,
279 Chapter 208)
280 **63N-3-106**, (Renumbered from 63M-1-905, as last amended by Laws of Utah 2011,
281 Chapters 211 and 303)
282 **63N-3-107**, (Renumbered from 63M-1-907, as renumbered and amended by Laws of
283 Utah 2008, Chapter 382)
284 **63N-3-108**, (Renumbered from 63M-1-908, as last amended by Laws of Utah 2010,
285 Chapter 278)
286 **63N-3-109**, (Renumbered from 63M-1-909, as last amended by Laws of Utah 2013,
287 Chapter 173)
288 **63N-3-110**, (Renumbered from 63M-1-909.5, as last amended by Laws of Utah 2013,
289 Chapter 173)
290 **63N-3-111**, (Renumbered from 63M-1-910, as last amended by Laws of Utah 2013,
291 Chapter 310)
292 **63N-3-201**, (Renumbered from 63M-1-701, as last amended by Laws of Utah 2011,
293 Chapter 392)
294 **63N-3-202**, (Renumbered from 63M-1-702, as last amended by Laws of Utah 2014,
295 Chapter 418)
296 **63N-3-203**, (Renumbered from 63M-1-703, as last amended by Laws of Utah 2014,
297 Chapter 418)
298 **63N-3-204**, (Renumbered from 63M-1-704, as last amended by Laws of Utah 2014,
299 Chapters 371, 418 and last amended by Coordination Clause, Laws of Utah 2014,
300 Chapter 418)
301 **63N-3-205**, (Renumbered from 63M-1-705, as last amended by Laws of Utah 2011,
302 Chapter 392)
303 **63N-3-301**, (Renumbered from 63M-1-2701, as enacted by Laws of Utah 2008, Chapter
304 50)
305 **63N-3-302**, (Renumbered from 63M-1-2702, as enacted by Laws of Utah 2008, Chapter
306 50)

307 **63N-3-303**, (Renumbered from 63M-1-2703, as enacted by Laws of Utah 2008, Chapter
308 50)
309 **63N-3-304**, (Renumbered from 63M-1-2704, as last amended by Laws of Utah 2014,
310 Chapter 371)
311 **63N-3-305**, (Renumbered from 63M-1-2705, as enacted by Laws of Utah 2008, Chapter
312 50)
313 **63N-3-306**, (Renumbered from 63M-1-2706, as last amended by Laws of Utah 2011,
314 Chapter 112)
315 **63N-3-307**, (Renumbered from 63M-1-2707, as last amended by Laws of Utah 2011,
316 Chapter 112)
317 **63N-3-401**, (Renumbered from 63M-1-2201, as renumbered and amended by Laws of
318 Utah 2008, Chapter 382)
319 **63N-3-402**, (Renumbered from 63M-1-2202, as renumbered and amended by Laws of
320 Utah 2008, Chapter 382)
321 **63N-3-403**, (Renumbered from 63M-1-2203, as last amended by Laws of Utah 2013,
322 Chapter 400)
323 **63N-4-101**, (Renumbered from 63M-1-1601, as renumbered and amended by Laws of
324 Utah 2008, Chapter 382)
325 **63N-4-102**, (Renumbered from 63M-1-1602, as last amended by Laws of Utah 2008,
326 Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382)
327 **63N-4-103**, (Renumbered from 63M-1-1603, as last amended by Laws of Utah 2014,
328 Chapter 259)
329 **63N-4-104**, (Renumbered from 63M-1-1604, as last amended by Laws of Utah 2014,
330 Chapter 259)
331 **63N-4-105**, (Renumbered from 63M-1-1605, as last amended by Laws of Utah 2014,
332 Chapter 259)
333 **63N-4-106**, (Renumbered from 63M-1-1606, as last amended by Laws of Utah 2014,
334 Chapter 371)
335 **63N-4-201**, (Renumbered from 63M-1-2001, as renumbered and amended by Laws of
336 Utah 2008, Chapter 382)

337 **63N-4-202**, (Renumbered from 63M-1-2002, as last amended by Laws of Utah 2014,
338 Chapter 203)
339 **63N-4-203**, (Renumbered from 63M-1-2004, as last amended by Laws of Utah 2014,
340 Chapter 203)
341 **63N-4-204**, (Renumbered from 63M-1-2005, as renumbered and amended by Laws of
342 Utah 2008, Chapter 382)
343 **63N-4-205**, (Renumbered from 63M-1-2006, as last amended by Laws of Utah 2014,
344 Chapter 371)
345 **63N-5-101**, (Renumbered from 63M-1-3001, as renumbered and amended by Laws of
346 Utah 2011, Chapter 370)
347 **63N-5-102**, (Renumbered from 63M-1-3002, as renumbered and amended by Laws of
348 Utah 2011, Chapter 370)
349 **63N-5-103**, (Renumbered from 63M-1-3003, as renumbered and amended by Laws of
350 Utah 2011, Chapter 370)
351 **63N-5-104**, (Renumbered from 63M-1-3004, as renumbered and amended by Laws of
352 Utah 2011, Chapter 370)
353 **63N-5-105**, (Renumbered from 63M-1-3005, as renumbered and amended by Laws of
354 Utah 2011, Chapter 370)
355 **63N-5-106**, (Renumbered from 63M-1-3006, as renumbered and amended by Laws of
356 Utah 2011, Chapter 370)
357 **63N-5-107**, (Renumbered from 63M-1-3007, as renumbered and amended by Laws of
358 Utah 2011, Chapter 370)
359 **63N-5-108**, (Renumbered from 63M-1-3008, as renumbered and amended by Laws of
360 Utah 2011, Chapter 370)
361 **63N-5-109**, (Renumbered from 63M-1-3009, as renumbered and amended by Laws of
362 Utah 2011, Chapter 370)
363 **63N-6-101**, (Renumbered from 63M-1-1201, as renumbered and amended by Laws of
364 Utah 2008, Chapter 382)
365 **63N-6-102**, (Renumbered from 63M-1-1202, as renumbered and amended by Laws of
366 Utah 2008, Chapter 382)
367 **63N-6-103**, (Renumbered from 63M-1-1203, as last amended by Laws of Utah 2014,

368 Chapter 334)
369 **63N-6-201**, (Renumbered from 63M-1-1204, as renumbered and amended by Laws of
370 Utah 2008, Chapter 382)
371 **63N-6-202**, (Renumbered from 63M-1-1205, as last amended by Laws of Utah 2014,
372 Chapter 334)
373 **63N-6-203**, (Renumbered from 63M-1-1206, as last amended by Laws of Utah 2014,
374 Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014,
375 Chapter 334)
376 **63N-6-301**, (Renumbered from 63M-1-1207, as last amended by Laws of Utah 2011,
377 Chapter 342)
378 **63N-6-302**, (Renumbered from 63M-1-1208, as renumbered and amended by Laws of
379 Utah 2008, Chapter 382)
380 **63N-6-303**, (Renumbered from 63M-1-1209, as renumbered and amended by Laws of
381 Utah 2008, Chapter 382)
382 **63N-6-304**, (Renumbered from 63M-1-1210, as renumbered and amended by Laws of
383 Utah 2008, Chapter 382)
384 **63N-6-305**, (Renumbered from 63M-1-1211, as last amended by Laws of Utah 2010,
385 Chapter 278)
386 **63N-6-306**, (Renumbered from 63M-1-1212, as renumbered and amended by Laws of
387 Utah 2008, Chapter 382)
388 **63N-6-401**, (Renumbered from 63M-1-1213, as last amended by Laws of Utah 2008,
389 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
390 **63N-6-402**, (Renumbered from 63M-1-1214, as last amended by Laws of Utah 2014,
391 Chapter 334)
392 **63N-6-403**, (Renumbered from 63M-1-1215, as renumbered and amended by Laws of
393 Utah 2008, Chapter 382)
394 **63N-6-404**, (Renumbered from 63M-1-1216, as last amended by Laws of Utah 2008,
395 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
396 **63N-6-405**, (Renumbered from 63M-1-1217, as last amended by Laws of Utah 2014,
397 Chapter 334)

398 **63N-6-406**, (Renumbered from 63M-1-1218, as last amended by Laws of Utah 2014,
399 Chapter 334)
400 **63N-6-407**, (Renumbered from 63M-1-1219, as renumbered and amended by Laws of
401 Utah 2008, Chapter 382)
402 **63N-6-408**, (Renumbered from 63M-1-1220, as renumbered and amended by Laws of
403 Utah 2008, Chapter 382)
404 **63N-6-409**, (Renumbered from 63M-1-1221, as renumbered and amended by Laws of
405 Utah 2008, Chapter 382)
406 **63N-6-410**, (Renumbered from 63M-1-1222, as renumbered and amended by Laws of
407 Utah 2008, Chapter 382)
408 **63N-6-411**, (Renumbered from 63M-1-1223, as last amended by Laws of Utah 2013,
409 Chapter 73)
410 **63N-6-412**, (Renumbered from 63M-1-1224, as last amended by Laws of Utah 2008,
411 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
412 **63N-7-101**, (Renumbered from 63M-1-1401, as renumbered and amended by Laws of
413 Utah 2008, Chapter 382)
414 **63N-7-102**, (Renumbered from 63M-1-1402, as last amended by Laws of Utah 2010,
415 Chapter 286)
416 **63N-7-103**, (Renumbered from 63M-1-1403, as last amended by Laws of Utah 2014,
417 Chapter 429)
418 **63N-7-201**, (Renumbered from 63M-1-1404, as last amended by Laws of Utah 2014,
419 Chapter 371)
420 **63N-7-202**, (Renumbered from 63M-1-1405, as renumbered and amended by Laws of
421 Utah 2008, Chapter 382)
422 **63N-7-301**, (Renumbered from 63M-1-1406, as last amended by Laws of Utah 2014,
423 Chapter 423)
424 **63N-8-101**, (Renumbered from 63M-1-1801, as last amended by Laws of Utah 2009,
425 Chapter 135)
426 **63N-8-102**, (Renumbered from 63M-1-1802, as last amended by Laws of Utah 2011,
427 Chapter 338)
428 **63N-8-103**, (Renumbered from 63M-1-1803, as last amended by Laws of Utah 2011,

429 Chapter 338)
430 **63N-8-104**, (Renumbered from 63M-1-1804, as last amended by Laws of Utah 2011,
431 Chapter 338)
432 **63N-8-105**, (Renumbered from 63M-1-1805, as last amended by Laws of Utah 2014,
433 Chapter 371)
434 **63N-9-101**, (Renumbered from 63M-1-3301, as enacted by Laws of Utah 2013, Chapter
435 25)
436 **63N-9-102**, (Renumbered from 63M-1-3302, as enacted by Laws of Utah 2013, Chapter
437 25)
438 **63N-9-103**, (Renumbered from 63M-1-3303, as enacted by Laws of Utah 2013, Chapter
439 25)
440 **63N-9-104**, (Renumbered from 63M-1-3304, as enacted by Laws of Utah 2013, Chapter
441 25)
442 **63N-9-105**, (Renumbered from 63M-1-3305, as enacted by Laws of Utah 2013, Chapter
443 25)
444 **63N-9-106**, (Renumbered from 63M-1-3306, as repealed and reenacted by Laws of
445 Utah 2014, Chapter 371)
446 **63N-10-101**, (Renumbered from 63C-11-101, as repealed and reenacted by Laws of
447 Utah 2009, Chapter 369)
448 **63N-10-102**, (Renumbered from 63C-11-102, as repealed and reenacted by Laws of
449 Utah 2009, Chapter 369)
450 **63N-10-201**, (Renumbered from 63C-11-201, as last amended by Laws of Utah 2010,
451 Chapter 286)
452 **63N-10-202**, (Renumbered from 63C-11-202, as repealed and reenacted by Laws of
453 Utah 2009, Chapter 369)
454 **63N-10-203**, (Renumbered from 63C-11-203, as enacted by Laws of Utah 2009,
455 Chapter 369)
456 **63N-10-204**, (Renumbered from 63C-11-204, as enacted by Laws of Utah 2009,
457 Chapter 369)
458 **63N-10-205**, (Renumbered from 63C-11-205, as enacted by Laws of Utah 2009,

459 Chapter 369)
460 **63N-10-301**, (Renumbered from 63C-11-301, as last amended by Laws of Utah 2011,
461 Chapter 342)
462 **63N-10-302**, (Renumbered from 63C-11-302, as repealed and reenacted by Laws of
463 Utah 2009, Chapter 369)
464 **63N-10-303**, (Renumbered from 63C-11-303, as repealed and reenacted by Laws of
465 Utah 2009, Chapter 369)
466 **63N-10-304**, (Renumbered from 63C-11-304, as last amended by Laws of Utah 2011,
467 Chapter 342)
468 **63N-10-305**, (Renumbered from 63C-11-305, as repealed and reenacted by Laws of
469 Utah 2009, Chapter 369)
470 **63N-10-306**, (Renumbered from 63C-11-306, as repealed and reenacted by Laws of
471 Utah 2009, Chapter 369)
472 **63N-10-307**, (Renumbered from 63C-11-307, as repealed and reenacted by Laws of
473 Utah 2009, Chapter 369)
474 **63N-10-308**, (Renumbered from 63C-11-308, as repealed and reenacted by Laws of
475 Utah 2009, Chapter 369)
476 **63N-10-309**, (Renumbered from 63C-11-309, as repealed and reenacted by Laws of
477 Utah 2009, Chapter 369)
478 **63N-10-310**, (Renumbered from 63C-11-310, as repealed and reenacted by Laws of
479 Utah 2009, Chapter 369)
480 **63N-10-311**, (Renumbered from 63C-11-311, as repealed and reenacted by Laws of
481 Utah 2009, Chapter 369)
482 **63N-10-312**, (Renumbered from 63C-11-312, as repealed and reenacted by Laws of
483 Utah 2009, Chapter 369)
484 **63N-10-313**, (Renumbered from 63C-11-313, as repealed and reenacted by Laws of
485 Utah 2009, Chapter 369)
486 **63N-10-314**, (Renumbered from 63C-11-314, as repealed and reenacted by Laws of
487 Utah 2009, Chapter 369)
488 **63N-10-315**, (Renumbered from 63C-11-315, as repealed and reenacted by Laws of
489 Utah 2009, Chapter 369)

490 **63N-10-316**, (Renumbered from 63C-11-316, as repealed and reenacted by Laws of
491 Utah 2009, Chapter 369)
492 **63N-10-317**, (Renumbered from 63C-11-317, as repealed and reenacted by Laws of
493 Utah 2009, Chapter 369)
494 **63N-10-318**, (Renumbered from 63C-11-318, as repealed and reenacted by Laws of
495 Utah 2009, Chapter 369)
496 **63N-11-101**, (Renumbered from 63M-1-2501, as enacted by Laws of Utah 2008,
497 Chapter 383)
498 **63N-11-102**, (Renumbered from 63M-1-2502, as enacted by Laws of Utah 2008,
499 Chapter 383)
500 **63N-11-103**, (Renumbered from 63M-1-2503, as enacted by Laws of Utah 2008,
501 Chapter 383)
502 **63N-11-104**, (Renumbered from 63M-1-2504, as last amended by Laws of Utah 2014,
503 Chapters 371 and 425)
504 **63N-11-105**, (Renumbered from 63M-1-2505, as enacted by Laws of Utah 2008,
505 Chapter 383)
506 **63N-11-106**, (Renumbered from 63M-1-2505.5, as last amended by Laws of Utah
507 2013, Chapter 341)
508 **63N-11-107**, (Renumbered from 63M-1-2506, as last amended by Laws of Utah 2011,
509 Chapter 400)
510 **63N-12-101**, (Renumbered from 63M-1-601, as renumbered and amended by Laws of
511 Utah 2008, Chapter 382)
512 **63N-12-102**, (Renumbered from 63M-1-602, as renumbered and amended by Laws of
513 Utah 2008, Chapter 382)
514 **63N-12-103**, (Renumbered from 63M-1-603, as renumbered and amended by Laws of
515 Utah 2008, Chapter 382)
516 **63N-12-104**, (Renumbered from 63M-1-604, as last amended by Laws of Utah 2012,
517 Chapter 212)
518 **63N-12-105**, (Renumbered from 63M-1-605, as last amended by Laws of Utah 2014,
519 Chapter 371)

520 **63N-12-106**, (Renumbered from 63M-1-606, as renumbered and amended by Laws of
521 Utah 2008, Chapter 382)
522 **63N-12-107**, (Renumbered from 63M-1-607, as renumbered and amended by Laws of
523 Utah 2008, Chapter 382)
524 **63N-12-108**, (Renumbered from 63M-1-608, as last amended by Laws of Utah 2013,
525 Chapter 336)
526 **63N-12-202**, (Renumbered from 63M-1-3201, as last amended by Laws of Utah 2014,
527 Chapter 318)
528 **63N-12-203**, (Renumbered from 63M-1-3202, as last amended by Laws of Utah 2014,
529 Chapter 318)
530 **63N-12-204**, (Renumbered from 63M-1-3203, as last amended by Laws of Utah 2014,
531 Chapters 189 and 318)
532 **63N-12-205**, (Renumbered from 63M-1-3204, as last amended by Laws of Utah 2014,
533 Chapters 63 and 318)
534 **63N-12-206**, (Renumbered from 63M-1-3205, as last amended by Laws of Utah 2014,
535 Chapter 318)
536 **63N-12-207**, (Renumbered from 63M-1-3206, as enacted by Laws of Utah 2013,
537 Chapter 336)
538 **63N-12-208**, (Renumbered from 63M-1-3207, as last amended by Laws of Utah 2014,
539 Chapters 318 and 371)
540 **63N-12-209**, (Renumbered from 63M-1-3208, as enacted by Laws of Utah 2014,
541 Chapter 318)
542 **63N-12-210**, (Renumbered from 63M-1-3209, as enacted by Laws of Utah 2014,
543 Chapter 318)
544 **63N-12-211**, (Renumbered from 63M-1-3210, as enacted by Laws of Utah 2014,
545 Chapter 318)
546 **63N-12-212**, (Renumbered from 63M-1-3211, as enacted by Laws of Utah 2014,
547 Chapter 318)
548 **63N-13-101**, (Renumbered from 63M-1-2101, as renumbered and amended by Laws of
549 Utah 2008, Chapter 382)
550 **63N-13-201**, (Renumbered from 63M-1-2601, as enacted by Laws of Utah 2008,

551 Chapter 352)
552 **63N-13-202**, (Renumbered from 63M-1-2602, as last amended by Laws of Utah 2012,
553 Chapter 347)
554 **63N-13-203**, (Renumbered from 63M-1-2603, as last amended by Laws of Utah 2013,
555 Chapters 310 and 310)
556 **63N-13-204**, (Renumbered from 63M-1-2604, as enacted by Laws of Utah 2008,
557 Chapter 352)
558 **63N-13-205**, (Renumbered from 63M-1-2605, as last amended by Laws of Utah 2012,
559 Chapter 347)
560 **63N-13-206**, (Renumbered from 63M-1-2606, as last amended by Laws of Utah 2013,
561 Chapters 310 and 310)
562 **63N-13-207**, (Renumbered from 63M-1-2607, as last amended by Laws of Utah 2013,
563 Chapters 310 and 310)
564 **63N-13-208**, (Renumbered from 63M-1-2608, as last amended by Laws of Utah 2012,
565 Chapter 347)
566 **63N-13-209**, (Renumbered from 63M-1-2609, as last amended by Laws of Utah 2013,
567 Chapter 310)
568 **63N-13-210**, (Renumbered from 63M-1-2610, as last amended by Laws of Utah 2012,
569 Chapter 347)
570 **63N-13-211**, (Renumbered from 63M-1-2611, as last amended by Laws of Utah 2010,
571 Chapter 286)
572 **63N-13-212**, (Renumbered from 63M-1-2612, as last amended by Laws of Utah 2013,
573 Chapters 310 and 400)
574 REPEALS:
575 **63M-1-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382
576 **63M-1-207**, as enacted by Laws of Utah 2014, Chapter 427
577 **63M-1-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382
578 **63M-1-304**, as renumbered and amended by Laws of Utah 2008, Chapter 382
579 **63M-1-801**, as renumbered and amended by Laws of Utah 2008, Chapter 382
580 **63M-1-802**, as renumbered and amended by Laws of Utah 2008, Chapter 382

581 **63M-1-1301**, as enacted by Laws of Utah 2011, Chapter 236
582 **63M-1-1302**, as enacted by Laws of Utah 2011, Chapter 236
583 **63M-1-1901**, as last amended by Laws of Utah 2014, Chapter 371
584 **63M-1-2408**, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391
585

586 *Be it enacted by the Legislature of the state of Utah:*
587 Section 1. Section **17-31-9** is amended to read:
588 **17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact**
589 **Mitigation Fund.**
590 A county in which a qualified hotel, as defined in Section [~~63M-1-3402~~] 63N-2-502, is
591 located shall:
592 (1) make an annual payment to the Division of Finance:
593 (a) for deposit into the Stay Another Day and Bounce Back Fund, established in
594 Section [~~63M-1-3411~~] 63N-2-511;
595 (b) for any year in which the Governor's Office of Economic Development issues a tax
596 credit certificate, as defined in Section [~~63M-1-3402~~] 63N-2-502; and
597 (c) in the amount of 5% of the state portion, as defined in Section [~~63M-1-3402~~]
598 63N-2-502; and
599 (2) make payments to the Division of Finance:
600 (a) for deposit into the Hotel Impact Mitigation Fund, created in Section [~~63M-1-3412~~]
601 63N-2-512;
602 (b) for each year described in Subsection [~~63M-1-3412~~] 63N-2-512(5)(a)(ii) during
603 which the balance of the Hotel Impact Mitigation Fund, defined in Section [~~63M-1-3412~~]
604 63N-2-512, is less than $2,100,000 before any payment for that year under Subsection
605 [~~63M-1-3412~~] 63N-2-512(5)(a); and
606 (c) in the amount of the difference between $2,100,000 and the balance of the Hotel
607 Impact Mitigation Fund, defined in Section [~~63M-1-3412~~] 63N-2-512, before any payment for
608 that year under Subsection [~~63M-1-3412~~] 63N-2-512(5)(a).
609 Section 2. Section **26-18-14** is amended to read:
610 **26-18-14. Strategic plan for health system reform -- Medicaid program.**
611 The department, including the Division of Health Care Financing within the

612 department, shall:
613 (1) work with the Governor's Office of Economic Development, the Insurance
614 Department, the Department of Workforce Services, and the Legislature to develop health
615 system reform in accordance with the strategic plan described in Title [~~63M~~] 63N, Chapter [~~1~~]
616 11, [~~Part 25,~~] Health System Reform Act;
617 (2) develop and submit amendments and waivers for the state's Medicaid plan as
618 necessary to carry out the provisions of the Health System Reform Act;
619 (3) seek federal approval of an amendment to Utah's Premium Partnership for Health
620 Insurance that would allow the state's Medicaid program to subsidize the purchase of health
621 insurance by an individual who does not have access to employer sponsored health insurance;
622 (4) in coordination with the Department of Workforce Services:
623 (a) establish a Children's Health Insurance Program eligibility policy, consistent with
624 federal requirements and Subsection 26-40-105(1)(d), that prohibits enrollment of a child in the
625 program if the child's parent qualifies for assistance under Utah's Premium Partnership for
626 Health Insurance; and
627 (b) involve community partners, insurance agents and producers, community based
628 service organizations, and the education community to increase enrollment of eligible
629 employees and individuals in Utah's Premium Partnership for Health Insurance and the
630 Children's Health Insurance Program; and
631 (5) as funding permits, and in coordination with the department's adoption of standards
632 for the electronic exchange of clinical health data, help the private sector form an alliance of
633 employers, hospitals and other health care providers, patients, and health insurers to develop
634 and use evidence-based health care quality measures for the purpose of improving health care
635 decision making by health care providers, consumers, and third party payers.
636 Section 3. Section **26-18-18** is amended to read:
637 **26-18-18. Optional Medicaid expansion.**
638 (1) For purposes of this section PPACA is as defined in Section 31A-1-301.
639 (2) The department and the governor shall not expand the state's Medicaid program to
640 the optional population under PPACA unless:
641 (a) the Health Reform Task Force has completed a thorough analysis of a statewide
642 charity care system;

643 (b) the department and its contractors have:
644 (i) completed a thorough analysis of the impact to the state of expanding the state's
645 Medicaid program to optional populations under PPACA; and
646 (ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;
647 (c) the governor or the governor's designee has reported the intention to expand the
648 state Medicaid program under PPACA to the Legislature in compliance with the legislative
649 review process in Sections [~~63M-1-2505.5~~] 63N-11-106 and 26-18-3; and
650 (d) notwithstanding Subsection 63J-5-103(2), the governor submits the request for
651 expansion of the Medicaid program for optional populations to the Legislature under the high
652 impact federal funds request process required by Section 63J-5-204, Legislative review and
653 approval of certain federal funds request.
654 Section 4. Section **31A-2-201.2** is amended to read:
655 **31A-2-201.2. Evaluation of health insurance market.**
656 (1) Each year the commissioner shall:
657 (a) conduct an evaluation of the state's health insurance market;
658 (b) report the findings of the evaluation to the Health and Human Services Interim
659 Committee before October 1 of each year; and
660 (c) publish the findings of the evaluation on the department website.
661 (2) The evaluation required by this section shall:
662 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a
663 healthy, competitive health insurance market that meets the needs of the state, and includes an
664 analysis of:
665 (i) the availability and marketing of individual and group products;
666 (ii) rate changes;
667 (iii) coverage and demographic changes;
668 (iv) benefit trends;
669 (v) market share changes; and
670 (vi) accessibility;
671 (b) assess complaint ratios and trends within the health insurance market, which
672 assessment shall include complaint data from the Office of Consumer Health Assistance within
673 the department;

674 (c) contain recommendations for action to improve the overall effectiveness of the
675 health insurance market, administrative rules, and statutes; and
676 (d) include claims loss ratio data for each health insurance company doing business in
677 the state.
678 (3) When preparing the evaluation required by this section, the commissioner shall
679 include a report of:
680 (a) the types of health benefit plans sold in the Health Insurance Exchange created in
681 Section [~~63M-1-2504~~] 63N-11-104;
682 (b) the number of insurers participating in the defined contribution arrangement health
683 benefit plans in the Health Insurance Exchange; and
684 (c) the number of employers and covered lives in the defined contribution arrangement
685 market in the Health Insurance Exchange.
686 (4) When preparing the evaluation and report required by this section, the
687 commissioner may seek the input of insurers, employers, insured persons, providers, and others
688 with an interest in the health insurance market.
689 (5) The commissioner may adopt administrative rules for the purpose of collecting the
690 data required by this section, taking into account the business confidentiality of the insurers.
691 (6) Records submitted to the commissioner under this section shall be maintained by
692 the commissioner as protected records under Title 63G, Chapter 2, Government Records
693 Access and Management Act.
694 Section 5. Section **31A-2-212** is amended to read:
695 **31A-2-212. Miscellaneous duties.**
696 (1) Upon issuance of an order limiting, suspending, or revoking a person's authority to
697 do business in Utah, and when the commissioner begins a proceeding against an insurer under
698 Chapter 27a, Insurer Receivership Act, the commissioner:
699 (a) shall notify by mail the producers of the person or insurer of whom the
700 commissioner has record; and
701 (b) may publish notice of the order or proceeding in any manner the commissioner
702 considers necessary to protect the rights of the public.
703 (2) When required for evidence in a legal proceeding, the commissioner shall furnish a
704 certificate of authority of a licensee to transact the business of insurance in Utah on any

705 particular date. The court or other officer shall receive the certificate of authority in lieu of the
706 commissioner's testimony.
707 (3) (a) On the request of an insurer authorized to do a surety business, the
708 commissioner shall furnish a copy of the insurer's certificate of authority to a designated public
709 officer in this state who requires that certificate of authority before accepting a bond.
710 (b) The public officer described in Subsection (3)(a) shall file the certificate of
711 authority furnished under Subsection (3)(a).
712 (c) After a certified copy of a certificate of authority is furnished to a public officer, it
713 is not necessary, while the certificate of authority remains effective, to attach a copy of it to any
714 instrument of suretyship filed with that public officer.
715 (d) Whenever the commissioner revokes the certificate of authority or begins a
716 proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a
717 surety business, the commissioner shall immediately give notice of that action to each public
718 officer who is sent a certified copy under this Subsection (3).
719 (4) (a) The commissioner shall immediately notify every judge and clerk of the courts
720 of record in the state when:
721 (i) an authorized insurer doing a surety business:
722 (A) files a petition for receivership; or
723 (B) is in receivership; or
724 (ii) the commissioner has reason to believe that the authorized insurer doing surety
725 business:
726 (A) is in financial difficulty; or
727 (B) has unreasonably failed to carry out any of its contracts.
728 (b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the
729 judges and clerks to notify and require a person that files with the court a bond on which the
730 authorized insurer doing surety business is surety to immediately file a new bond with a new
731 surety.
732 (5) (a) The commissioner shall report to the Legislature in accordance with Section
733 [~~63M-1-2505.5~~] 63N-11-106 prior to adopting a rule authorized by Subsection (5)(b).
734 (b) The commissioner shall require an insurer that issues, sells, renews, or offers health
735 insurance coverage in this state to comply with the provisions of PPACA and administrative

736 rules adopted by the commissioner related to regulation of health benefit plans, including:
737 (i) lifetime and annual limits;
738 (ii) prohibition of rescissions;
739 (iii) coverage of preventive health services;
740 (iv) coverage for a child or dependent;
741 (v) pre-existing condition coverage for children;
742 (vi) insurer transparency of consumer information including plan disclosures, uniform
743 coverage documents, and standard definitions;
744 (vii) premium rate reviews;
745 (viii) essential health benefits;
746 (ix) provider choice;
747 (x) waiting periods;
748 (xi) appeals processes;
749 (xii) rating restrictions;
750 (xiii) uniform applications and notice provisions; and
751 (xiv) certification and regulation of qualified health plans.
752 (c) The commissioner shall preserve state control over:
753 (i) the health insurance market in the state;
754 (ii) qualified health plans offered in the state; and
755 (iii) the conduct of navigators, producers, and in-person assisters operating in the state.
756 (d) If the state enters into an agreement with the United States Department of Health
757 and Human Services in which the state operates health insurance plan management, the
758 commissioner may:
759 (i) for fiscal year 2014, hire one temporary and two permanent full-time employees to
760 be funded through the department's existing budget; and
761 (ii) for fiscal year 2015, hire two permanent full-time employees funded through the
762 Insurance Department Restricted Account, subject to appropriations from the Legislature and
763 approval by the governor.
764 Section 6. Section **31A-2-218** is amended to read:
765 **31A-2-218. Strategic plan for health system reform.**
766 The commissioner and the department shall:

767 (1) work with the Governor's Office of Economic Development, the Department of
768 Health, the Department of Workforce Services, and the Legislature to develop health system
769 reform in accordance with the strategic plan described in Title [~~63M~~] 63N, Chapter [~~1~~] 11,
770 [~~Part 25,~~] Health System Reform Act;
771 (2) work with health insurers in accordance with Section 31A-22-635 to develop
772 standards for health insurance applications and compatible electronic systems;
773 (3) facilitate a private sector method for the collection of health insurance premium
774 payments made for a single policy by multiple payers, including the policyholder, one or more
775 employers of one or more individuals covered by the policy, government programs, and others
776 by educating employers and insurers about collection services available through private
777 vendors, including financial institutions;
778 (4) encourage health insurers to develop products that:
779 (a) encourage health care providers to follow best practice protocols;
780 (b) incorporate other health care quality improvement mechanisms; and
781 (c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted
782 by the Health Insurance Portability and Accountability Act;
783 (5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as
784 necessary, to accomplish the requirements of this section; and
785 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
786 make rules, as necessary, to implement Subsections (2), (3), and (4).
787 Section 7. Section **31A-22-613.5** is amended to read:
788 **31A-22-613.5. Price and value comparisons of health insurance.**
789 (1) (a) This section applies to all health benefit plans.
790 (b) Subsection (2) applies to:
791 (i) all health benefit plans; and
792 (ii) coverage offered to state employees under Subsection 49-20-202(1)(a).
793 (2) (a) The commissioner shall promote informed consumer behavior and responsible
794 health benefit plans by requiring an insurer issuing a health benefit plan to:
795 (i) provide to all enrollees, prior to enrollment in the health benefit plan written
796 disclosure of:
797 (A) restrictions or limitations on prescription drugs and biologics including:

798 (I) the use of a formulary;
799 (II) co-payments and deductibles for prescription drugs; and
800 (III) requirements for generic substitution;
801 (B) coverage limits under the plan; and
802 (C) any limitation or exclusion of coverage including:
803 (I) a limitation or exclusion for a secondary medical condition related to a limitation or
804 exclusion from coverage; and
805 (II) easily understood examples of a limitation or exclusion of coverage for a secondary
806 medical condition; and
807 (ii) provide the commissioner with:
808 (A) the information described in Subsections 31A-22-635(5) through (7) in the
809 standardized electronic format required by Subsection [~~63M-1-2506~~] 63N-11-107(1); and
810 (B) information regarding insurer transparency in accordance with Subsection (4).
811 (b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to
812 the commissioner:
813 (i) upon commencement of operations in the state; and
814 (ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):
815 (A) treatment policies;
816 (B) practice standards;
817 (C) restrictions;
818 (D) coverage limits of the insurer's health benefit plan or health insurance policy; or
819 (E) limitations or exclusions of coverage including a limitation or exclusion for a
820 secondary medical condition related to a limitation or exclusion of the insurer's health
821 insurance plan.
822 (c) An insurer shall provide the enrollee with notice of an increase in costs for
823 prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):
824 (i) either:
825 (A) in writing; or
826 (B) on the insurer's website; and
827 (ii) at least 30 days prior to the date of the implementation of the increase in cost, or as
828 soon as reasonably possible.

829 (d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make
830 available to prospective enrollees and maintain evidence of the fact of the disclosure of:
831 (i) the drugs included;
832 (ii) the patented drugs not included;
833 (iii) any conditions that exist as a precedent to coverage; and
834 (iv) any exclusion from coverage for secondary medical conditions that may result
835 from the use of an excluded drug.
836 (e) (i) The commissioner shall develop examples of limitations or exclusions of a
837 secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).
838 (ii) Examples of a limitation or exclusion of coverage provided under Subsection
839 (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact
840 situation to fall within the description of an example does not, by itself, support a finding of
841 coverage.
842 (3) The commissioner:
843 (a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to
844 the Health Insurance Exchange created under Section [~~63M-1-2504~~] 63N-11-104; and
845 (b) may request information from an insurer to verify the information submitted by the
846 insurer under this section.
847 (4) The commissioner shall:
848 (a) convene a group of insurers, a member representing the Public Employees' Benefit
849 and Insurance Program, consumers, and an organization that provides multipayer and
850 multiprovider quality assurance and data collection, to develop information for consumers to
851 compare health insurers and health benefit plans on the Health Insurance Exchange, which
852 shall include consideration of:
853 (i) the number and cost of an insurer's denied health claims;
854 (ii) the cost of denied claims that is transferred to providers;
855 (iii) the average out-of-pocket expenses incurred by participants in each health benefit
856 plan that is offered by an insurer in the Health Insurance Exchange;
857 (iv) the relative efficiency and quality of claims administration and other administrative
858 processes for each insurer offering plans in the Health Insurance Exchange; and
859 (v) consumer assessment of each insurer or health benefit plan;

860 (b) adopt an administrative rule that establishes:
861 (i) definition of terms;
862 (ii) the methodology for determining and comparing the insurer transparency
863 information;
864 (iii) the data, and format of the data, that an insurer shall submit to the commissioner in
865 order to facilitate the consumer comparison on the Health Insurance Exchange in accordance
866 with Section [~~63M-1-2506~~] 63N-11-107; and
867 (iv) the dates on which the insurer shall submit the data to the commissioner in order
868 for the commissioner to transmit the data to the Health Insurance Exchange in accordance with
869 Section [~~63M-1-2506~~] 63N-11-107; and
870 (c) implement the rules adopted under Subsection (4)(b) in a manner that protects the
871 business confidentiality of the insurer.
872 Section 8. Section **31A-22-635** is amended to read:
873 **31A-22-635. Uniform application -- Uniform waiver of coverage -- Information**
874 **on Health Insurance Exchange.**
875 (1) For purposes of this section, "insurer":
876 (a) is defined in Subsection 31A-22-634(1); and
877 (b) includes the state employee's risk pool under Section 49-20-202.
878 (2) (a) Insurers offering a health benefit plan to an individual or small employer shall
879 use a uniform application form.
880 (b) The uniform application form:
881 (i) may not include questions about an applicant's health history; and
882 (ii) shall be shortened and simplified in accordance with rules adopted by the
883 commissioner.
884 (c) Insurers offering a health benefit plan to a small employer shall use a uniform
885 waiver of coverage form, which may not include health status related questions, and is limited
886 to:
887 (i) information that identifies the employee;
888 (ii) proof of the employee's insurance coverage; and
889 (iii) a statement that the employee declines coverage with a particular employer group.
890 (3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and

891 uniform waiver of coverage forms may, if the combination or modification is approved by the
892 commissioner, be combined or modified to facilitate a more efficient and consumer friendly
893 experience for:
894 (a) enrollees using the Health Insurance Exchange; or
895 (b) insurers using electronic applications.
896 (4) The uniform application form, and uniform waiver form, shall be adopted and
897 approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative
898 Rulemaking Act.
899 (5) (a) An insurer who offers a health benefit plan on the Health Insurance Exchange
900 created in Section [~~63M-1-2504~~] 63N-11-104, shall:
901 (i) accept and process an electronic submission of the uniform application or uniform
902 waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to
903 Section [~~63M-1-2506~~] 63N-11-107;
904 (ii) if requested, provide the applicant with a copy of the completed application either
905 by mail or electronically;
906 (iii) post all health benefit plans offered by the insurer in the defined contribution
907 arrangement market on the Health Insurance Exchange; and
908 (iv) post the information required by Subsection (6) on the Health Insurance Exchange
909 for every health benefit plan the insurer offers on the Health Insurance Exchange.
910 (b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans
911 on the Health Insurance Exchange may not directly or indirectly offer products on the Health
912 Insurance Exchange that are not health benefit plans.
913 (c) Notwithstanding Subsection (5)(b):
914 (i) an insurer may offer a health savings account on the Health Insurance Exchange;
915 (ii) an insurer may offer dental plans on the Health Insurance Exchange; and
916 (iii) the department may make administrative rules to regulate the offer of dental plans
917 on the Health Insurance Exchange.
918 (6) An insurer shall provide the commissioner and the Health Insurance Exchange with
919 the following information for each health benefit plan submitted to the Health Insurance
920 Exchange, in the electronic format required by Subsection [~~63M-1-2506~~] 63N-11-107(1):
921 (a) plan design, benefits, and options offered by the health benefit plan including state

922 mandates the plan does not cover;
923 (b) information and Internet address to online provider networks;
924 (c) wellness programs and incentives;
925 (d) descriptions of prescription drug benefits, exclusions, or limitations;
926 (e) the percentage of claims paid by the insurer within 30 days of the date a claim is
927 submitted to the insurer for the prior year; and
928 (f) the claims denial and insurer transparency information developed in accordance
929 with Subsection 31A-22-613.5(4).
930 (7) The department shall post on the Health Insurance Exchange the department's
931 solvency rating for each insurer who posts a health benefit plan on the Health Insurance
932 Exchange. The solvency rating for each insurer shall be based on methodology established by
933 the department by administrative rule and shall be updated each calendar year.
934 (8) (a) The commissioner may request information from an insurer under Section
935 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance
936 Exchange.
937 (b) The commissioner shall regulate the fees charged by insurers to an enrollee for a
938 uniform application form or electronic submission of the application forms.
939 Section 9. Section **31A-22-726** is amended to read:
940 **31A-22-726. Abortion coverage restriction in health benefit plan and on health**
941 **insurance exchange.**
942 (1) As used in this section, "permitted abortion coverage" means coverage for abortion:
943 (a) that is necessary to avert:
944 (i) the death of the woman on whom the abortion is performed; or
945 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
946 of the woman on whom the abortion is performed;
947 (b) of a fetus that has a defect that is documented by a physician or physicians to be
948 uniformly diagnosable and uniformly lethal; or
949 (c) where the woman is pregnant as a result of:
950 (i) rape, as described in Section 76-5-402;
951 (ii) rape of a child, as described in Section 76-5-402.1; or
952 (iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

953 (2) A person may not offer coverage for an abortion in a health benefit plan, unless the
954 coverage is a type of permitted abortion coverage.
955 (3) A person may not offer a health benefit plan that provides coverage for an abortion
956 in a health insurance exchange created under Title [~~63M~~] 63N, Chapter [~~1~~] 11, [~~Part 25,~~]
957 Health System Reform Act, unless the coverage is a type of permitted abortion coverage.
958 (4) A person may not offer a health benefit plan that provides coverage for an abortion
959 in a health insurance exchange created under the federal Patient Protection and Affordable Care
960 Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.
961 Section 10. Section **31A-23a-402** is amended to read:
962 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**
963 **discrimination -- Coercion or intimidation -- Restriction on choice.**
964 (1) (a) (i) Any of the following may not make or cause to be made any communication
965 that contains false or misleading information, relating to an insurance product or contract, any
966 insurer, or any licensee under this title, including information that is false or misleading
967 because it is incomplete:
968 (A) a person who is or should be licensed under this title;
969 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);
970 (C) a person whose primary interest is as a competitor of a person licensed under this
971 title; and
972 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).
973 (ii) As used in this Subsection (1), "false or misleading information" includes:
974 (A) assuring the nonobligatory payment of future dividends or refunds of unused
975 premiums in any specific or approximate amounts, but reporting fully and accurately past
976 experience is not false or misleading information; and
977 (B) with intent to deceive a person examining it:
978 (I) filing a report;
979 (II) making a false entry in a record; or
980 (III) wilfully refraining from making a proper entry in a record.
981 (iii) A licensee under this title may not:
982 (A) use any business name, slogan, emblem, or related device that is misleading or
983 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee

984 already in business; or
985 (B) use any advertisement or other insurance promotional material that would cause a
986 reasonable person to mistakenly believe that a state or federal government agency, including
987 the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section
988 [~~63M-1-2504~~] 63N-11-104, the Comprehensive Health Insurance Pool created in Chapter 29,
989 Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program
990 created in Title 26, Chapter 40, Utah Children's Health Insurance Act:
991 (I) is responsible for the insurance sales activities of the person;
992 (II) stands behind the credit of the person;
993 (III) guarantees any returns on insurance products of or sold by the person; or
994 (IV) is a source of payment of any insurance obligation of or sold by the person.
995 (iv) A person who is not an insurer may not assume or use any name that deceptively
996 implies or suggests that person is an insurer.
997 (v) A person other than persons licensed as health maintenance organizations under
998 Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to
999 itself.
1000 (b) A licensee's violation creates a rebuttable presumption that the violation was also
1001 committed by the insurer if:
1002 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
1003 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
1004 insurer:
1005 (A) that the licensee represents; or
1006 (B) for whom the licensee processes claims; and
1007 (ii) the cards, documents, signs, or advertisements are supplied or approved by that
1008 insurer.
1009 (2) (a) A title insurer, individual title insurance producer, or agency title insurance
1010 producer or any officer or employee of the title insurer, individual title insurance producer, or
1011 agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give,
1012 directly or indirectly, as an inducement to obtaining any title insurance business:
1013 (i) any rebate, reduction, or abatement of any rate or charge made incident to the
1014 issuance of the title insurance;

1015 (ii) any special favor or advantage not generally available to others;
1016 (iii) any money or other consideration, except if approved under Section 31A-2-405; or
1017 (iv) material inducement.
1018 (b) "Charge made incident to the issuance of the title insurance" includes escrow
1019 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
1020 after consultation with the commissioner and subject to Section 31A-2-404.
1021 (c) An insured or any other person connected, directly or indirectly, with the
1022 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to
1023 in Subsection (2)(a), including:
1024 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices
1025 and Licensing Act;
1026 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
1027 Act;
1028 (iii) a builder;
1029 (iv) an attorney; or
1030 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).
1031 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
1032 different premiums or by offering different terms of coverage, except on the basis of
1033 classifications related to the nature and the degree of the risk covered or the expenses involved.
1034 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
1035 insured under a group, blanket, or franchise policy, and the terms of those policies are not
1036 unfairly discriminatory merely because they are more favorable than in similar individual
1037 policies.
1038 (4) (a) This Subsection (4) applies to:
1039 (i) a person who is or should be licensed under this title;
1040 (ii) an employee of that licensee or person who should be licensed;
1041 (iii) a person whose primary interest is as a competitor of a person licensed under this
1042 title; and
1043 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).
1044 (b) A person described in Subsection (4)(a) may not commit or enter into any
1045 agreement to participate in any act of boycott, coercion, or intimidation that:

1046 (i) tends to produce:
1047 (A) an unreasonable restraint of the business of insurance; or
1048 (B) a monopoly in that business; or
1049 (ii) results in an applicant purchasing or replacing an insurance contract.
1050 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
1051 insurer or licensee under this chapter, another person who is required to pay for insurance as a
1052 condition for the conclusion of a contract or other transaction or for the exercise of any right
1053 under a contract.
1054 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
1055 coverage selected on reasonable grounds.
1056 (b) The form of corporate organization of an insurer authorized to do business in this
1057 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
1058 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
1059 declining an application for insurance.
1060 (6) A person may not make any charge other than insurance premiums and premium
1061 financing charges for the protection of property or of a security interest in property, as a
1062 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
1063 the lending of money on the security of an interest in the property.
1064 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
1065 agency to the principal on demand.
1066 (b) A licensee whose license is suspended, limited, or revoked under Section
1067 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the
1068 commissioner on demand.
1069 (8) (a) A person may not engage in an unfair method of competition or any other unfair
1070 or deceptive act or practice in the business of insurance, as defined by the commissioner by
1071 rule, after a finding that the method of competition, the act, or the practice:
1072 (i) is misleading;
1073 (ii) is deceptive;
1074 (iii) is unfairly discriminatory;
1075 (iv) provides an unfair inducement; or
1076 (v) unreasonably restrains competition.

1077 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
1078 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an
1079 unfair method of competition or unfair or deceptive act or practice after a finding that the
1080 method of competition, the act, or the practice:
1081 (i) is misleading;
1082 (ii) is deceptive;
1083 (iii) is unfairly discriminatory;
1084 (iv) provides an unfair inducement; or
1085 (v) unreasonably restrains competition.
1086 Section 11. Section **31A-30-102** is amended to read:
1087 **31A-30-102. Purpose statement.**
1088 The purpose of this chapter is to:
1089 (1) prevent abusive rating practices;
1090 (2) require disclosure of rating practices to purchasers;
1091 (3) establish rules regarding:
1092 (a) a universal individual and small group application; and
1093 (b) renewability of coverage;
1094 (4) improve the overall fairness and efficiency of the individual and small group
1095 insurance market;
1096 (5) provide increased access for individuals and small employers to health insurance;
1097 and
1098 (6) provide an employer with the opportunity to establish a defined contribution
1099 arrangement for an employee to purchase a health benefit plan through the Health Insurance
1100 Exchange created by Section [~~63M-1-2504~~] 63N-11-104.
1101 Section 12. Section **31A-30-116** is amended to read:
1102 **31A-30-116. Essential health benefits.**
1103 (1) For purposes of this section, the "Affordable Care Act" is as defined in Section
1104 31A-2-212 and includes federal rules related to the offering of essential health benefits.
1105 (2) The state chooses to designate its own essential health benefits rather than accept a
1106 federal determination of the essential health benefits required to be offered in the individual
1107 and small group market for plans renewed or offered on or after January 1, 2014.

1108 (3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the Affordable
1109 Care Act, and after considering public testimony, the Legislature's Health System Reform Task
1110 Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark
1111 plan for the state's essential health benefits based on:
1112 (i) the largest plan by enrollment in any of the three largest small employer group
1113 insurance products in the state's small employer group market;
1114 (ii) any of the largest three state employee health benefit plans by enrollment;
1115 (iii) the largest insured commercial non-Medicaid health maintenance organization
1116 operating in the state; or
1117 (iv) other benchmarks required or permitted by the Affordable Care Act.
1118 (b) Notwithstanding the provisions of Subsection [~~63M-1-2505.5~~] 63N-11-106(2),
1119 based on the recommendation of the task force under Subsection (3)(a), and within 30 days of
1120 the task force recommendation, the commissioner shall adopt an emergency administrative rule
1121 that designates the essential health benefits that shall be included in a plan offered or renewed
1122 on or after January 1, 2014, in the small employer group and individual markets.
1123 (c) The essential health benefit plan:
1124 (i) shall not include a state mandate if the inclusion of the state mandate would require
1125 the state to contribute to premium subsidies under the Affordable Care Act; and
1126 (ii) may add benefits in addition to the benefits included in a benchmark plan described
1127 in Subsection (3)(b) if the additional benefits are mandated under the Affordable Care Act.
1128 Section 13. Section **31A-30-117** is amended to read:
1129 **31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**
1130 (1) (a) After complying with the reporting requirements of Section [~~63M-1-2505.5~~]
1131 63N-11-106, the commissioner may adopt administrative rules that change the rating and
1132 underwriting requirements of this chapter as necessary to transition the insurance market to
1133 meet federal qualified health plan standards and rating practices under PPACA.
1134 (b) Administrative rules adopted by the commissioner under this section may include:
1135 (i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a)
1136 and (b); and
1137 (ii) disclosure of records and information required by PPACA and state law.
1138 (c) (i) The commissioner shall establish by administrative rule one statewide open

1139 enrollment period that applies to the individual insurance market that is not on the PPACA
1140 certified individual exchange.
1141 (ii) The statewide open enrollment period:
1142 (A) may be shorter, but no longer than the open enrollment period established for the
1143 individual insurance market offered in the PPACA certified exchange; and
1144 (B) may not be extended beyond the dates of the open enrollment period established
1145 for the individual insurance market offered in the PPACA certified exchange.
1146 (2) A carrier that offers health benefit plans in the individual market that is not part of
1147 the individual PPACA certified exchange:
1148 (a) shall open enrollment:
1149 (i) during the statewide open enrollment period established in Subsection (1)(c); and
1150 (ii) at other times, for qualifying events, as determined by administrative rule adopted
1151 by the commissioner; and
1152 (b) may open enrollment at any time.
1153 (3) To the extent permitted by the Centers for Medicare and Medicaid Services policy,
1154 or federal regulation, the commissioner shall allow a health insurer to choose to continue
1155 coverage and individuals and small employers to choose to re-enroll in coverage in
1156 nongrandfathered health coverage that is not in compliance with market reforms required by
1157 PPACA.
1158 Section 14. Section **31A-30-202** is amended to read:
1159 **31A-30-202. Definitions.**
1160 For purposes of this part:
1161 (1) "Defined benefit plan" means an employer group health benefit plan in which:
1162 (a) the employer selects the health benefit plan or plans from a single insurer;
1163 (b) employees are not provided a choice of health benefit plans on the Health Insurance
1164 Exchange; and
1165 (c) the employer is subject to contribution requirements in Section 31A-30-112.
1166 (2) "Defined contribution arrangement":
1167 (a) means a defined contribution arrangement employer group health benefit plan that:
1168 (i) complies with this part; and
1169 (ii) is sold through the Health Insurance Exchange in accordance with Title [~~63M~~]

1170 63N, Chapter [~~1~~] 11, [~~Part 25,~~] Health System Reform Act; and
1171 (b) beginning January 1, 2011, includes an employer choice of either a defined
1172 contribution arrangement health benefit plan or a defined benefit plan offered through the
1173 Health Insurance Exchange.
1174 (3) "Health reimbursement arrangement" means an employer provided health
1175 reimbursement arrangement in which reimbursements for medical care expenses are excluded
1176 from an employee's gross income under the Internal Revenue Code.
1177 (4) "Producer" is as defined in Subsection 31A-23a-501(4)(a).
1178 (5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies
1179 under Section 125, Internal Revenue Code, which permits an employee to contribute pre-tax
1180 dollars to a health benefit plan.
1181 (6) "Small employer" is defined in Section 31A-1-301.
1182 Section 15. Section **31A-30-204** is amended to read:
1183 **31A-30-204. Employer election -- Defined benefit -- Defined contribution**
1184 **arrangements -- Responsibilities.**
1185 (1) (a) An employer participating in the defined contribution arrangement market on
1186 the Health Insurance Exchange shall make an initial election to offer its employees either a
1187 defined benefit plan or a defined contribution arrangement health benefit plan.
1188 (b) If an employer elects to offer a defined benefit plan:
1189 (i) the employer or the employer's producer shall enroll the employer in the Health
1190 Insurance Exchange;
1191 (ii) the employees shall submit the uniform application required for the Health
1192 Insurance Exchange; and
1193 (iii) the employer shall select the defined benefit plan in accordance with Section
1194 31A-30-208.
1195 (c) When an employer makes an election under Subsections (1)(a) and (b):
1196 (i) the employer may not offer its employees a defined contribution arrangement health
1197 benefit plan; and
1198 (ii) the employees may not select a defined contribution arrangement health benefit
1199 plan in the Health Insurance Exchange.
1200 (d) If an employer elects to offer its employees a defined contribution arrangement

1201 health benefit plan, the employer shall comply with the provisions of Subsections (2) through
1202 (5).
1203 (2) (a) (i) An employer that chooses to participate in a defined contribution
1204 arrangement health benefit plan may not offer to an employee a health benefit plan that is not a
1205 defined contribution arrangement health benefit plan in the Health Insurance Exchange.
1206 (ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit
1207 policies such as dental or vision coverage, or other types of federally qualified savings accounts
1208 for health care expenses.
1209 (b) (i) To the extent permitted by Sections 31A-1-301, 31A-30-112, and 31A-30-206,
1210 and the risk adjustment plan adopted under Section 31A-42-204, the employer reserves the
1211 right to determine:
1212 (A) the criteria for employee eligibility, enrollment, and participation in the employer's
1213 health benefit plan; and
1214 (B) the amount of the employer's contribution to that plan.
1215 (ii) The determinations made under Subsection (2)(b) may only be changed during
1216 periods of open enrollment.
1217 (3) An employer that chooses to establish a defined contribution arrangement health
1218 benefit plan to provide a health benefit plan for its employees shall:
1219 (a) establish a mechanism for its employees to use pre-tax dollars to purchase a health
1220 benefit plan from the defined contribution arrangement market on the Health Insurance
1221 Exchange created in Section [~~63M-1-2504~~] 63N-11-104, which may include:
1222 (i) a health reimbursement arrangement;
1223 (ii) a Section 125 Cafeteria plan; or
1224 (iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is
1225 excluded or deducted from gross income under the Internal Revenue Code;
1226 (b) before the employee's health benefit plan selection period:
1227 (i) inform each employee of the health benefit plan the employer has selected as the
1228 default health benefit plan for the employer group;
1229 (ii) offer each employee a choice of any of the defined contribution arrangement health
1230 benefit plans available through the defined contribution arrangement market on the Health
1231 Insurance Exchange; and

1232 (iii) notify the employee that the employee will be enrolled in the default health benefit
1233 plan selected by the employer and payroll deductions initiated for premium payments, unless
1234 the employee, before the employee's selection period ends:
1235 (A) selects a different defined contribution arrangement health benefit plan available in
1236 the Health Insurance Exchange;
1237 (B) provides proof of coverage from another health benefit plan; or
1238 (C) specifically declines coverage in a health benefit plan.
1239 (4) An employer shall enroll an employee in the default defined contribution
1240 arrangement health benefit plan selected by the employer if the employee does not make one of
1241 the choices described in Subsection (3)(b)(iii) before the end of the employee selection period,
1242 which may not be less than 14 calendar days.
1243 (5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the
1244 employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an
1245 affirmative election under pre-tax payroll deductions for the employer to begin payroll
1246 deductions for health benefit plan premiums.
1247 Section 16. Section **31A-30-208** is amended to read:
1248 **31A-30-208. Enrollment for defined contribution arrangements.**
1249 (1) An insurer offering a health benefit plan in the defined contribution arrangement
1250 market:
1251 (a) shall allow an employer to enroll in a small employer defined contribution
1252 arrangement plan; and
1253 (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined
1254 Contribution Risk Adjuster Act, and Title [~~63M~~] 63N, Chapter [~~1~~] 11, [~~Part 25,~~] Health System
1255 Reform Act.
1256 (2) (a) An insurer may enter or exit the defined contribution arrangement market on
1257 January 1 of each year.
1258 (b) An insurer may offer new or modify existing products in the defined contribution
1259 arrangement market:
1260 (i) on January 1 of each year;
1261 (ii) when required by changes in other law; and
1262 (iii) at other times as established by the risk adjuster board created in Section

1263 31A-42-201.
1264 (c) An insurer shall give the department, the Health Insurance Exchange, and the risk
1265 adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or
1266 (b).
1267 Section 17. Section **31A-30-302** is amended to read:
1268 **31A-30-302. Creation of state risk adjustment program.**
1269 (1) The commissioner shall convene a group of stakeholders and actuaries to assist the
1270 commissioner with the evaluation or the risk adjustment options described in Subsection (2). If
1271 the commissioner determines that a state-based risk adjustment program is in the best interest
1272 of the state, the commissioner shall establish an individual and small employer market risk
1273 adjustment program in accordance with 42 U.S.C. 18063 and this section.
1274 (2) The risk adjustment program adopted by the commissioner may include one of the
1275 following models:
1276 (a) continue the United States Department of Health and Human Services
1277 administration of the federal model for risk adjustment for the individual and small employer
1278 market in the state;
1279 (b) have the state administer the federal model for risk adjustment for the individual
1280 and small employer market in the state;
1281 (c) establish and operate a state-based risk adjustment program for the individual and
1282 small employer market in the state; or
1283 (d) another risk adjustment model developed by the commissioner under Subsection
1284 (1).
1285 (3) Before adopting one of the models described in Subsection (2), the commissioner:
1286 (a) may enter into contracts to carry out the services needed to evaluate and establish
1287 one of the risk adjustment options described in Subsection (2); and
1288 (b) shall, prior to October 30, 2014, comply with the reporting requirements of Section
1289 [~~63M-1-2505.5~~] 63N-11-106 regarding the commissioner's evaluation of the risk adjustment
1290 options described in Subsection (2).
1291 (4) The commissioner may:
1292 (a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah
1293 Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk

1294 adjustment program to submit data to the all payers claims database created under Section
1295 26-33a-106.1; and
1296 (b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act,
1297 to cover the ongoing administrative cost of running the state-based risk adjustment program.
1298 Section 18. Section **35A-1-104.5** is amended to read:
1299 **35A-1-104.5. Other department duties -- Strategic plan for health system reform**
1300 **-- Reporting suspected misuse of a Social Security number.**
1301 (1) The department shall work with the Department of Health, the Insurance
1302 Department, the Governor's Office of Economic Development, and the Legislature to develop
1303 the health system reform in accordance with Title [~~63M~~] 63N, Chapter [~~1~~] 11, [~~Part 25,~~] Health
1304 System Reform Act.
1305 (2) In the process of determining an individual's eligibility for a public benefit or
1306 service under this title or under federal law, if the department determines that a valid Social
1307 Security number is being used by an unauthorized individual, the department shall:
1308 (a) inform the individual who the department determines to be the likely actual owner
1309 of the Social Security number or, if the likely actual owner is a minor, the minor's parent or
1310 guardian, of the suspected misuse; and
1311 (b) subject to federal law, provide information of the suspected misuse to an
1312 appropriate law enforcement agency responsible for investigating identity fraud.
1313 (3) If the department learns or determines that providing information under Subsection
1314 (2)(b) is prohibited by federal law, the department shall notify the Legislative Management
1315 Committee.
1316 Section 19. Section **53A-1-410** is amended to read:
1317 **53A-1-410. Utah Futures.**
1318 (1) As used in this section:
1319 (a) "Education provider" means:
1320 (i) a Utah institution of higher education as defined in Section 53B-2-101; or
1321 (ii) a Utah provider of postsecondary education.
1322 (b) "Student user" means:
1323 (i) a Utah student in kindergarten through grade 12;
1324 (ii) a Utah post secondary education student;

1325 (iii) a parent or guardian of a Utah public education student; or
1326 (iv) a Utah potential post secondary education student.
1327 (c) "Utah Futures" means a career planning program developed and administered by
1328 the Department of Workforce Services, the State Board of Regents, and the State Board of
1329 Education.
1330 (d) "Utah Futures Steering Committee" means a committee of members designated by
1331 the governor to administer and manage Utah Futures in collaboration with the Department of
1332 Workforce Services, the State Board of Regents, and the State Board of Education.
1333 (2) The Utah Futures Steering Committee shall ensure, as funding allows and is
1334 feasible, that Utah Futures will:
1335 (a) allow a student user to:
1336 (i) access the student user's full academic record;
1337 (ii) electronically allow the student user to give access to the student user's academic
1338 record and related information to an education provider as allowed by law;
1339 (iii) access information about different career opportunities and understand the related
1340 educational requirements to enter that career;
1341 (iv) access information about education providers;
1342 (v) access up to date information about entrance requirements to education providers;
1343 (vi) apply for entrance to multiple schools without having to fully replicate the
1344 application process;
1345 (vii) apply for loans, scholarships, or grants from multiple education providers in one
1346 location without having to fully replicate the application process for multiple education
1347 providers; and
1348 (viii) research open jobs from different companies within the user's career interest and
1349 apply for those jobs without having to leave the website to do so;
1350 (b) allow all users to:
1351 (i) access information about different career opportunities and understand the related
1352 educational requirements to enter that career;
1353 (ii) access information about education providers;
1354 (iii) access up-to-date information about entrance requirements to education providers;
1355 (iv) apply for entrance to multiple schools without having to fully replicate the

1356 application process;
1357 (v) apply for loans, scholarships, or grants from multiple education providers in one
1358 location without having to fully replicate the application process for multiple education
1359 providers; and
1360 (vi) research open jobs from different companies within the user's career interest and
1361 apply for those jobs without having to leave the website to do so;
1362 (c) allow an education provider to:
1363 (i) research and find student users who are interested in various educational outcomes;
1364 (ii) promote the education provider's programs and schools to student users; and
1365 (iii) connect with student users within the Utah Futures website;
1366 (d) allow a Utah business to:
1367 (i) research and find student users who are pursuing educational outcomes that are
1368 consistent with jobs the Utah business is trying to fill now or in the future; and
1369 (ii) market jobs and communicate with student users through the Utah Futures website
1370 as allowed by law;
1371 (e) allow the Department of Workforce Services to analyze and report on student user
1372 interests, education paths, and behaviors within the education system so as to predictively
1373 determine appropriate career and educational outcomes and results; and
1374 (f) allow all users of the Utah Futures' system to communicate and interact through
1375 social networking tools within the Utah Futures website as allowed by law.
1376 (3) On or before October 1, 2014, the State Board of Education, after consulting with
1377 the Board of Business and Economic Development created in Section [~~63M-1-301~~] 63N-1-401,
1378 may select a technology provider, through a request for proposals process, to provide
1379 technology and support for Utah Futures.
1380 (4) In evaluating proposals under Subsection (3) in consultation with the Board of
1381 Business and Economic Development, the State Board of Education shall ensure that the
1382 technology provided by a proposer:
1383 (a) allows Utah Futures to license the selected service oriented architecture
1384 technologies;
1385 (b) allows Utah Futures to protect all user data within the system by leveraging role
1386 architecture;

1387 (c) allows Utah Futures to update the user interface, APIs, and web services software
1388 layers as needed;
1389 (d) provides the ability for a student user to have a secure profile and login to access
1390 and to store personal information related to the services listed in Subsection (2) via the
1391 Internet;
1392 (e) protects all user data within Utah Futures;
1393 (f) allows the State Board of Education to license the technology of the selected
1394 technology provider; and
1395 (g) provides technology able to support application programming interfaces to integrate
1396 technology of other third party providers, which may include cloud-based technology.
1397 (5) (a) On or before August 1, 2014, the evaluation panel described in Subsection
1398 (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and
1399 determine whether any or all components of Utah Futures, as described in this section, should
1400 be outsourced to a private provider or built in-house by the participating state agencies.
1401 (b) The evaluation panel described in Subsection (5)(a) shall consist of the following
1402 members, appointed by the governor after consulting with the State Board of Education:
1403 (i) five members who represent business, including:
1404 (A) one member who has extensive knowledge and experience in information
1405 technology; and
1406 (B) one member who has extensive knowledge and experience in human resources;
1407 (ii) one member who is a user of the information provided by Utah Futures;
1408 (iii) one member who is a parent of a student who uses Utah Futures;
1409 (iv) one member who:
1410 (A) is an educator as defined in Section 53A-6-103; and
1411 (B) teaches students who use Utah Futures; and
1412 (v) one member who is a high school counselor licensed under Title 53A, Chapter 6,
1413 Educator Licensing and Professional Practices Act.
1414 (c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least
1415 the following criteria to make the determination described in Subsection (5)(a):
1416 (i) the complete functional capabilities of a private technology provider versus an
1417 in-house version;

1418 (ii) the cost of purchasing privately developed technology versus continuing to develop
1419 or build an in-house version;
1420 (iii) the data and security capabilities of a private technology provider versus an
1421 in-house version;
1422 (iv) the time frames to implementation; and
1423 (v) the best practices and examples of other states who have implemented a tool similar
1424 to Utah Futures.
1425 (d) On or before September 30, 2014, the evaluation panel shall report the
1426 determination to:
1427 (i) the State Board of Education;
1428 (ii) the Executive Appropriations Committee; and
1429 (iii) the Education Interim Committee.
1430 Section 20. Section **59-7-610** is amended to read:
1431 **59-7-610. Recycling market development zones tax credit.**
1432 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
1433 recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may claim
1434 a tax credit as provided in this section.
1435 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price
1436 paid for machinery and equipment used directly in:
1437 (A) commercial composting; or
1438 (B) manufacturing facilities or plant units that:
1439 (I) manufacture, process, compound, or produce recycled items of tangible personal
1440 property for sale; or
1441 (II) reduce or reuse postconsumer waste material.
1442 (ii) The Governor's Office of Economic Development shall certify that the machinery
1443 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1444 process:
1445 (A) on a form provided by the commission; and
1446 (B) before a taxpayer is allowed a tax credit under this section.
1447 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking
1448 to claim a tax credit under this section with a copy of the form described in Subsection

1449 (1)(a)(ii).
1450 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
1451 received under Subsection (1)(a)(iii).
1452 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
1453 up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
1454 by the taxpayer for establishing and operating recycling or composting technology in Utah,
1455 with an annual maximum tax credit of $2,000.
1456 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
1457 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
1458 purchase prior to claiming the tax credit authorized by this section.
1459 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1460 composting or recycling machinery and equipment was paid may be carried over for credit
1461 against the business' income taxes in the three succeeding taxable years until the total tax credit
1462 amount is used.
1463 (b) Tax credits not claimed by a business on the business' state income tax return
1464 within three years are forfeited.
1465 (4) The commission shall make rules governing what information shall be filed with
1466 the commission to verify the entitlement to and amount of a tax credit.
1467 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1468 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
1469 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1470 Section [~~63M-1-413~~] 63N-2-213.
1471 (b) For a taxable year other than a taxable year during which the taxpayer may not
1472 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
1473 or carry forward a tax credit described in Subsection (1)(a):
1474 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
1475 Subsections (1) and (2); and
1476 (ii) subject to Subsections (3) and (4).
1477 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1478 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
1479 during which the taxpayer claims or carries forward a tax credit under Section [~~63M-1-413~~]

1480 63N-2-213.
1481 (7) A taxpayer may not claim or carry forward a tax credit available under this section
1482 for a taxable year during which the taxpayer has claimed the targeted business income tax
1483 credit available under Section [~~63M-1-504~~] 63N-2-305.
1484 Section 21. Section **59-7-614.2** is amended to read:
1485 **59-7-614.2. Refundable economic development tax credit.**
1486 (1) As used in this section:
1487 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
1488 defined in Section [~~63M-1-2403~~] 63N-2-103.
1489 (b) "Community development and renewal agency" is as defined in Section 17C-1-102.
1490 (c) "Local government entity" is as defined in Section [~~63M-1-2403~~] 63N-2-103.
1491 (d) "Office" means the Governor's Office of Economic Development.
1492 (2) Subject to the other provisions of this section, a business entity, local government
1493 entity, or community development and renewal agency may claim a refundable tax credit for
1494 economic development.
1495 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1496 tax credit certificate that the office issues to the business entity, local government entity, or
1497 community development and renewal agency for the taxable year.
1498 (4) A community development and renewal agency may claim a tax credit under this
1499 section only if a local government entity assigns the tax credit to the community development
1500 and renewal agency in accordance with Section [~~63M-1-2404~~] 63N-2-104.
1501 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1502 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
1503 section:
1504 (i) a local government entity;
1505 (ii) a community development and renewal agency; or
1506 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
1507 liability for a taxable year.
1508 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1509 commission may make rules providing procedures for making a refund to a business entity,
1510 local government entity, or community development and renewal agency as required by

1511 Subsection (5)(a).
1512 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1513 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1514 make recommendations to the Legislative Management Committee concerning whether the tax
1515 credit should be continued, modified, or repealed.
1516 (b) For purposes of the study required by this Subsection (6), the office shall provide
1517 the following information to the Revenue and Taxation Interim Committee:
1518 (i) the amount of tax credit that the office grants to each business entity, local
1519 government entity, or community development and renewal agency for each calendar year;
1520 (ii) the criteria that the office uses in granting a tax credit;
1521 (iii) (A) for a business entity, the new state revenues generated by the business entity
1522 for the calendar year; or
1523 (B) for a local government entity, regardless of whether the local government entity
1524 assigns the tax credit in accordance with Section [~~63M-1-2404~~] 63N-2-104, the new state
1525 revenues generated as a result of a new commercial project within the local government entity
1526 for each calendar year;
1527 (iv) the information contained in the office's latest report to the Legislature under
1528 Section [~~63M-1-2406~~] 63N-2-106; and
1529 (v) any other information that the Revenue and Taxation Interim Committee requests.
1530 (c) The Revenue and Taxation Interim Committee shall ensure that its
1531 recommendations under Subsection (6)(a) include an evaluation of:
1532 (i) the cost of the tax credit to the state;
1533 (ii) the purpose and effectiveness of the tax credit; and
1534 (iii) the extent to which the state benefits from the tax credit.
1535 Section 22. Section **59-7-614.5** is amended to read:
1536 **59-7-614.5. Refundable motion picture tax credit.**
1537 (1) As used in this section:
1538 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
1539 picture company under Section [~~63M-1-1802~~] 63N-8-102.
1540 (b) "Office" means the Governor's Office of Economic Development.
1541 (c) "State-approved production" has the same meaning as defined in Section

1542 [~~63M-1-1802~~] 63N-8-102.
1543 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1544 may claim a refundable tax credit for a state-approved production.
1545 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1546 tax credit certificate that the office issues to a motion picture company under Section
1547 [~~63M-1-1803~~] 63N-8-103 for the taxable year.
1548 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1549 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1550 credit under this section if the amount of the tax credit exceeds the motion picture company's
1551 tax liability for a taxable year.
1552 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1553 commission may make rules providing procedures for making a refund to a motion picture
1554 company as required by Subsection (4)(a).
1555 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1556 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1557 make recommendations to the Legislative Management Committee concerning whether the tax
1558 credit should be continued, modified, or repealed.
1559 (b) For purposes of the study required by this Subsection (5), the office shall provide
1560 the following information to the Revenue and Taxation Interim Committee:
1561 (i) the amount of tax credit that the office grants to each motion picture company for
1562 each calendar year;
1563 (ii) the criteria that the office uses in granting the tax credit;
1564 (iii) the dollars left in the state, as defined in Section [~~63M-1-1802~~] 63N-8-102, by
1565 each motion picture company for each calendar year;
1566 (iv) the information contained in the office's latest report to the Legislature under
1567 Section [~~63M-1-1805~~] 63N-8-105; and
1568 (v) any other information requested by the Revenue and Taxation Interim Committee.
1569 (c) The Revenue and Taxation Interim Committee shall ensure that its
1570 recommendations under Subsection (5)(a) include an evaluation of:
1571 (i) the cost of the tax credit to the state;
1572 (ii) the effectiveness of the tax credit; and

1573 (iii) the extent to which the state benefits from the tax credit.
1574 Section 23. Section **59-7-614.6** is amended to read:
1575 **59-7-614.6. Refundable tax credit for certain business entities generating state tax**
1576 **revenue increases.**
1577 (1) As used in this section:
1578 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] 63N-2-802.
1579 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]
1580 63N-2-802.
1581 (c) "Office" means the Governor's Office of Economic Development.
1582 (d) "Pass-through entity" is as defined in Section 59-10-1402.
1583 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.
1584 (f) "Qualifying agreement" means an agreement under Subsection [~~63M-1-2908~~]
1585 63N-2-808 that includes a provision for an eligible business entity to make new capital
1586 expenditures of at least $1,000,000,000 in the state.
1587 (2) Subject to the other provisions of this section, an eligible business entity may:
1588 (a) claim a refundable tax credit as provided in Subsection (3); or
1589 (b) if the eligible business entity is a pass-through entity, pass through to one or more
1590 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
1591 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
1592 the eligible business entity could otherwise claim under this section.
1593 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible
1594 business entity may claim or pass through is the amount listed on the tax credit certificate that
1595 the office issues to the eligible business entity for a taxable year in accordance with Section
1596 [~~63M-1-2908~~] 63N-2-808.
1597 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
1598 amount of eligible new state tax revenues generated by an eligible business entity for the
1599 taxable year for which the eligible business entity claims a tax credit under this section.
1600 (c) A tax credit under this section for an eligible business entity that enters into a
1601 qualifying agreement may not exceed:
1602 (i) for the taxable year in which the eligible business entity first generates eligible new
1603 state tax revenues and the two following years, the amount of eligible new state tax revenues

1604 generated by the eligible business entity; and
1605 (ii) for the seven taxable years following the last of the three taxable years described in
1606 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
1607 eligible business entity.
1608 (4) An eligible business entity may only claim or pass through a tax credit under this
1609 section for a taxable year for which the eligible business entity holds a tax credit certificate
1610 issued in accordance with Section [~~63M-1-2908~~] 63N-2-808.
1611 (5) An eligible business entity may not:
1612 (a) carry forward or carry back a tax credit under this section; or
1613 (b) claim or pass through a tax credit in an amount greater than the amount listed on a
1614 tax credit certificate issued in accordance with Section [~~63M-1-2908~~] 63N-2-808 for a taxable
1615 year.
1616 Section 24. Section **59-7-614.8** is amended to read:
1617 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**
1618 (1) As used in this section:
1619 (a) "Alternative energy entity" is as defined in Section [~~63M-1-3102~~] 63N-2-702.
1620 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1621 63N-2-702.
1622 (c) "Office" means the Governor's Office of Economic Development.
1623 (2) Subject to the other provisions of this section, an alternative energy entity may
1624 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1625 section.
1626 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1627 tax credit certificate that the office issues under Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~31~~] 7,
1628 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1629 taxable year.
1630 (4) An alternative energy entity may carry forward a tax credit under this section for a
1631 period that does not exceed the next seven taxable years if:
1632 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1633 taxable year; and
1634 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability

1635 under this chapter for that taxable year.
1636 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1637 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1638 make recommendations to the Legislative Management Committee concerning whether the tax
1639 credit should be continued, modified, or repealed.
1640 (b) For purposes of the study required by this Subsection (5), the office shall provide
1641 the following information to the Revenue and Taxation Interim Committee:
1642 (i) the amount of tax credit that the office grants to each alternative energy entity for
1643 each taxable year;
1644 (ii) the new state revenues generated by each alternative energy manufacturing project;
1645 (iii) the information contained in the office's latest report to the Legislature under
1646 Section [~~63M-1-3105~~] 63N-2-705; and
1647 (iv) any other information that the Revenue and Taxation Interim Committee requests.
1648 (c) The Revenue and Taxation Interim Committee shall ensure that its
1649 recommendations under Subsection (5)(a) include an evaluation of:
1650 (i) the cost of the tax credit to the state;
1651 (ii) the purpose and effectiveness of the tax credit; and
1652 (iii) the extent to which the state benefits from the tax credit.
1653 Section 25. Section **59-7-616 (Effective 01/01/15)** is amended to read:
1654 **59-7-616 (Effective 01/01/15). Refundable tax credit for certain business entities.**
1655 (1) As used in this section:
1656 (a) "Office" means the Governor's Office of Economic Development.
1657 (b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.
1658 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
1659 59-10-1402.
1660 (d) "Tax credit certificate" has the same meaning as defined in Section [~~63M-1-3402~~]
1661 63N-2-502.
1662 (e) "Tax credit recipient" has the same meaning as defined in Section [~~63M-1-3402~~]
1663 63N-2-502.
1664 (2) (a) Subject to the other provisions of this section, a tax credit recipient that is a
1665 corporation may claim a refundable tax credit as provided in Subsection (3).

1666 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
1667 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
1668 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
1669 refundable tax credit that the tax credit recipient could otherwise claim under this section.
1670 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
1671 credit certificate that the office issues to the tax credit recipient for the taxable year.
1672 (4) A tax credit recipient:
1673 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
1674 during which the tax credit recipient has been issued a tax credit certificate; and
1675 (b) may not claim a tax credit under both this section and Section 59-10-1110.
1676 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1677 (5)(b), the commission shall:
1678 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
1679 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
1680 and
1681 (ii) transfer at least annually from the General Fund into the Education Fund an amount
1682 equal to the amount of tax credit claimed under this section.
1683 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1684 commission may make rules providing procedures for making:
1685 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
1686 Subsection (5)(a)(i); or
1687 (ii) transfers from the General Fund into the Education Fund as required by Subsection
1688 (5)(a)(ii).
1689 Section 26. Section **59-10-210** is amended to read:
1690 **59-10-210. Fiduciary adjustments.**
1691 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
1692 or subtracted from unadjusted income:
1693 (a) of:
1694 (i) a resident or nonresident estate or trust; or
1695 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and
1696 (b) as provided in this section.

1697 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
1698 amounts:
1699 (a) the additions to and subtractions from unadjusted income of a resident or
1700 nonresident estate or trust required by Section 59-10-202; and
1701 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:
1702 (i) Section 59-6-102;
1703 (ii) Part 10, Nonrefundable Tax Credit Act;
1704 (iii) Part 11, Refundable Tax Credit Act;
1705 (iv) Section 59-13-202;
1706 (v) Section [~~63M-1-413~~] 63N-2-213; or
1707 (vi) Section [~~63M-1-504~~] 63N-2-305.
1708 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
1709 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
1710 allocated in proportion to their respective shares of federal distributable net income of the
1711 estate or trust.
1712 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
1713 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
1714 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
1715 year that is, under state law or the governing instrument, required to be distributed currently
1716 plus any other amounts of that income distributed in that taxable year.
1717 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
1718 the fiduciary adjustments shall be allocated to the estate or trust.
1719 (4) (a) The commission shall allow a fiduciary to use a method for determining the
1720 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1721 described in Subsection (3) if using the method described in Subsection (3) results in an
1722 inequity:
1723 (i) in allocating the fiduciary adjustments described in Subsection (2); and
1724 (ii) if the inequity is substantial:
1725 (A) in amount; and
1726 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1727 (2).

1728 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1729 commission may make rules authorizing a fiduciary to use a method for determining the
1730 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1731 described in Subsection (3) if using the method described in Subsection (3) results in an
1732 inequity:
1733 (i) in allocating the fiduciary adjustments described in Subsection (2); and
1734 (ii) if the inequity is substantial:
1735 (A) in amount; and
1736 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1737 (2).
1738 Section 27. Section **59-10-1007** is amended to read:
1739 **59-10-1007. Recycling market development zones tax credit.**
1740 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust
1741 in a recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may
1742 claim a nonrefundable tax credit as provided in this section.
1743 (a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for
1744 machinery and equipment used directly in:
1745 (A) commercial composting; or
1746 (B) manufacturing facilities or plant units that:
1747 (I) manufacture, process, compound, or produce recycled items of tangible personal
1748 property for sale; or
1749 (II) reduce or reuse postconsumer waste material.
1750 (ii) The Governor's Office of Economic Development shall certify that the machinery
1751 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1752 process:
1753 (A) on a form provided by the commission; and
1754 (B) before a claimant, estate, or trust is allowed a tax credit under this section.
1755 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,
1756 or trust seeking to claim a tax credit under this section with a copy of the form described in
1757 Subsection (1)(a)(ii).
1758 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy

1759 of the form received under Subsection (1)(a)(iii).
1760 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to $10,000
1761 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
1762 claimant, estate, or trust for establishing and operating recycling or composting technology in
1763 Utah, with an annual maximum tax credit of $2,000.
1764 (2) The total tax credit allowed under this section may not exceed 40% of the Utah
1765 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of
1766 purchase prior to claiming the tax credit authorized by this section.
1767 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1768 composting or recycling machinery and equipment was paid may be carried forward against the
1769 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable
1770 years until the total tax credit amount is used.
1771 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or
1772 trust's tax return under this chapter within three years are forfeited.
1773 (4) The commission shall make rules governing what information shall be filed with
1774 the commission to verify the entitlement to and amount of a tax credit.
1775 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1776 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit
1777 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust
1778 claims or carries forward a tax credit under Section [~~63M-1-413~~] 63N-2-213.
1779 (b) For a taxable year other than a taxable year during which the claimant, estate, or
1780 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a
1781 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):
1782 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in
1783 accordance with Subsections (1) and (2); and
1784 (ii) subject to Subsections (3) and (4).
1785 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1786 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in
1787 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit
1788 under Section [~~63M-1-413~~] 63N-2-213.
1789 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available

1790 under this section for a taxable year during which the claimant, estate, or trust has claimed the
1791 targeted business income tax credit available under Section [~~63M-1-504~~] 63N-2-305.
1792 Section 28. Section **59-10-1025** is amended to read:
1793 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
1794 **establishments.**
1795 (1) As used in this section:
1796 (a) "Commercial domicile" means the principal place from which the trade or business
1797 of a Utah small business corporation is directed or managed.
1798 (b) "Eligible claimant, estate, or trust" is as defined in Section [~~63M-1-2902~~]
1799 63N-2-802.
1800 (c) "Life science establishment" means an establishment described in one of the
1801 following NAICS codes of the 2007 North American Industry Classification System of the
1802 federal Executive Office of the President, Office of Management and Budget:
1803 (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
1804 (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1805 Manufacturing; or
1806 (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.
1807 (d) "Office" means the Governor's Office of Economic Development.
1808 (e) "Pass-through entity" is as defined in Section 59-10-1402.
1809 (f) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.
1810 (g) "Qualifying ownership interest" means an ownership interest that is:
1811 (i) (A) common stock;
1812 (B) preferred stock; or
1813 (C) an ownership interest in a pass-through entity;
1814 (ii) originally issued to:
1815 (A) an eligible claimant, estate, or trust; or
1816 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
1817 under this section was a pass-through entity taxpayer of the pass-through entity on the day on
1818 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
1819 of the pass-through entity until the last day of the taxable year for which the eligible claimant,
1820 estate, or trust claims a tax credit under this section; and

1821 (iii) issued:
1822 (A) by a Utah small business corporation;
1823 (B) on or after January 1, 2011; and
1824 (C) for money or other property, except for stock or securities.
1825 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is
1826 as defined in Section 59-10-1022.
1827 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
1828 Revenue Code, is considered to include a pass-through entity.
1829 (2) Subject to the other provisions of this section, for a taxable year beginning on or
1830 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
1831 issued to the eligible claimant, estate, or trust in accordance with Section [~~63M-1-2908~~]
1832 63N-2-808 for that taxable year may claim a nonrefundable tax credit in an amount up to 35%
1833 of the purchase price of a qualifying ownership interest in a Utah small business corporation by
1834 the claimant, estate, or trust if:
1835 (a) the qualifying ownership interest is issued by a Utah small business corporation that
1836 is a life science establishment;
1837 (b) the qualifying ownership interest in the Utah small business corporation is
1838 purchased for at least $25,000;
1839 (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying
1840 ownership interest of the Utah small business corporation at the time of the purchase of the
1841 qualifying ownership interest; and
1842 (d) on each day of the taxable year of the purchase of the qualifying ownership interest,
1843 the Utah small business corporation described in Subsection (2)(a) has at least 50% of its
1844 employees in the state.
1845 (3) Subject to Subsection (4), the tax credit under Subsection (2):
1846 (a) may only be claimed by the eligible claimant, estate, or trust:
1847 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
1848 certificate issued in accordance with Section [~~63M-1-2908~~] 63N-2-808; and
1849 (ii) subject to obtaining a tax credit certificate for each taxable year as required by
1850 Subsection (3)(a)(i), for a period of three taxable years as follows:
1851 (A) the tax credit in the taxable year of the purchase of the qualifying ownership

1852 interest may not exceed 10% of the purchase price of the qualifying ownership interest;
1853 (B) the tax credit in the taxable year after the taxable year described in Subsection
1854 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;
1855 and
1856 (C) the tax credit in the taxable year two years after the taxable year described in
1857 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership
1858 interest; and
1859 (b) may not exceed the lesser of:
1860 (i) the amount listed on the tax credit certificate issued in accordance with Section
1861 [~~63M-1-2908~~] 63N-2-808; or
1862 (ii) $350,000 in a taxable year.
1863 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section
1864 for a taxable year if the eligible claimant, estate, or trust:
1865 (a) has sold any of the qualifying ownership interest during the taxable year; or
1866 (b) does not hold a tax credit certificate for that taxable year that is issued to the
1867 eligible claimant, estate, or trust by the office in accordance with Section [~~63M-1-2908~~]
1868 63N-2-808.
1869 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust
1870 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the
1871 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and
1872 a capital loss on the qualifying ownership interest.
1873 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under
1874 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax
1875 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income
1876 Taxes.
1877 (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1878 this section.
1879 Section 29. Section **59-10-1030** is amended to read:
1880 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**
1881 (1) As used in this section:
1882 (a) "Alternative energy entity" is as defined in Section [~~63M-1-3102~~] 63N-2-702.

1883 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1884 63N-2-702.
1885 (c) "Office" means the Governor's Office of Economic Development.
1886 (2) Subject to the other provisions of this section, an alternative energy entity may
1887 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1888 section.
1889 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1890 tax credit certificate that the office issues under Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~31~~] 7,
1891 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1892 taxable year.
1893 (4) An alternative energy entity may carry forward a tax credit under this section for a
1894 period that does not exceed the next seven taxable years if:
1895 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1896 taxable year; and
1897 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1898 under this chapter for that taxable year.
1899 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1900 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1901 make recommendations to the Legislative Management Committee concerning whether the tax
1902 credit should be continued, modified, or repealed.
1903 (b) For purposes of the study required by this Subsection (5), the office shall provide
1904 the following information to the Revenue and Taxation Interim Committee:
1905 (i) the amount of tax credit that the office grants to each alternative energy entity for
1906 each taxable year;
1907 (ii) the new state revenues generated by each alternative energy manufacturing project;
1908 (iii) the information contained in the office's latest report to the Legislature under
1909 Section [~~63M-1-3105~~] 63N-2-702; and
1910 (iv) any other information that the Revenue and Taxation Interim Committee requests.
1911 (c) The Revenue and Taxation Interim Committee shall ensure that its
1912 recommendations under Subsection (5)(a) include an evaluation of:
1913 (i) the cost of the tax credit to the state;

1914 (ii) the purpose and effectiveness of the tax credit; and
1915 (iii) the extent to which the state benefits from the tax credit.
1916 Section 30. Section **59-10-1107** is amended to read:
1917 **59-10-1107. Refundable economic development tax credit.**
1918 (1) As used in this section:
1919 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1920 "business entity" as defined in Section [~~63M-1-2403~~] 63N-2-103.
1921 (b) "Office" means the Governor's Office of Economic Development.
1922 (2) Subject to the other provisions of this section, a business entity may claim a
1923 refundable tax credit for economic development.
1924 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1925 tax credit certificate that the office issues to the business entity for the taxable year.
1926 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1927 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1928 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1929 taxable year.
1930 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1931 commission may make rules providing procedures for making a refund to a business entity as
1932 required by Subsection (4)(a).
1933 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1934 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1935 make recommendations to the Legislative Management Committee concerning whether the tax
1936 credit should be continued, modified, or repealed.
1937 (b) For purposes of the study required by this Subsection (5), the office shall provide
1938 the following information to the Revenue and Taxation Interim Committee:
1939 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
1940 (ii) the criteria the office uses in granting a tax credit;
1941 (iii) the new state revenues generated by each taxpayer for each calendar year;
1942 (iv) the information contained in the office's latest report to the Legislature under
1943 Section [~~63M-1-2406~~] 63N-2-106; and
1944 (v) any other information that the Revenue and Taxation Interim Committee requests.

1945 (c) The Revenue and Taxation Interim Committee shall ensure that its
1946 recommendations under Subsection (5)(a) include an evaluation of:
1947 (i) the cost of the tax credit to the state;
1948 (ii) the purpose and effectiveness of the tax credit; and
1949 (iii) the extent to which the state benefits from the tax credit.
1950 Section 31. Section **59-10-1108** is amended to read:
1951 **59-10-1108. Refundable motion picture tax credit.**
1952 (1) As used in this section:
1953 (a) "Motion picture company" means a claimant, estate, or trust that meets the
1954 definition of a motion picture company under Section [~~63M-1-1802~~] 63N-8-102.
1955 (b) "Office" means the Governor's Office of Economic Development.
1956 (c) "State-approved production" has the same meaning as defined in Section
1957 [~~63M-1-1802~~] 63N-8-102.
1958 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1959 may claim a refundable tax credit for a state-approved production.
1960 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1961 tax credit certificate that the office issues to a motion picture company under Section
1962 [~~63M-1-1803~~] 63N-8-103 for the taxable year.
1963 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1964 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1965 credit under this section if the amount of the tax credit exceeds the motion picture company's
1966 tax liability for the taxable year.
1967 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1968 commission may make rules providing procedures for making a refund to a motion picture
1969 company as required by Subsection (4)(a).
1970 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1971 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1972 make recommendations to the Legislative Management Committee concerning whether the tax
1973 credit should be continued, modified, or repealed.
1974 (b) For purposes of the study required by this Subsection (5), the office shall provide
1975 the following information to the Revenue and Taxation Interim Committee:

1976 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;
1977 (ii) the criteria the office uses in granting a tax credit;
1978 (iii) the dollars left in the state, as defined in Section [~~63M-1-1802~~] 63N-8-102, by
1979 each motion picture company for each calendar year;
1980 (iv) the information contained in the office's latest report to the Legislature under
1981 Section [~~63M-1-1805~~] 63N-8-105; and
1982 (v) any other information requested by the Revenue and Taxation Interim Committee.
1983 (c) The Revenue and Taxation Interim Committee shall ensure that its
1984 recommendations under Subsection (5)(a) include an evaluation of:
1985 (i) the cost of the tax credit to the state;
1986 (ii) the effectiveness of the tax credit; and
1987 (iii) the extent to which the state benefits from the tax credit.
1988 Section 32. Section **59-10-1109** is amended to read:
1989 **59-10-1109. Refundable tax credit for certain business entities generating state**
1990 **tax revenue increases.**
1991 (1) As used in this section:
1992 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] 63N-2-802.
1993 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]
1994 63N-2-802.
1995 (c) "Office" means the Governor's Office of Economic Development.
1996 (d) "Pass-through entity" is as defined in Section 59-10-1402.
1997 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.
1998 (f) "Qualifying agreement" is as defined in Section 59-7-614.6.
1999 (2) Subject to the other provisions of this section, an eligible business entity may:
2000 (a) claim a refundable tax credit as provided in Subsection (3); or
2001 (b) if the eligible business entity is a pass-through entity, pass through to one or more
2002 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
2003 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
2004 the eligible business entity could otherwise claim under this section.
2005 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:
2006 (i) for an eligible business entity, an amount up to the amount listed on the tax credit

2007 certificate that the office issues to the eligible business entity for the taxable year in accordance
2008 with Section [~~63M-1-2908~~] 63N-2-808; or
2009 (ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that
2010 an eligible business entity passes through to the pass-through entity taxpayer of the
2011 pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).
2012 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
2013 amount of eligible new state tax revenues generated by an eligible business entity for the
2014 taxable year for which the eligible business entity claims a tax credit under this section.
2015 (c) A tax credit under this section for an eligible business entity that enters into a
2016 qualifying agreement may not exceed:
2017 (i) for the taxable year in which the eligible business entity first generates eligible new
2018 state tax revenues and the two following years, the amount of eligible new state tax revenues
2019 generated by the eligible business entity; and
2020 (ii) for the seven taxable years following the last of the three taxable years described in
2021 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
2022 eligible business entity.
2023 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
2024 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection
2025 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for a taxable
2026 year for which the eligible business entity holds a tax credit certificate issued in accordance
2027 with Section [~~63M-1-2908~~] 63N-2-808.
2028 (5) An eligible business entity or a pass-through entity taxpayer may not:
2029 (a) carry forward or carry back a tax credit under this section; or
2030 (b) claim a tax credit under both this section and Section 59-7-614.6.
2031 Section 33. Section **59-10-1110 (Effective 01/01/15)** is amended to read:
2032 **59-10-1110 (Effective 01/01/15). Refundable tax credit for certain business**
2033 **entities.**
2034 (1) As used in this section:
2035 (a) "Office" means the Governor's Office of Economic Development.
2036 (b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.
2037 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section

2038 59-10-1402.
2039 (d) "Tax credit certificate" has the same meaning as defined in Section [~~63M-1-3402~~]
2040 63N-2-502.
2041 (e) "Tax credit recipient" has the same meaning as defined in Section [~~63M-1-3402~~]
2042 63N-2-502.
2043 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
2044 refundable tax credit as provided in Subsection (3).
2045 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
2046 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
2047 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
2048 refundable tax credit that the tax credit recipient could otherwise claim under this section.
2049 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
2050 credit certificate that the office issues to the tax credit recipient for the taxable year.
2051 (4) A tax credit recipient:
2052 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
2053 during which the tax credit recipient has been issued a tax credit certificate; and
2054 (b) may not claim a tax credit under both this section and Section 59-7-616.
2055 (5) (a) In accordance with any rules prescribed by the commission under Subsection
2056 (5)(b), the commission shall:
2057 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
2058 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
2059 and
2060 (ii) transfer at least annually from the General Fund into the Education Fund an amount
2061 equal to the amount of tax credit claimed under this section.
2062 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2063 commission may make rules providing procedures for making:
2064 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
2065 Subsection (5)(a)(i); or
2066 (ii) transfers from the General Fund into the Education Fund as required by Subsection
2067 (5)(a)(ii).
2068 Section 34. Section **59-12-103** is amended to read:

2069 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2070 **tax revenues.**
2071 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2072 charged for the following transactions:
2073 (a) retail sales of tangible personal property made within the state;
2074 (b) amounts paid for:
2075 (i) telecommunications service, other than mobile telecommunications service, that
2076 originates and terminates within the boundaries of this state;
2077 (ii) mobile telecommunications service that originates and terminates within the
2078 boundaries of one state only to the extent permitted by the Mobile Telecommunications
2079 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
2080 (iii) an ancillary service associated with a:
2081 (A) telecommunications service described in Subsection (1)(b)(i); or
2082 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
2083 (c) sales of the following for commercial use:
2084 (i) gas;
2085 (ii) electricity;
2086 (iii) heat;
2087 (iv) coal;
2088 (v) fuel oil; or
2089 (vi) other fuels;
2090 (d) sales of the following for residential use:
2091 (i) gas;
2092 (ii) electricity;
2093 (iii) heat;
2094 (iv) coal;
2095 (v) fuel oil; or
2096 (vi) other fuels;
2097 (e) sales of prepared food;
2098 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
2099 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

2100 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
2101 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2102 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2103 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2104 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2105 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2106 exhibition, cultural, or athletic activity;
2107 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2108 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2109 (i) the tangible personal property; and
2110 (ii) parts used in the repairs or renovations of the tangible personal property described
2111 in Subsection (1)(g)(i), regardless of whether:
2112 (A) any parts are actually used in the repairs or renovations of that tangible personal
2113 property; or
2114 (B) the particular parts used in the repairs or renovations of that tangible personal
2115 property are exempt from a tax under this chapter;
2116 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2117 assisted cleaning or washing of tangible personal property;
2118 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2119 accommodations and services that are regularly rented for less than 30 consecutive days;
2120 (j) amounts paid or charged for laundry or dry cleaning services;
2121 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2122 this state the tangible personal property is:
2123 (i) stored;
2124 (ii) used; or
2125 (iii) otherwise consumed;
2126 (l) amounts paid or charged for tangible personal property if within this state the
2127 tangible personal property is:
2128 (i) stored;
2129 (ii) used; or
2130 (iii) consumed; and

2131 (m) amounts paid or charged for a sale:
2132 (i) (A) of a product transferred electronically; or
2133 (B) of a repair or renovation of a product transferred electronically; and
2134 (ii) regardless of whether the sale provides:
2135 (A) a right of permanent use of the product; or
2136 (B) a right to use the product that is less than a permanent use, including a right:
2137 (I) for a definite or specified length of time; and
2138 (II) that terminates upon the occurrence of a condition.
2139 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
2140 is imposed on a transaction described in Subsection (1) equal to the sum of:
2141 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
2142 (A) 4.70%; and
2143 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
2144 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2145 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
2146 State Sales and Use Tax Act; and
2147 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
2148 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
2149 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
2150 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
2151 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2152 transaction under this chapter other than this part.
2153 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2154 on a transaction described in Subsection (1)(d) equal to the sum of:
2155 (i) a state tax imposed on the transaction at a tax rate of 2%; and
2156 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2157 transaction under this chapter other than this part.
2158 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2159 on amounts paid or charged for food and food ingredients equal to the sum of:
2160 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2161 a tax rate of 1.75%; and

2162 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2163 amounts paid or charged for food and food ingredients under this chapter other than this part.
2164 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2165 tangible personal property other than food and food ingredients, a state tax and a local tax is
2166 imposed on the entire bundled transaction equal to the sum of:
2167 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
2168 (I) the tax rate described in Subsection (2)(a)(i)(A); and
2169 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2170 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2171 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2172 Additional State Sales and Use Tax Act; and
2173 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2174 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2175 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2176 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
2177 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2178 described in Subsection (2)(a)(ii).
2179 (ii) If an optional computer software maintenance contract is a bundled transaction that
2180 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2181 similar billing document, the purchase of the optional computer software maintenance contract
2182 is 40% taxable under this chapter and 60% nontaxable under this chapter.
2183 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
2184 transaction described in Subsection (2)(d)(i) or (ii):
2185 (A) if the sales price of the bundled transaction is attributable to tangible personal
2186 property, a product, or a service that is subject to taxation under this chapter and tangible
2187 personal property, a product, or service that is not subject to taxation under this chapter, the
2188 entire bundled transaction is subject to taxation under this chapter unless:
2189 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2190 personal property, product, or service that is not subject to taxation under this chapter from the
2191 books and records the seller keeps in the seller's regular course of business; or
2192 (II) state or federal law provides otherwise; or

2193 (B) if the sales price of a bundled transaction is attributable to two or more items of
2194 tangible personal property, products, or services that are subject to taxation under this chapter
2195 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2196 higher tax rate unless:
2197 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2198 personal property, product, or service that is subject to taxation under this chapter at the lower
2199 tax rate from the books and records the seller keeps in the seller's regular course of business; or
2200 (II) state or federal law provides otherwise.
2201 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
2202 seller's regular course of business includes books and records the seller keeps in the regular
2203 course of business for nontax purposes.
2204 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
2205 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
2206 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
2207 of tangible personal property, other property, a product, or a service that is not subject to
2208 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
2209 the seller, at the time of the transaction:
2210 (A) separately states the portion of the transaction that is not subject to taxation under
2211 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or
2212 (B) is able to identify by reasonable and verifiable standards, from the books and
2213 records the seller keeps in the seller's regular course of business, the portion of the transaction
2214 that is not subject to taxation under this chapter.
2215 (ii) A purchaser and a seller may correct the taxability of a transaction if:
2216 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2217 the transaction that is not subject to taxation under this chapter was not separately stated on an
2218 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2219 ignorance of the law; and
2220 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2221 and records the seller keeps in the seller's regular course of business, the portion of the
2222 transaction that is not subject to taxation under this chapter.
2223 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps

2224 in the seller's regular course of business includes books and records the seller keeps in the
2225 regular course of business for nontax purposes.
2226 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
2227 personal property, products, or services that are subject to taxation under this chapter at
2228 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
2229 unless the seller, at the time of the transaction:
2230 (A) separately states the items subject to taxation under this chapter at each of the
2231 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or
2232 (B) is able to identify by reasonable and verifiable standards the tangible personal
2233 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2234 from the books and records the seller keeps in the seller's regular course of business.
2235 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
2236 seller's regular course of business includes books and records the seller keeps in the regular
2237 course of business for nontax purposes.
2238 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
2239 rate imposed under the following shall take effect on the first day of a calendar quarter:
2240 (i) Subsection (2)(a)(i)(A);
2241 (ii) Subsection (2)(b)(i);
2242 (iii) Subsection (2)(c)(i); or
2243 (iv) Subsection (2)(d)(i)(A)(I).
2244 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
2245 begins on or after the effective date of the tax rate increase if the billing period for the
2246 transaction begins before the effective date of a tax rate increase imposed under:
2247 (A) Subsection (2)(a)(i)(A);
2248 (B) Subsection (2)(b)(i);
2249 (C) Subsection (2)(c)(i); or
2250 (D) Subsection (2)(d)(i)(A)(I).
2251 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
2252 statement for the billing period is rendered on or after the effective date of the repeal of the tax
2253 or the tax rate decrease imposed under:
2254 (A) Subsection (2)(a)(i)(A);

2255 (B) Subsection (2)(b)(i);
2256 (C) Subsection (2)(c)(i); or
2257 (D) Subsection (2)(d)(i)(A)(I).
2258 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
2259 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
2260 change in a tax rate takes effect:
2261 (A) on the first day of a calendar quarter; and
2262 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
2263 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
2264 (A) Subsection (2)(a)(i)(A);
2265 (B) Subsection (2)(b)(i);
2266 (C) Subsection (2)(c)(i); or
2267 (D) Subsection (2)(d)(i)(A)(I).
2268 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2269 the commission may by rule define the term "catalogue sale."
2270 (3) (a) The following state taxes shall be deposited into the General Fund:
2271 (i) the tax imposed by Subsection (2)(a)(i)(A);
2272 (ii) the tax imposed by Subsection (2)(b)(i);
2273 (iii) the tax imposed by Subsection (2)(c)(i); or
2274 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
2275 (b) The following local taxes shall be distributed to a county, city, or town as provided
2276 in this chapter:
2277 (i) the tax imposed by Subsection (2)(a)(ii);
2278 (ii) the tax imposed by Subsection (2)(b)(ii);
2279 (iii) the tax imposed by Subsection (2)(c)(ii); and
2280 (iv) the tax imposed by Subsection (2)(d)(i)(B).
2281 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2282 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
2283 through (g):
2284 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2285 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

2286 (B) for the fiscal year; or
2287 (ii) $17,500,000.
2288 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2289 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2290 Department of Natural Resources to:
2291 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2292 protect sensitive plant and animal species; or
2293 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2294 act, to political subdivisions of the state to implement the measures described in Subsections
2295 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
2296 (ii) Money transferred to the Department of Natural Resources under Subsection
2297 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2298 person to list or attempt to have listed a species as threatened or endangered under the
2299 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
2300 (iii) At the end of each fiscal year:
2301 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2302 Conservation and Development Fund created in Section 73-10-24;
2303 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2304 Program Subaccount created in Section 73-10c-5; and
2305 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2306 Program Subaccount created in Section 73-10c-5.
2307 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2308 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2309 created in Section 4-18-106.
2310 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2311 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2312 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2313 water rights.
2314 (ii) At the end of each fiscal year:
2315 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2316 Conservation and Development Fund created in Section 73-10-24;

2317 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2318 Program Subaccount created in Section 73-10c-5; and
2319 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2320 Program Subaccount created in Section 73-10c-5.
2321 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2322 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2323 Fund created in Section 73-10-24 for use by the Division of Water Resources.
2324 (ii) In addition to the uses allowed of the Water Resources Conservation and
2325 Development Fund under Section 73-10-24, the Water Resources Conservation and
2326 Development Fund may also be used to:
2327 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2328 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2329 quantifying surface and ground water resources and describing the hydrologic systems of an
2330 area in sufficient detail so as to enable local and state resource managers to plan for and
2331 accommodate growth in water use without jeopardizing the resource;
2332 (B) fund state required dam safety improvements; and
2333 (C) protect the state's interest in interstate water compact allocations, including the
2334 hiring of technical and legal staff.
2335 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2336 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2337 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.
2338 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2339 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2340 created in Section 73-10c-5 for use by the Division of Drinking Water to:
2341 (i) provide for the installation and repair of collection, treatment, storage, and
2342 distribution facilities for any public water system, as defined in Section 19-4-102;
2343 (ii) develop underground sources of water, including springs and wells; and
2344 (iii) develop surface water sources.
2345 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2346 2006, the difference between the following amounts shall be expended as provided in this
2347 Subsection (5), if that difference is greater than $1:

2348 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2349 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
2350 (ii) $17,500,000.
2351 (b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:
2352 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
2353 credits; and
2354 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2355 restoration.
2356 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2357 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2358 created in Section 73-10-24.
2359 (c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the
2360 remaining difference described in Subsection (5)(a) shall be:
2361 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2362 credits; and
2363 (B) expended by the Division of Water Resources for cloud-seeding projects
2364 authorized by Title 73, Chapter 15, Modification of Weather.
2365 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2366 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2367 created in Section 73-10-24.
2368 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2369 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2370 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2371 Division of Water Resources for:
2372 (i) preconstruction costs:
2373 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2374 26, Bear River Development Act; and
2375 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2376 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
2377 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2378 Chapter 26, Bear River Development Act;

2379 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2380 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
2381 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2382 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
2383 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2384 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
2385 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2386 incurred for employing additional technical staff for the administration of water rights.
2387 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2388 Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development
2389 Fund created in Section 73-10-24.
2390 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2391 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2392 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2393 the Transportation Fund created by Section 72-2-102.
2394 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
2395 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
2396 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2397 by a 1/64% tax rate on the taxable transactions under Subsection (1).
2398 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2399 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
2400 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2401 created by Section 72-2-124:
2402 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2403 the revenues collected from the following taxes, which represents a portion of the
2404 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2405 on vehicles and vehicle-related products:
2406 (A) the tax imposed by Subsection (2)(a)(i)(A);
2407 (B) the tax imposed by Subsection (2)(b)(i);
2408 (C) the tax imposed by Subsection (2)(c)(i); and
2409 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

2410 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2411 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
2412 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2413 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.
2414 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
2415 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
2416 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
2417 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2418 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2419 (8)(a) equal to the product of:
2420 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
2421 previous fiscal year; and
2422 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2423 (8)(a)(i)(A) through (D) in the current fiscal year.
2424 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2425 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
2426 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
2427 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2428 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).
2429 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2430 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
2431 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
2432 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
2433 current fiscal year under Subsection (8)(a).
2434 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2435 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
2436 Finance shall annually deposit $90,000,000 of the revenues generated by the taxes listed under
2437 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
2438 72-2-124.
2439 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2440 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund

2441 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
2442 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
2443 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
2444 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2445 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
2446 transactions described in Subsection (1).
2447 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
2448 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2449 charged for food and food ingredients, except for tax revenue generated by a bundled
2450 transaction attributable to food and food ingredients and tangible personal property other than
2451 food and food ingredients described in Subsection (2)(d).
2452 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
2453 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
2454 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
2455 .025% tax rate on the transactions described in Subsection (1) to be expended to address
2456 chokepoints in construction management.
2457 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
2458 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
2459 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
2460 and food ingredients and tangible personal property other than food and food ingredients
2461 described in Subsection (2)(d).
2462 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2463 fiscal year during which the Division of Finance receives notice under Subsection
2464 [~~63M-1-3410~~] 63N-2-510(3) that construction on a qualified hotel, as defined in Section
2465 [~~63M-1-3402~~] 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal
2466 years, annually deposit $1,900,000 of the revenue generated by the taxes listed under
2467 Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section [~~63M-1-3412~~]
2468 63N-2-512.
2469 (14) Notwithstanding Subsections (4) through (13), an amount required to be expended
2470 or deposited in accordance with Subsections (4) through (13) may not include an amount the
2471 Division of Finance deposits in accordance with Section 59-12-103.2.

2472 Section 35. Section **59-12-301** is amended to read:

2473 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
2474 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

2475 (1) (a) A county legislative body may impose a tax on charges for the accommodations
2476 and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25%
2477 beginning on or after October 1, 2006.

2478 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
2479 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

2480 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
2481 under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

2482 (2) If a county legislative body of a county of the first class imposes a tax under this
2483 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
2484 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

2485 (a) deposited into the Transient Room Tax Fund created by Section [~~63M-1-2203~~]
2486 63N-3-403; and

2487 (b) expended as provided in Section [~~63M-1-2203~~] 63N-3-403.

2488 (3) Subject to Subsection (4), a county legislative body:

2489 (a) may increase or decrease the tax authorized under this part; and

2490 (b) shall regulate the tax authorized under this part by ordinance.

2491 (4) (a) For purposes of this Subsection (4):

2492 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
2493 Consolidations and Annexations.

2494 (ii) "Annexing area" means an area that is annexed into a county.

2495 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
2496 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
2497 change shall take effect:

2498 (A) on the first day of a calendar quarter; and

2499 (B) after a 90-day period beginning on the date the commission receives notice meeting
2500 the requirements of Subsection (4)(b)(ii) from the county.

2501 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

2502 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2503 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);
2504 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and
2505 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2506 (4)(b)(ii)(A), the rate of the tax.
2507 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2508 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2509 first billing period:
2510 (A) that begins after the effective date of the enactment of the tax or the tax rate
2511 increase; and
2512 (B) if the billing period for the transaction begins before the effective date of the
2513 enactment of the tax or the tax rate increase imposed under this section.
2514 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2515 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2516 billing period:
2517 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2518 and
2519 (B) if the billing period for the transaction begins before the effective date of the repeal
2520 of the tax or the tax rate decrease imposed under this section.
2521 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
2522 Subsection 59-12-103(1)(i).
2523 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
2524 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
2525 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
2526 (A) on the first day of a calendar quarter; and
2527 (B) after a 90-day period beginning on the date the commission receives notice meeting
2528 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.
2529 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:
2530 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
2531 repeal, or change in the rate of a tax under this part for the annexing area;
2532 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);
2533 (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

2534 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2535 (4)(d)(ii)(A), the rate of the tax.
2536 (e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2537 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2538 first billing period:
2539 (A) that begins after the effective date of the enactment of the tax or the tax rate
2540 increase; and
2541 (B) if the billing period for the transaction begins before the effective date of the
2542 enactment of the tax or the tax rate increase imposed under this section.
2543 (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2544 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2545 billing period:
2546 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2547 and
2548 (B) if the billing period for the transaction begins before the effective date of the repeal
2549 of the tax or the tax rate decrease imposed under this section.
2550 (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under
2551 Subsection 59-12-103(1)(i).
2552 Section 36. Section **63A-3-402** is amended to read:
2553 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
2554 **Records disclosure -- Exceptions.**
2555 (1) There is created the Utah Public Finance Website to be administered by the
2556 Division of Finance with the technical assistance of the Department of Technology Services.
2557 (2) The Utah Public Finance Website shall:
2558 (a) permit Utah taxpayers to:
2559 (i) view, understand, and track the use of taxpayer dollars by making public financial
2560 information available on the Internet for participating state entities, independent entities, and
2561 participating local entities, using the Utah Public Finance Website; and
2562 (ii) link to websites administered by participating local entities or independent entities
2563 that do not use the Utah Public Finance Website for the purpose of providing participating
2564 local entities' or independent entities' public financial information as required by this part and

2565 by rule under Section 63A-3-404;
2566 (b) allow a person who has Internet access to use the website without paying a fee;
2567 (c) allow the public to search public financial information on the Utah Public Finance
2568 Website using criteria established by the board;
2569 (d) provide access to financial reports, financial audits, budgets, or other financial
2570 documents that are used to allocate, appropriate, spend, and account for government funds, as
2571 may be established by rule under Section 63A-3-404;
2572 (e) have a unique and simplified website address;
2573 (f) be directly accessible via a link from the main page of the official state website;
2574 (g) include other links, features, or functionality that will assist the public in obtaining
2575 and reviewing public financial information, as may be established by rule under Section
2576 63A-3-404; and
2577 (h) include a link to school report cards published on the State Board of Education's
2578 website pursuant to Section 53A-1-1112.
2579 (3) The division shall:
2580 (a) establish and maintain the website, including the provision of equipment, resources,
2581 and personnel as necessary;
2582 (b) maintain an archive of all information posted to the website;
2583 (c) coordinate and process the receipt and posting of public financial information from
2584 participating state entities;
2585 (d) coordinate and regulate the posting of public financial information by participating
2586 local entities and independent entities; and
2587 (e) provide staff support for the advisory committee.
2588 (4) (a) A participating state entity and each independent entity shall permit the public
2589 to view the entity's public financial information via the website, beginning with information
2590 that is generated not later than the fiscal year that begins July 1, 2008, except that public
2591 financial information for an:
2592 (i) institution of higher education shall be provided beginning with information
2593 generated for the fiscal year beginning July 1, 2009; and
2594 (ii) independent entity shall be provided beginning with information generated for the
2595 entity's fiscal year beginning in 2014.

2596 (b) No later than May 15, 2009, the website shall:
2597 (i) be operational; and
2598 (ii) permit public access to participating state entities' public financial information,
2599 except as provided in Subsections (4)(c) and (d).
2600 (c) An institution of higher education that is a participating state entity shall submit the
2601 entity's public financial information at a time allowing for inclusion on the website no later
2602 than May 15, 2010.
2603 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
2604 submit the entity's public financial information for inclusion on the Utah Public Finance
2605 Website or via a link to its own website on the Utah Public Finance Website.
2606 (5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall
2607 provide the following financial information to the division for posting on the Utah Public
2608 Finance Website:
2609 (i) administrative fund expense transactions from its general ledger accounting system;
2610 and
2611 (ii) employee compensation information.
2612 (b) The plan is not required to submit other financial information to the division,
2613 including:
2614 (i) revenue transactions;
2615 (ii) account owner transactions; and
2616 (iii) fiduciary or commercial information, as defined in Section 53B-12-102.
2617 (6) (a) The following independent entities shall each provide administrative expense
2618 transactions from its general ledger accounting system and employee compensation
2619 information to the division for posting on the Utah Public Finance Website or via a link to a
2620 website administered by the independent entity:
2621 (i) the Utah Capital Investment Corporation, created in Section [~~63M-1-1207~~]
2622 63N-6-301;
2623 (ii) the Utah Housing Corporation, created in Section 35A-8-704; and
2624 (iii) the School and Institutional Trust Lands Administration, created in Section
2625 53C-1-201.
2626 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not

2627 required to submit to the division, or provide a link to, other financial information, including:
2628 (i) revenue transactions of a fund or account created in its enabling statute;
2629 (ii) fiduciary or commercial information related to any subject if the disclosure of the
2630 information:
2631 (A) would conflict with fiduciary obligations; or
2632 (B) is prohibited by insider trading provisions;
2633 (iii) information of a commercial nature, including information related to:
2634 (A) account owners, borrowers, and dependents;
2635 (B) demographic data;
2636 (C) contracts and related payments;
2637 (D) negotiations;
2638 (E) proposals or bids;
2639 (F) investments;
2640 (G) the investment and management of funds;
2641 (H) fees and charges;
2642 (I) plan and program design;
2643 (J) investment options and underlying investments offered to account owners;
2644 (K) marketing and outreach efforts;
2645 (L) lending criteria;
2646 (M) the structure and terms of bonding; and
2647 (N) financial plans or strategies; and
2648 (iv) information protected from public disclosure by federal law.
2649 (7) (a) As used in this Subsection (7):
2650 (i) "Local education agency" means a school district or a charter school.
2651 (ii) "New school building project" means the construction of a school that did not
2652 previously exist in a local education agency.
2653 (iii) "Significant school remodel" means the upgrading, changing, alteration,
2654 refurbishment, modification, or complete substitution of an existing school in a local education
2655 agency with a project cost equal to or in excess of $2,000,000.
2656 (b) For each new school building project or significant school remodel, the local
2657 education agency shall:

2658 (i) prepare an annual school plant capital outlay report; and
2659 (ii) submit the report:
2660 (A) to the division for publication on the Utah Public Finance Website; and
2661 (B) in a format, including any raw data or electronic formatting, prescribed by
2662 applicable division policy.
2663 (c) The local education agency shall include in the capital outlay report described in
2664 Subsection (7)(b)(i) the following information as applicable to each new school building
2665 project or significant school remodel:
2666 (i) the name and location of the project or remodel;
2667 (ii) construction and design costs, including:
2668 (A) the purchase price or lease terms of any real property acquired or leased for the
2669 project or remodel;
2670 (B) facility construction;
2671 (C) facility and landscape design;
2672 (D) applicable impact fees; and
2673 (E) furnishings and equipment;
2674 (iii) the gross square footage of the project or remodel;
2675 (iv) the year construction was completed; and
2676 (v) the final student capacity of the new school building project or, for a significant
2677 school remodel, the increase or decrease in student capacity created by the remodel.
2678 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
2679 the local education agency shall report the actual cost, fee, or other expense.
2680 (ii) The division may require that a local education agency provide further itemized
2681 data on information listed in Subsection (7)(c).
2682 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
2683 school plant capital outlay report for each new school building project and significant school
2684 remodel completed on or after July 1, 2004, and before May 13, 2014.
2685 (ii) For a new school building project or significant school remodel completed after
2686 May 13, 2014, the local education agency shall provide the school plant capital outlay report
2687 described in this Subsection (7) to the division annually by a date designated by the division.
2688 (8) A person who negligently discloses a record that is classified as private, protected,

2689 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
2690 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
2691 solely as a result of the preparation or publication of the Utah Public Finance Website.
2692 Section 37. Section **63E-1-102** is amended to read:
2693 **63E-1-102. Definitions -- List of Independent entities.**
2694 As used in this title:
2695 (1) "Authorizing statute" means the statute creating an entity as an independent entity.
2696 (2) "Committee" means the Retirement and Independent Entities Committee created by
2697 Section 63E-1-201.
2698 (3) "Independent corporation" means a corporation incorporated in accordance with
2699 Chapter 2, Independent Corporations Act.
2700 (4) (a) "Independent entity" means an entity having a public purpose relating to the
2701 state or its citizens that is individually created by the state or is given by the state the right to
2702 exist and conduct its affairs as an:
2703 (i) independent state agency; or
2704 (ii) independent corporation.
2705 (b) "Independent entity" includes the:
2706 (i) Utah Dairy Commission created by Section 4-22-2;
2707 (ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;
2708 (iii) Utah State Railroad Museum Authority created by Section 63H-5-102;
2709 (iv) Utah Science Center Authority created by Section 63H-3-103;
2710 (v) Utah Housing Corporation created by Section 35A-8-704;
2711 (vi) Utah State Fair Corporation created by Section 63H-6-103;
2712 (vii) Workers' Compensation Fund created by Section 31A-33-102;
2713 (viii) Utah State Retirement Office created by Section 49-11-201;
2714 (ix) School and Institutional Trust Lands Administration created by Section
2715 53C-1-201;
2716 (x) School and Institutional Trust Fund Office created by Section 53D-1-201;
2717 (xi) Utah Communications Authority created in Section 63H-7-201;
2718 (xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;
2719 (xiii) Utah Capital Investment Corporation created by Section [~~63M-1-1207~~]

2720 63N-6-301; and
2721 (xiv) Military Installation Development Authority created by Section 63H-1-201.
2722 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
2723 (i) the Public Service Commission of Utah created by Section 54-1-1;
2724 (ii) an institution within the state system of higher education;
2725 (iii) a city, county, or town;
2726 (iv) a local school district;
2727 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
2728 Districts; or
2729 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
2730 (5) "Independent state agency" means an entity that is created by the state, but is
2731 independent of the governor's direct supervisory control.
2732 (6) "Money held in trust" means money maintained for the benefit of:
2733 (a) one or more private individuals, including public employees;
2734 (b) one or more public or private entities; or
2735 (c) the owners of a quasi-public corporation.
2736 (7) "Public corporation" means an artificial person, public in ownership, individually
2737 created by the state as a body politic and corporate for the administration of a public purpose
2738 relating to the state or its citizens.
2739 (8) "Quasi-public corporation" means an artificial person, private in ownership,
2740 individually created as a corporation by the state which has accepted from the state the grant of
2741 a franchise or contract involving the performance of a public purpose relating to the state or its
2742 citizens.
2743 Section 38. Section **63F-1-205** is amended to read:
2744 **63F-1-205. Approval of acquisitions of information technology.**
2745 (1) (a) Except as provided in Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2,
2746 Government Procurement Private Proposal Program, in accordance with Subsection (2), the
2747 chief information officer shall approve the acquisition by an executive branch agency of:
2748 (i) information technology equipment;
2749 (ii) telecommunications equipment;
2750 (iii) software;

2751 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
2752 (v) data acquisition.
2753 (b) The chief information officer may negotiate the purchase, lease, or rental of private
2754 or public information technology or telecommunication services or facilities in accordance with
2755 this section.
2756 (c) Where practical, efficient, and economically beneficial, the chief information
2757 officer shall use existing private and public information technology or telecommunication
2758 resources.
2759 (d) Notwithstanding another provision of this section, an acquisition authorized by this
2760 section shall comply with rules made by the applicable rulemaking authority under Title 63G,
2761 Chapter 6a, Utah Procurement Code.
2762 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount
2763 that exceeds the value established by the chief information officer by rule in accordance with
2764 Section 63F-1-206, the chief information officer shall:
2765 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
2766 services and the ability of the proposed information technology or telecommunications services
2767 or supplies to meet those needs; and
2768 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
2769 provide in writing to the chief procurement officer in the Division of Purchasing and General
2770 Services that:
2771 (i) the analysis required in Subsection (2)(a) was completed; and
2772 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
2773 services, products, or supplies is practical, efficient, and economically beneficial to the state
2774 and the executive branch agency or subscriber of services.
2775 (3) In approving an acquisition described in Subsections (1) and (2), the chief
2776 information officer shall:
2777 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards
2778 under which an agency must obtain approval from the chief information officer before
2779 acquiring the items listed in Subsections (1) and (2);
2780 (b) for those acquisitions requiring approval, determine whether the acquisition is in
2781 compliance with:

2782 (i) the executive branch strategic plan;
2783 (ii) the applicable agency information technology plan;
2784 (iii) the budget for the executive branch agency or department as adopted by the
2785 Legislature; and
2786 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and
2787 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
2788 two or more executive branch agencies if it is in the best interests of the state.
2789 (4) (a) Each executive branch agency shall provide the chief information officer with
2790 complete access to all information technology records, documents, and reports:
2791 (i) at the request of the chief information officer; and
2792 (ii) related to the executive branch agency's acquisition of any item listed in Subsection
2793 (1).
2794 (b) Beginning July 1, 2006 and in accordance with administrative rules established by
2795 the department under Section 63F-1-206, no new technology projects may be initiated by an
2796 executive branch agency or the department unless the technology project is described in a
2797 formal project plan and the business case analysis has been approved by the chief information
2798 officer and agency head. The project plan and business case analysis required by this
2799 Subsection (4) shall be in the form required by the chief information officer, and shall include:
2800 (i) a statement of work to be done and existing work to be modified or displaced;
2801 (ii) total cost of system development and conversion effort, including system analysis
2802 and programming costs, establishment of master files, testing, documentation, special
2803 equipment cost and all other costs, including overhead;
2804 (iii) savings or added operating costs that will result after conversion;
2805 (iv) other advantages or reasons that justify the work;
2806 (v) source of funding of the work, including ongoing costs;
2807 (vi) consistency with budget submissions and planning components of budgets; and
2808 (vii) whether the work is within the scope of projects or initiatives envisioned when the
2809 current fiscal year budget was approved.
2810 (5) (a) The chief information officer and the Division of Purchasing and General
2811 Services shall work cooperatively to establish procedures under which the chief information
2812 officer shall monitor and approve acquisitions as provided in this section.

2813 (b) The procedures established under this section shall include at least the written
2814 certification required by Subsection 63G-6a-303(1)(e).
2815 Section 39. Section **63G-2-305** is amended to read:
2816 **63G-2-305. Protected records.**
2817 The following records are protected if properly classified by a governmental entity:
2818 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
2819 has provided the governmental entity with the information specified in Section 63G-2-309;
2820 (2) commercial information or nonindividual financial information obtained from a
2821 person if:
2822 (a) disclosure of the information could reasonably be expected to result in unfair
2823 competitive injury to the person submitting the information or would impair the ability of the
2824 governmental entity to obtain necessary information in the future;
2825 (b) the person submitting the information has a greater interest in prohibiting access
2826 than the public in obtaining access; and
2827 (c) the person submitting the information has provided the governmental entity with
2828 the information specified in Section 63G-2-309;
2829 (3) commercial or financial information acquired or prepared by a governmental entity
2830 to the extent that disclosure would lead to financial speculations in currencies, securities, or
2831 commodities that will interfere with a planned transaction by the governmental entity or cause
2832 substantial financial injury to the governmental entity or state economy;
2833 (4) records, the disclosure of which could cause commercial injury to, or confer a
2834 competitive advantage upon a potential or actual competitor of, a commercial project entity as
2835 defined in Subsection 11-13-103(4);
2836 (5) test questions and answers to be used in future license, certification, registration,
2837 employment, or academic examinations;
2838 (6) records, the disclosure of which would impair governmental procurement
2839 proceedings or give an unfair advantage to any person proposing to enter into a contract or
2840 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
2841 Subsection (6) does not restrict the right of a person to have access to, after the contract or
2842 grant has been awarded and signed by all parties, a bid, proposal, application, or other
2843 information submitted to or by a governmental entity in response to:

2844 (a) an invitation for bids;
2845 (b) a request for proposals;
2846 (c) a request for quotes;
2847 (d) a grant; or
2848 (e) other similar document;
2849 (7) information submitted to or by a governmental entity in response to a request for
2850 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
2851 the right of a person to have access to the information, after:
2852 (a) a contract directly relating to the subject of the request for information has been
2853 awarded and signed by all parties; or
2854 (b) (i) a final determination is made not to enter into a contract that relates to the
2855 subject of the request for information; and
2856 (ii) at least two years have passed after the day on which the request for information is
2857 issued;
2858 (8) records that would identify real property or the appraisal or estimated value of real
2859 or personal property, including intellectual property, under consideration for public acquisition
2860 before any rights to the property are acquired unless:
2861 (a) public interest in obtaining access to the information is greater than or equal to the
2862 governmental entity's need to acquire the property on the best terms possible;
2863 (b) the information has already been disclosed to persons not employed by or under a
2864 duty of confidentiality to the entity;
2865 (c) in the case of records that would identify property, potential sellers of the described
2866 property have already learned of the governmental entity's plans to acquire the property;
2867 (d) in the case of records that would identify the appraisal or estimated value of
2868 property, the potential sellers have already learned of the governmental entity's estimated value
2869 of the property; or
2870 (e) the property under consideration for public acquisition is a single family residence
2871 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
2872 the property as required under Section 78B-6-505;
2873 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
2874 compensated transaction of real or personal property including intellectual property, which, if

2875 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
2876 of the subject property, unless:
2877 (a) the public interest in access is greater than or equal to the interests in restricting
2878 access, including the governmental entity's interest in maximizing the financial benefit of the
2879 transaction; or
2880 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
2881 the value of the subject property have already been disclosed to persons not employed by or
2882 under a duty of confidentiality to the entity;
2883 (10) records created or maintained for civil, criminal, or administrative enforcement
2884 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
2885 release of the records:
2886 (a) reasonably could be expected to interfere with investigations undertaken for
2887 enforcement, discipline, licensing, certification, or registration purposes;
2888 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
2889 proceedings;
2890 (c) would create a danger of depriving a person of a right to a fair trial or impartial
2891 hearing;
2892 (d) reasonably could be expected to disclose the identity of a source who is not
2893 generally known outside of government and, in the case of a record compiled in the course of
2894 an investigation, disclose information furnished by a source not generally known outside of
2895 government if disclosure would compromise the source; or
2896 (e) reasonably could be expected to disclose investigative or audit techniques,
2897 procedures, policies, or orders not generally known outside of government if disclosure would
2898 interfere with enforcement or audit efforts;
2899 (11) records the disclosure of which would jeopardize the life or safety of an
2900 individual;
2901 (12) records the disclosure of which would jeopardize the security of governmental
2902 property, governmental programs, or governmental recordkeeping systems from damage, theft,
2903 or other appropriation or use contrary to law or public policy;
2904 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
2905 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere

2906 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
2907 (14) records that, if disclosed, would reveal recommendations made to the Board of
2908 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
2909 Board of Pardons and Parole, or the Department of Human Services that are based on the
2910 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
2911 jurisdiction;
2912 (15) records and audit workpapers that identify audit, collection, and operational
2913 procedures and methods used by the State Tax Commission, if disclosure would interfere with
2914 audits or collections;
2915 (16) records of a governmental audit agency relating to an ongoing or planned audit
2916 until the final audit is released;
2917 (17) records that are subject to the attorney client privilege;
2918 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
2919 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
2920 quasi-judicial, or administrative proceeding;
2921 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
2922 from a member of the Legislature; and
2923 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
2924 legislative action or policy may not be classified as protected under this section; and
2925 (b) (i) an internal communication that is part of the deliberative process in connection
2926 with the preparation of legislation between:
2927 (A) members of a legislative body;
2928 (B) a member of a legislative body and a member of the legislative body's staff; or
2929 (C) members of a legislative body's staff; and
2930 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
2931 legislative action or policy may not be classified as protected under this section;
2932 (20) (a) records in the custody or control of the Office of Legislative Research and
2933 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
2934 legislation or contemplated course of action before the legislator has elected to support the
2935 legislation or course of action, or made the legislation or course of action public; and
2936 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the

2937 Office of Legislative Research and General Counsel is a public document unless a legislator
2938 asks that the records requesting the legislation be maintained as protected records until such
2939 time as the legislator elects to make the legislation or course of action public;
2940 (21) research requests from legislators to the Office of Legislative Research and
2941 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
2942 in response to these requests;
2943 (22) drafts, unless otherwise classified as public;
2944 (23) records concerning a governmental entity's strategy about:
2945 (a) collective bargaining; or
2946 (b) imminent or pending litigation;
2947 (24) records of investigations of loss occurrences and analyses of loss occurrences that
2948 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
2949 Uninsured Employers' Fund, or similar divisions in other governmental entities;
2950 (25) records, other than personnel evaluations, that contain a personal recommendation
2951 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
2952 personal privacy, or disclosure is not in the public interest;
2953 (26) records that reveal the location of historic, prehistoric, paleontological, or
2954 biological resources that if known would jeopardize the security of those resources or of
2955 valuable historic, scientific, educational, or cultural information;
2956 (27) records of independent state agencies if the disclosure of the records would
2957 conflict with the fiduciary obligations of the agency;
2958 (28) records of an institution within the state system of higher education defined in
2959 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
2960 retention decisions, and promotions, which could be properly discussed in a meeting closed in
2961 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
2962 the final decisions about tenure, appointments, retention, promotions, or those students
2963 admitted, may not be classified as protected under this section;
2964 (29) records of the governor's office, including budget recommendations, legislative
2965 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
2966 policies or contemplated courses of action before the governor has implemented or rejected
2967 those policies or courses of action or made them public;

2968 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
2969 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
2970 recommendations in these areas;
2971 (31) records provided by the United States or by a government entity outside the state
2972 that are given to the governmental entity with a requirement that they be managed as protected
2973 records if the providing entity certifies that the record would not be subject to public disclosure
2974 if retained by it;
2975 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
2976 except as provided in Section 52-4-206;
2977 (33) records that would reveal the contents of settlement negotiations but not including
2978 final settlements or empirical data to the extent that they are not otherwise exempt from
2979 disclosure;
2980 (34) memoranda prepared by staff and used in the decision-making process by an
2981 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
2982 other body charged by law with performing a quasi-judicial function;
2983 (35) records that would reveal negotiations regarding assistance or incentives offered
2984 by or requested from a governmental entity for the purpose of encouraging a person to expand
2985 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
2986 person or place the governmental entity at a competitive disadvantage, but this section may not
2987 be used to restrict access to a record evidencing a final contract;
2988 (36) materials to which access must be limited for purposes of securing or maintaining
2989 the governmental entity's proprietary protection of intellectual property rights including patents,
2990 copyrights, and trade secrets;
2991 (37) the name of a donor or a prospective donor to a governmental entity, including an
2992 institution within the state system of higher education defined in Section 53B-1-102, and other
2993 information concerning the donation that could reasonably be expected to reveal the identity of
2994 the donor, provided that:
2995 (a) the donor requests anonymity in writing;
2996 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
2997 classified protected by the governmental entity under this Subsection (37); and
2998 (c) except for an institution within the state system of higher education defined in

2999 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
3000 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
3001 over the donor, a member of the donor's immediate family, or any entity owned or controlled
3002 by the donor or the donor's immediate family;
3003 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
3004 73-18-13;
3005 (39) a notification of workers' compensation insurance coverage described in Section
3006 34A-2-205;
3007 (40) (a) the following records of an institution within the state system of higher
3008 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
3009 or received by or on behalf of faculty, staff, employees, or students of the institution:
3010 (i) unpublished lecture notes;
3011 (ii) unpublished notes, data, and information:
3012 (A) relating to research; and
3013 (B) of:
3014 (I) the institution within the state system of higher education defined in Section
3015 53B-1-102; or
3016 (II) a sponsor of sponsored research;
3017 (iii) unpublished manuscripts;
3018 (iv) creative works in process;
3019 (v) scholarly correspondence; and
3020 (vi) confidential information contained in research proposals;
3021 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
3022 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
3023 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
3024 (41) (a) records in the custody or control of the Office of Legislative Auditor General
3025 that would reveal the name of a particular legislator who requests a legislative audit prior to the
3026 date that audit is completed and made public; and
3027 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
3028 Office of the Legislative Auditor General is a public document unless the legislator asks that
3029 the records in the custody or control of the Office of Legislative Auditor General that would

3030 reveal the name of a particular legislator who requests a legislative audit be maintained as
3031 protected records until the audit is completed and made public;
3032 (42) records that provide detail as to the location of an explosive, including a map or
3033 other document that indicates the location of:
3034 (a) a production facility; or
3035 (b) a magazine;
3036 (43) information:
3037 (a) contained in the statewide database of the Division of Aging and Adult Services
3038 created by Section 62A-3-311.1; or
3039 (b) received or maintained in relation to the Identity Theft Reporting Information
3040 System (IRIS) established under Section 67-5-22;
3041 (44) information contained in the Management Information System and Licensing
3042 Information System described in Title 62A, Chapter 4a, Child and Family Services;
3043 (45) information regarding National Guard operations or activities in support of the
3044 National Guard's federal mission;
3045 (46) records provided by any pawn or secondhand business to a law enforcement
3046 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
3047 Secondhand Merchandise Transaction Information Act;
3048 (47) information regarding food security, risk, and vulnerability assessments performed
3049 by the Department of Agriculture and Food;
3050 (48) except to the extent that the record is exempt from this chapter pursuant to Section
3051 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
3052 prepared or maintained by the Division of Emergency Management, and the disclosure of
3053 which would jeopardize:
3054 (a) the safety of the general public; or
3055 (b) the security of:
3056 (i) governmental property;
3057 (ii) governmental programs; or
3058 (iii) the property of a private person who provides the Division of Emergency
3059 Management information;
3060 (49) records of the Department of Agriculture and Food that provides for the

3061 identification, tracing, or control of livestock diseases, including any program established under
3062 Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of
3063 Animal Disease;
3064 (50) as provided in Section 26-39-501:
3065 (a) information or records held by the Department of Health related to a complaint
3066 regarding a child care program or residential child care which the department is unable to
3067 substantiate; and
3068 (b) information or records related to a complaint received by the Department of Health
3069 from an anonymous complainant regarding a child care program or residential child care;
3070 (51) unless otherwise classified as public under Section 63G-2-301 and except as
3071 provided under Section 41-1a-116, an individual's home address, home telephone number, or
3072 personal mobile phone number, if:
3073 (a) the individual is required to provide the information in order to comply with a law,
3074 ordinance, rule, or order of a government entity; and
3075 (b) the subject of the record has a reasonable expectation that this information will be
3076 kept confidential due to:
3077 (i) the nature of the law, ordinance, rule, or order; and
3078 (ii) the individual complying with the law, ordinance, rule, or order;
3079 (52) the name, home address, work addresses, and telephone numbers of an individual
3080 that is engaged in, or that provides goods or services for, medical or scientific research that is:
3081 (a) conducted within the state system of higher education, as defined in Section
3082 53B-1-102; and
3083 (b) conducted using animals;
3084 (53) an initial proposal under Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2,
3085 Government Procurement Private Proposal Program, to the extent not made public by rules
3086 made under that chapter;
3087 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
3088 Evaluation Commission concerning an individual commissioner's vote on whether or not to
3089 recommend that the voters retain a judge;
3090 (55) information collected and a report prepared by the Judicial Performance
3091 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter

3092 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
3093 the information or report;
3094 (56) records contained in the Management Information System created in Section
3095 62A-4a-1003;
3096 (57) records provided or received by the Public Lands Policy Coordinating Office in
3097 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
3098 (58) information requested by and provided to the Utah State 911 Committee under
3099 Section 63H-7-303;
3100 (59) in accordance with Section 73-10-33:
3101 (a) a management plan for a water conveyance facility in the possession of the Division
3102 of Water Resources or the Board of Water Resources; or
3103 (b) an outline of an emergency response plan in possession of the state or a county or
3104 municipality;
3105 (60) the following records in the custody or control of the Office of Inspector General
3106 of Medicaid Services, created in Section 63A-13-201:
3107 (a) records that would disclose information relating to allegations of personal
3108 misconduct, gross mismanagement, or illegal activity of a person if the information or
3109 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
3110 through other documents or evidence, and the records relating to the allegation are not relied
3111 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
3112 report or final audit report;
3113 (b) records and audit workpapers to the extent they would disclose the identity of a
3114 person who, during the course of an investigation or audit, communicated the existence of any
3115 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
3116 regulation adopted under the laws of this state, a political subdivision of the state, or any
3117 recognized entity of the United States, if the information was disclosed on the condition that
3118 the identity of the person be protected;
3119 (c) before the time that an investigation or audit is completed and the final
3120 investigation or final audit report is released, records or drafts circulated to a person who is not
3121 an employee or head of a governmental entity for the person's response or information;
3122 (d) records that would disclose an outline or part of any investigation, audit survey

3123 plan, or audit program; or
3124 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
3125 investigation or audit;
3126 (61) records that reveal methods used by the Office of Inspector General of Medicaid
3127 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
3128 abuse;
3129 (62) information provided to the Department of Health or the Division of Occupational
3130 and Professional Licensing under Subsection 58-68-304(3) or (4);
3131 (63) a record described in Section 63G-12-210; and
3132 (64) captured plate data that is obtained through an automatic license plate reader
3133 system used by a governmental entity as authorized in Section 41-6a-2003.
3134 Section 40. Section **63G-6a-303** is amended to read:
3135 **63G-6a-303. Duties and authority of chief procurement officer.**
3136 (1) Except as otherwise specifically provided in this chapter, the chief procurement
3137 officer serves as the central procurement officer of the state and shall:
3138 (a) adopt office policies governing the internal functions of the division;
3139 (b) procure or supervise each procurement over which the chief procurement officer
3140 has authority;
3141 (c) establish and maintain programs for the inspection, testing, and acceptance of each
3142 procurement item over which the chief procurement officer has authority;
3143 (d) prepare statistical data concerning each procurement and procurement usage of a
3144 state procurement unit;
3145 (e) ensure that:
3146 (i) before approving a procurement not covered by an existing statewide contract for
3147 information technology or telecommunications supplies or services, the chief information
3148 officer and the agency have stated in writing to the division that the needs analysis required in
3149 Section 63F-1-205 was completed, unless the procurement is approved in accordance with
3150 Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2, Government Procurement Private Proposal
3151 Program; and
3152 (ii) the oversight authority required by Subsection (5)(a) is not delegated outside the
3153 division;

3154 (f) provide training to procurement units and to persons who do business with
3155 procurement units;
3156 (g) if the chief procurement officer determines that a procurement over which the chief
3157 procurement officer has authority is out of compliance with this chapter or board rules:
3158 (i) correct or amend the procurement to bring it into compliance; or
3159 (ii) cancel the procurement, if:
3160 (A) it is not feasible to bring the procurement into compliance; or
3161 (B) the chief procurement officer determines that it is in the best interest of the state to
3162 cancel the procurement; and
3163 (h) if the chief procurement officer determines that a contract over which the chief
3164 procurement officer has authority is out of compliance with this chapter or board rules, correct
3165 or amend the contract to bring it into compliance or cancel the contract:
3166 (i) if the chief procurement officer determines that correcting, amending, or canceling
3167 the contract is in the best interest of the state; and
3168 (ii) after consultation with the attorney general's office.
3169 (2) The chief procurement officer may:
3170 (a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any
3171 stage of the procurement process; and
3172 (b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time
3173 during the term of the contract.
3174 Section 41. Section **63G-6a-304** is amended to read:
3175 **63G-6a-304. Delegation of authority.**
3176 (1) In accordance with rules made by the board, the chief procurement officer may
3177 delegate authority to designees or to any department, agency, or official.
3178 (2) For a procurement under Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2, Government
3179 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3180 this section shall be made to the Governor's Office of Economic Development.
3181 Section 42. Section **63G-6a-305** is amended to read:
3182 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**
3183 (1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the
3184 use of specifications for each procurement over which the chief procurement officer has

3185 authority.
3186 (2) The chief procurement officer shall obtain expert advice and assistance from
3187 personnel of procurement units in the development of specifications and may delegate in
3188 writing to a procurement unit the authority to prepare and utilize its own specifications.
3189 (3) For a procurement under Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2, Government
3190 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3191 this section shall be made to the Governor's Office of Economic Development.
3192 Section 43. Section **63G-6a-711** is amended to read:
3193 **63G-6a-711. Procurement for submitted proposal.**
3194 (1) As used in this section:
3195 (a) "Committee" is as defined in Section [~~63M-1-2602~~] 63N-13-202.
3196 (b) "Initial proposal" is a proposal submitted by a private entity under Section
3197 [~~63M-1-2605~~] 63N-13-205.
3198 (2) After receipt by the chief procurement officer of a copy of an initial proposal from
3199 the committee in accordance with Subsection [~~63M-1-2606~~] 63N-13-206(5), including any
3200 comment, suggestion, or modification to the initial proposal, the chief procurement officer
3201 shall initiate a standard procurement process in compliance with this chapter.
3202 (3) The chief procurement officer or designee shall:
3203 (a) review each detailed proposal received in accordance with Title [~~63M~~] 63N,
3204 Chapter [~~1~~] 13, Part [~~26~~] 2, Government Procurement Private Proposal Program; and
3205 (b) submit all detailed proposals that meet the guidelines established under Subsection
3206 [~~63M-1-2608~~] 63N-13-208(1) to the committee for review under Section [~~63M-1-2609~~]
3207 63N-13-209.
3208 (4) For purposes of this chapter, the Governor's Office of Economic Development is
3209 considered a procurement unit with independent procurement authority for a procurement
3210 under Title [~~63M~~] 63N, Chapter [~~1~~] 13, Part [~~26~~] 2, Government Procurement Private Proposal
3211 Program.
3212 Section 44. Section **63G-19-101**, which is renumbered from Section 63M-1-1001 is
3213 renumbered and amended to read:
3214 **CHAPTER 19.**
3215 **Part 1. Biotechnology Provisions**

3216 **[~~63M-1-1001~~]. 63G-19-101. Title -- Definitions.**
3217 (1) This part is known as "Biotechnology Provisions."
3218 (2) As used in this part, "biotechnology" is:
3219 [~~(1)~~] (a) the modification of living organisms by recombinant DNA techniques; and
3220 [~~(2)~~] (b) a means to accomplish, through genetic engineering, the same kinds of
3221 modifications accomplished through traditional genetic techniques such as crossbreeding.
3222 Section 45. Section **63G-19-102**, which is renumbered from Section 63M-1-1002 is
3223 renumbered and amended to read:
3224 **[~~63M-1-1002~~]. 63G-19-102. Confidential information.**
3225 (1) A state agency having access under federal law to biotechnology trade secrets and
3226 related confidential information shall manage the trade secrets and related confidential records
3227 as protected records under Title 63G, Chapter 2, Government Records Access and
3228 Management Act.
3229 (2) The records described in this section may be disclosed under the balancing
3230 provisions of Title 63G, Chapter 2, Government Records Access and Management Act, when a
3231 determination is made that disclosure is essential for the protection of the public's health or
3232 environment.
3233 Section 46. Section **63G-19-103**, which is renumbered from Section 63M-1-1003 is
3234 renumbered and amended to read:
3235 **[~~63M-1-1003~~]. 63G-19-103. Preemption of local regulation.**
3236 (1) A county, city, town, or other political subdivision may not regulate the
3237 technological processes relating to the development and use of biotechnologically created
3238 materials and organisms.
3239 (2) This preemption does not affect the powers of a county, city, town, or other
3240 political subdivision, including the power to regulate land use, business, industry, construction,
3241 and public utilities, to protect the public health or environment, or to provide fire protection
3242 and other public safety services.
3243 Section 47. Section **63I-1-263** is amended to read:
3244 **63I-1-263. Repeal dates, Titles 63A to 63N.**
3245 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to

3246 any public school district which chooses to participate, is repealed July 1, 2016.
3247 (2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.
3248 (3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.
3249 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
3250 1, 2018.
3251 (5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.
3252 (6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.
3253 (7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a
3254 contract for a design-build transportation project in certain circumstances, is repealed July 1,
3255 2015.
3256 (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
3257 2020.
3258 (9) The Resource Development Coordinating Committee, created in Section
3259 63J-4-501, is repealed July 1, 2015.
3260 (10) Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~4~~] 2, Enterprise Zone Act, is repealed July
3261 1, 2018.
3262 (11) (a) Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~11~~] 4, Recycling Market Development
3263 Zone Act, is repealed January 1, 2021.
3264 (b) Subject to Subsection (11)(c), Sections 59-7-610 and 59-10-1007 regarding tax
3265 credits for certain persons in recycling market development zones, are repealed for taxable
3266 years beginning on or after January 1, 2021.
3267 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:
3268 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
3269 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or
3270 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
3271 the expenditure is made on or after January 1, 2021.
3272 (d) Notwithstanding Subsections (11)(b) and (c), a person may carry forward a tax
3273 credit in accordance with Section 59-7-610 or 59-10-1007 if:
3274 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and
3275 (ii) (A) for the purchase price of machinery or equipment described in Section
3276 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,

3277 2020; or
3278 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
3279 expenditure is made on or before December 31, 2020.
3280 (12) Section [~~63M-1-3412~~] 63N-2-512 is repealed on July 1, 2021.
3281 [~~(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.~~]
3282 [~~(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:~~]
3283 [~~(A) direct the Health System Reform Task Force to evaluate the issues listed in~~
3284 ~~Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the~~
3285 ~~Legislature to use to negotiate the terms of the Health Care Compact; and~~]
3286 [~~(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the~~
3287 ~~member states that the Legislature determines are appropriate after considering the~~
3288 ~~recommendations of the Health System Reform Task Force.~~]
3289 [~~(ii) The Health System Reform Task Force shall evaluate and develop criteria for the~~
3290 ~~Legislature regarding:~~]
3291 [~~(A) the impact of the Supreme Court ruling on the Affordable Care Act;~~]
3292 [~~(B) whether Utah is likely to be required to implement any part of the Affordable Care~~
3293 ~~Act prior to negotiating the compact with the federal government, such as Medicaid expansion~~
3294 ~~in 2014;~~]
3295 [~~(C) whether the compact's current funding formula, based on adjusted 2010 state~~
3296 ~~expenditures, is the best formula for Utah and other state compact members to use for~~
3297 ~~establishing the block grants from the federal government;~~]
3298 [~~(D) whether the compact's calculation of current year inflation adjustment factor,~~
3299 ~~without consideration of the regional medical inflation rate in the current year, is adequate to~~
3300 ~~protect the state from increased costs associated with administering a state based Medicaid and~~
3301 ~~a state based Medicare program;~~]
3302 [~~(E) whether the state has the flexibility it needs under the compact to implement and~~
3303 ~~fund state based initiatives, or whether the compact requires uniformity across member states~~
3304 ~~that does not benefit Utah;~~]
3305 [~~(F) whether the state has the option under the compact to refuse to take over the~~
3306 ~~federal Medicare program;~~]
3307 [~~(G) whether a state based Medicare program would provide better benefits to the~~

3308 ~~elderly and disabled citizens of the state than a federally run Medicare program;~~]
3309 [~~(H) whether the state has the infrastructure necessary to implement and administer a~~
3310 ~~better state based Medicare program;~~]
3311 [~~(I) whether the compact appropriately delegates policy decisions between the~~
3312 ~~legislative and executive branches of government regarding the development and~~
3313 ~~implementation of the compact with other states and the federal government; and~~]
3314 [~~(J) the impact on public health activities, including communicable disease~~
3315 ~~surveillance and epidemiology.~~]
3316 [~~(14)~~] (13) (a) Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~35~~] 6, Utah Small Business Jobs
3317 Act, is repealed January 1, 2021.
3318 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
3319 calendar years beginning on or after January 1, 2021.
3320 (c) Notwithstanding Subsection (14)(b), an entity may carry forward a tax credit in
3321 accordance with Section 59-9-107 if:
3322 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
3323 31, 2020; and
3324 (ii) the qualified equity investment that is the basis of the tax credit is certified under
3325 Section [~~63M-1-3503~~] 63N-2-603 on or before December 31, 2023.
3326 [~~(15)~~] (14) The Crime Victim Reparations and Assistance Board, created in Section
3327 63M-7-504, is repealed July 1, 2017.
3328 [~~(16)~~] (15) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
3329 2017.
3330 Section 48. Section **63I-2-263** is amended to read:
3331 **63I-2-263. Repeal dates, Title 63A to Title 63N.**
3332 [~~(1) Section 63A-1-115 is repealed on July 1, 2014.~~]
3333 [~~(2)~~] (1) Section 63C-9-501.1 is repealed on July 1, 2015.
3334 [~~(3) Subsection 63J-1-218(3) is repealed on December 1, 2013.~~]
3335 [~~(4) Subsection 63J-1-218(4) is repealed on December 1, 2013.~~]
3336 [~~(5) Section 63M-1-207 is repealed on December 1, 2014.~~]
3337 [~~(6)~~] (2) Subsection [~~63M-1-903~~] 63N-3-103(1)(d) is repealed on July 1, 2015.
3338 [~~(7) Subsection 63M-1-1406(9) is repealed on January 1, 2015.~~]

3339 Section 49. Section **63I-4a-102** is amended to read:

3340 **63I-4a-102. Definitions.**

3341 (1) (a) "Activity" means to provide a good or service.

3342 (b) "Activity" includes to:

3343 (i) manufacture a good or service;

3344 (ii) process a good or service;

3345 (iii) sell a good or service;

3346 (iv) offer for sale a good or service;

3347 (v) rent a good or service;

3348 (vi) lease a good or service;

3349 (vii) deliver a good or service;

3350 (viii) distribute a good or service; or

3351 (ix) advertise a good or service.

3352 (2) (a) Except as provided in Subsection (2)(b), "agency" means:

3353 (i) the state; or

3354 (ii) an entity of the state including a department, office, division, authority,

3355 commission, or board.

3356 (b) "Agency" does not include:

3357 (i) the Legislature;

3358 (ii) an entity or agency of the Legislature;

3359 (iii) the state auditor;

3360 (iv) the state treasurer;

3361 (v) the Office of the Attorney General;

3362 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

3363 (vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science

3364 Center Authority;

3365 (viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber

3366 Valley Historic Railroad Authority;

3367 (ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah

3368 State Railroad Museum Authority;

3369 (x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah

3370 Housing Corporation Act;
3371 (xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair
3372 Corporation Act;
3373 (xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
3374 Compensation Fund;
3375 (xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
3376 Retirement Systems Administration;
3377 (xiv) a charter school chartered by the State Charter School Board or a board of
3378 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
3379 Schools Act;
3380 (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
3381 Utah Schools for the Deaf and the Blind;
3382 (xvi) an institution of higher education as defined in Section 53B-3-102;
3383 (xvii) the School and Institutional Trust Lands Administration created in Title 53C,
3384 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
3385 (xviii) the Utah Communications Authority created in Title 63H, Chapter 7, Utah
3386 Communications Authority Act; or
3387 (xix) the Utah Capital Investment Corporation created in Title [~~63M~~] 63N, Chapter [~~1~~]
3388 6, Part [~~12~~] 3, [~~Utah Venture Capital Enhancement Act~~] Utah Capital Investment Corporation.
3389 (3) "Agency head" means the chief administrative officer of an agency.
3390 (4) "Board" means the Free Market Protection and Privatization Board created in
3391 Section 63I-4a-202.
3392 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
3393 or in part from a private enterprise.
3394 (6) "Local entity" means:
3395 (a) a political subdivision of the state, including a:
3396 (i) county;
3397 (ii) city;
3398 (iii) town;
3399 (iv) local school district;
3400 (v) local district; or

3401 (vi) special service district;
3402 (b) an agency of an entity described in this Subsection (6), including a department,
3403 office, division, authority, commission, or board; or
3404 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
3405 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
3406 (7) "Private enterprise" means a person that engages in an activity for profit.
3407 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
3408 private enterprise engages in the activity, including a transfer by:
3409 (a) contract;
3410 (b) transfer of property; or
3411 (c) another arrangement.
3412 (9) "Special district" means:
3413 (a) a local district, as defined in Section 17B-1-102;
3414 (b) a special service district, as defined in Section 17D-1-102; or
3415 (c) a conservation district, as defined in Section 17D-3-102.
3416 Section 50. Section **63J-1-315** is amended to read:
3417 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account**
3418 **--Transfers of Medicaid growth savings -- Base budget adjustments.**
3419 (1) As used in this section:
3420 (a) "Department" means the Department of Health created in Section 26-1-4.
3421 (b) "Division" means the Division of Health Care Financing created within the
3422 department under Section 26-18-2.1.
3423 (c) "General Fund revenue surplus" means a situation where actual General Fund
3424 revenues collected in a completed fiscal year exceed the estimated revenues for the General
3425 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
3426 Legislature.
3427 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
3428 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
3429 target.
3430 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
3431 year multiplied by 1.08.

3432 (f) "Medicaid program" is as defined in Section 26-18-2.
3433 (g) "Medicaid program expenditures" means total state revenue expended for the
3434 Medicaid program from the General Fund, including restricted accounts within the General
3435 Fund, during a fiscal year.
3436 (h) "Medicaid program expenditures for the previous year" means total state revenue
3437 expended for the Medicaid program from the General Fund, including restricted accounts
3438 within the General Fund, during the fiscal year immediately preceding a fiscal year for which
3439 Medicaid program expenditures are calculated.
3440 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
3441 balance in the General Fund is less than zero.
3442 (j) "State revenue" means revenue other than federal revenue.
3443 (k) "State revenue expended for the Medicaid program" includes money transferred or
3444 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
3445 extent the money is appropriated for the Medicaid program by the Legislature.
3446 (2) There is created within the General Fund a restricted account to be known as the
3447 Medicaid Growth Reduction and Budget Stabilization Account.
3448 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a
3449 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
3450 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
3451 Budget Stabilization Account.
3452 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
3453 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
3454 equal to the reduction as an appropriation from the General Fund to the account in the base
3455 budget for the second fiscal year following the fiscal year for which the reduction was made.
3456 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
3457 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
3458 growth savings as an appropriation from the General Fund to the account in the base budget for
3459 the second fiscal year following the fiscal year for which the reduction was made.
3460 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
3461 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in
3462 state expenditures for the Medicaid program, and to each fiscal year after that year.

3463 (4) The Division of Finance shall calculate the amount to be transferred under
3464 Subsection (3):
3465 (a) before transferring revenue from the General Fund revenue surplus to:
3466 (i) the General Fund Budget Reserve Account under Section 63J-1-312 and;
3467 (ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;
3468 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
3469 Assistance Account under Section [~~63M-1-905~~] 63N-3-106; and
3470 (c) before making any other year-end contingency appropriations, year-end set-asides,
3471 or other year-end transfers required by law.
3472 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
3473 additional debt service for any bonded debt authorized by the Legislature, the Division of
3474 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
3475 additional debt service requirements resulting from issuance of bonded debt that was
3476 authorized by the Legislature.
3477 (b) The Division of Finance may not spend the hold back amount for debt service
3478 under Subsection (5)(a) unless and until it is appropriated by the Legislature.
3479 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
3480 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
3481 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
3482 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
3483 hold back.
3484 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
3485 the General Fund balance for debt service authorized by this Subsection (5) before making any
3486 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
3487 designation or allocation of General Fund revenue surplus.
3488 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
3489 of Finance determines that an operating deficit exists and that holding back earmarks to the
3490 Industrial Assistance Account under Section [~~63M-1-905~~] 63N-3-106, transfers to the State
3491 Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund
3492 Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one
3493 of those accounts, in that order, does not eliminate the operating deficit, the Division of

3494 Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization
3495 Account by the amount necessary to eliminate the operating deficit.
3496 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
3497 Budget Stabilization Account only:
3498 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is
3499 made are estimated to be 108% or more of Medicaid program expenditures for the previous
3500 year; and
3501 (b) for the Medicaid program.
3502 (8) The Division of Finance shall deposit interest or other earnings derived from
3503 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
3504 General Fund.
3505 Section 51. Section **63J-1-602.4** is amended to read:
3506 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**
3507 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
3508 check for a mortgage loan license, as provided in Section 61-2c-202.
3509 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
3510 check for principal broker, associate broker, and sales agent licenses, as provided in Section
3511 61-2f-204.
3512 (3) Certain funds donated to the Department of Human Services, as provided in
3513 Section 62A-1-111.
3514 (4) Appropriations from the National Professional Men's Basketball Team Support of
3515 Women and Children Issues Restricted Account created in Section 62A-1-202.
3516 (5) Certain funds donated to the Division of Child and Family Services, as provided in
3517 Section 62A-4a-110.
3518 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
3519 in Section 62A-4a-608.
3520 (7) Appropriations to the Division of Services for People with Disabilities, as provided
3521 in Section 62A-5-102.
3522 (8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
3523 provided in Section 63C-6-104.
3524 (9) Certain money payable for commission expenses of the Pete Suazo Utah Athletic

3525 Commission, as provided under Section [~~63C-11-301~~] 63N-10-301.
3526 (10) Funds appropriated or collected for publishing the Division of Administrative
3527 Rules' publications, as provided in Section 63G-3-402.
3528 (11) The Immigration Act Restricted Account created in Section 63G-12-103.
3529 (12) Money received by the military installation development authority, as provided in
3530 Section 63H-1-504.
3531 (13) Appropriations to fund the Governor's Office of Economic Development's
3532 Enterprise Zone Act, as provided in Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~4~~] 2, Enterprise Zone
3533 Act.
3534 (14) The Motion Picture Incentive Account created in Section [~~63M-1-1803~~]
3535 63N-8-103.
3536 Section 52. Section **63J-4-603** is amended to read:
3537 **63J-4-603. Powers and duties of coordinator and office.**
3538 (1) The coordinator and the office shall:
3539 (a) make a report to the Constitutional Defense Council created under Section
3540 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter
3541 4a, Constitutional and Federalism Defense Act;
3542 (b) provide staff assistance to the Constitutional Defense Council created under Section
3543 63C-4a-202 for meetings of the council;
3544 (c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and
3545 (ii) execute any action assigned in a constitutional defense plan;
3546 (d) under the direction of the state planning coordinator, assist in fulfilling the state
3547 planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the
3548 development of public lands policies by:
3549 (i) developing cooperative contracts and agreements between the state, political
3550 subdivisions, and agencies of the federal government for involvement in the development of
3551 public lands policies;
3552 (ii) producing research, documents, maps, studies, analysis, or other information that
3553 supports the state's participation in the development of public lands policy;
3554 (iii) preparing comments to ensure that the positions of the state and political
3555 subdivisions are considered in the development of public lands policy;

3556 (iv) partnering with state agencies and political subdivisions in an effort to:
3557 (A) prepare coordinated public lands policies;
3558 (B) develop consistency reviews and responses to public lands policies;
3559 (C) develop management plans that relate to public lands policies; and
3560 (D) develop and maintain a statewide land use plan that is based on cooperation and in
3561 conjunction with political subdivisions; and
3562 (v) providing other information or services related to public lands policies as requested
3563 by the state planning coordinator;
3564 (e) facilitate and coordinate the exchange of information, comments, and
3565 recommendations on public lands policies between and among:
3566 (i) state agencies;
3567 (ii) political subdivisions;
3568 (iii) the Office of Rural Development created under Section [~~63M-1-1602~~] 63N-4-102;
3569 (iv) the Resource Development Coordinating Committee created under Section
3570 63J-4-501;
3571 (v) School and Institutional Trust Lands Administration created under Section
3572 53C-1-201;
3573 (vi) the committee created under Section 63F-1-508 to award grants to counties to
3574 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
3575 (vii) the Constitutional Defense Council created under Section 63C-4a-202;
3576 (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
3577 Chapter 8, Part 4, Historic Sites;
3578 (g) consistent with other statutory duties, encourage agencies to responsibly preserve
3579 archaeological resources;
3580 (h) maintain information concerning grants made under Subsection (1)(j), if available;
3581 (i) report annually, or more often if necessary or requested, concerning the office's
3582 activities and expenditures to:
3583 (i) the Constitutional Defense Council; and
3584 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim
3585 Committee jointly with the Constitutional Defense Council;
3586 (j) make grants of up to 16% of the office's total annual appropriations from the

3587 Constitutional Defense Restricted Account to a county or statewide association of counties to
3588 be used by the county or association of counties for public lands matters if the coordinator,
3589 with the advice of the Constitutional Defense Council, determines that the action provides a
3590 state benefit;
3591 (k) provide staff services to the Snake Valley Aquifer Advisory Council created in
3592 Section 63C-12-103;
3593 (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section
3594 63C-12-107; and
3595 (m) conduct the public lands transfer study and economic analysis required by Section
3596 63J-4-606.
3597 (2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before
3598 submitting a comment to a federal agency, if the governor would be subject to Subsection
3599 63C-4a-203(8) if the governor were submitting the material.
3600 (3) The office may enter into a contract or other agreement with another state agency to
3601 provide information and services related to:
3602 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and
3603 Classification Act;
3604 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and
3605 Classification Act, or R.S. 2477 matters; or
3606 (c) any other matter within the office's responsibility.
3607 Section 53. Section **63J-7-102** is amended to read:
3608 **63J-7-102. Scope and applicability of chapter.**
3609 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
3610 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
3611 this chapter apply to each agency and govern each grant received on or after May 5, 2008.
3612 (2) This chapter does not govern:
3613 (a) a grant deposited into a General Fund restricted account;
3614 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
3615 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
3616 (d) a grant made to the state without a restriction or other designated purpose that is
3617 deposited into the General Fund as free revenue;

3618 (e) a grant made to the state that is restricted only to "education" and that is deposited
3619 into the Education Fund or Uniform School Fund as free revenue;
3620 (f) in-kind donations;
3621 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
3622 when required by state law or application of state law;
3623 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
3624 Contribution Act;
3625 (i) a grant received by an agency from another agency or political subdivision;
3626 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
3627 Act;
3628 (k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah
3629 Science Center Authority;
3630 (l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4,
3631 Heber Valley Historic Railroad Authority;
3632 (m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter
3633 5, Utah State Railroad Museum Authority;
3634 (n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7,
3635 Utah Housing Corporation Act;
3636 (o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah
3637 State Fair Corporation Act;
3638 (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
3639 Workers' Compensation Fund;
3640 (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
3641 State Retirement Systems Administration;
3642 (r) a grant to the School and Institutional Trust Lands Administration created in Title
3643 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
3644 (s) a grant to the Utah Communications Authority created in Title 63H, Chapter 7,
3645 Utah Communications Authority Act;
3646 (t) a grant to the Medical Education Program created in Section 53B-24-202;
3647 (u) a grant to the Utah Capital Investment Corporation created in Title [~~63M~~] 63N,
3648 Chapter [~~1~~] 6, Part [~~12~~] 3, [~~Utah Venture Capital Enhancement Act~~] Utah Capital Investment

3649 Corporation;
3650 (v) a grant to the Utah Charter School Finance Authority created in Section
3651 53A-20b-103;
3652 (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;
3653 (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section
3654 31A-29-104; or
3655 (y) a grant to the Military Installation Development Authority created in Section
3656 63H-1-201.
3657 (3) An agency need not seek legislative review or approval of grants under Part 2,
3658 Grant Approval Requirements, if:
3659 (a) the governor has declared a state of emergency; and
3660 (b) the grant is donated to the agency to assist victims of the state of emergency under
3661 Subsection 53-2a-204(1).
3662 Section 54. Section **63M-2-101** is amended to read:
3663 **TITLE 63M. GOVERNOR'S PROGRAMS**
3664 **CHAPTER 2. Utah Science Technology and Research Governing Authority Act**
3665 **63M-2-101. Title.**
3666 (1) This title is known as "Governor's Programs."
3667 (2) This chapter is known as the "Utah Science Technology and Research Governing
3668 Authority Act."
3669 Section 55. Section **63N-1-101**, which is renumbered from Section 63M-1-101 is
3670 renumbered and amended to read:
3671 **TITLE 63N. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**
3672 **CHAPTER 1. GOED GENERAL PROVISIONS**
3673 **Part 1. General Provisions**
3674 **[~~63M-1-101~~]. 63N-1-101. Title.**
3675 (1) This title is known as [~~"Governor's Programs."~~] the "Governor's Office of
3676 Economic Development."
3677 (2) This chapter is known as [~~the "Governor's Office of Economic Development."~~]
3678 "GOED General Provisions."
3679 Section 56. Section **63N-1-102**, which is renumbered from Section 63M-1-102 is

3680 renumbered and amended to read:

3681 **[~~63M-1-102~~]. 63N-1-102. Definitions.**

3682 As used in this [~~chapter~~] title:

3683 (1) "Board" means the Board of Business and Economic Development[~~.~~]created in

3684 Section 63N-1-401.

3685 (2) "Council" means the Governor's Economic Development Coordinating Council

3686 created in Section 63N-1-501.

3687 [~~(2) "Director"~~] (3) "Executive director" means the executive director of the office.

3688 [~~(3)~~] (4) "Office" or "GOED" means the Governor's Office of Economic Development.

3689 Section 57. Section **63N-1-201**, which is renumbered from Section 63M-1-201 is

3690 renumbered and amended to read:

3691 **Part 2. Creation of GOED**

3692 **[~~63M-1-201~~]. 63N-1-201. Creation of office -- Responsibilities.**

3693 (1) There is created the Governor's Office of Economic Development.

3694 (2) The office [~~shall~~] is:

3695 (a) [~~be~~] responsible for economic development [~~within~~] and economic development

3696 planning in the state; and

3697 [~~(b) perform economic development planning for the state;~~]

3698 (b) the industrial promotion authority of the state.

3699 (3) The office shall:

3700 [~~(c)~~] (a) administer and coordinate [~~all~~] state [~~or~~] and federal economic development

3701 grant programs [~~which are, or become available, for economic development~~];

3702 (b) promote and encourage the economic, commercial, financial, industrial,

3703 agricultural, and civic welfare of the state;

3704 (c) act to create, develop, attract, and retain business, industry, and commerce in the

3705 state;

3706 (d) act to enhance the state's economy;

3707 [~~(d)~~] (e) administer [~~any other~~] programs over which the office is given administrative

3708 supervision by the governor;

3709 [~~(e)~~] (f) submit an annual written report as described in Section [~~63M-1-206~~]

3710 63N-1-301; and

3711 [~~(f)~~] (g) perform [~~any~~] other duties as provided by the Legislature.
3712 (4) In order to perform its duties under this title, the office may:
3713 (a) enter into a contract or agreement with, or make a grant to, a public or private
3714 entity, including a municipality, if the contract or agreement is not in violation of state statute
3715 or other applicable law;
3716 (b) except as provided in Subsection (4)(c), receive and expend funds from a public or
3717 private source for any lawful purpose that is in the state's best interest; and
3718 [~~(3) The office may~~] (c) solicit and accept [~~contributions~~] a contribution of money,
3719 services, [~~and~~] or facilities from [~~any other source,~~] a public or private donor, but may not use
3720 the [~~money~~] contribution for publicizing the exclusive interest of the donor.
3721 [~~(4)~~] (5) Money received under Subsection [~~(3)~~] (4)(c) shall be deposited in the
3722 General Fund as dedicated credits of the office.
3723 [~~(5) (a) The office is recognized as an issuing authority as defined in Subsection~~
3724 ~~63M-1-3002(7), entitled to issue bonds from the Small Issue Bond Account created in~~
3725 ~~Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap~~
3726 ~~authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the~~
3727 ~~code.~~]
3728 [~~(b) To promote and encourage the issuance of bonds from the Small Issue Bond~~
3729 ~~Account for manufacturing projects, the office may:~~]
3730 [~~(i) develop campaigns and materials that inform qualified small manufacturing~~
3731 ~~businesses about the existence of the program and the application process;~~]
3732 [~~(ii) assist small businesses in applying for and qualifying for these bonds; or~~]
3733 [~~(iii) develop strategies to lower the cost to small businesses of applying for and~~
3734 ~~qualifying for these bonds, including making arrangements with financial advisors,~~
3735 ~~underwriters, bond counsel, and other professionals involved in the issuance process to provide~~
3736 ~~their services at a reduced rate when the division can provide them with a high volume of~~
3737 ~~applicants or issues.~~]
3738 (6) (a) The office shall obtain the advice of the board before implementing a change to
3739 a policy, priority, or objective under which the office operates.
3740 (b) Subsection (6)(a) does not apply to the routine administration by the office of
3741 money or services related to the assistance, retention, or recruitment of business, industry, or

3742 commerce in the state.

3743 Section 58. Section **63N-1-202**, which is renumbered from Section 63M-1-202 is
3744 renumbered and amended to read:

3745 **[~~63M-1-202~~]. 63N-1-202. Executive director of office -- Appointment --**
3746 **Removal -- Compensation.**

3747 (1) The office shall be administered, [~~directed, controlled,~~] organized, and managed by
3748 [~~a~~] an executive director appointed by the governor.

3749 (2) The executive director serves at the pleasure of the governor.

3750 (3) The salary of the executive director shall be established by the governor within the
3751 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3752 Section 59. Section **63N-1-203**, which is renumbered from Section 63M-1-203 is
3753 renumbered and amended to read:

3754 **[~~63M-1-203~~]. 63N-1-203. Powers and duties of executive director.**

3755 (1) Unless otherwise expressly provided by statute, the executive director may organize
3756 the office in any appropriate manner, including the appointment of deputy directors of the
3757 office.

3758 (2) The executive director may consolidate personnel and service functions for
3759 efficiency and economy in the office.

3760 [~~(1)~~] (3) The executive director, with the approval of the governor[~~, may~~]:

3761 (a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal
3762 Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

3763 (b) may enter into a lawful [~~contracts or agreements with other states, any~~] contract or
3764 agreement with another state, a chamber of commerce organization, [~~any~~] a service club, [~~and a~~
3765 ~~private entity pursuant to Section 63M-1-2610~~] or a private entity; and

3766 (c) shall annually prepare and submit to the governor a budget of the office's financial
3767 requirements.

3768 [~~(2) If any~~] (4) With the governor's approval, if a federal program requires the
3769 expenditure of state funds as a condition [~~to participation by~~] for the state [~~in any~~] to participate
3770 in a fund, property, or service, [~~with the governor's approval, the director shall expend~~
3771 ~~whatever funds are necessary out of~~] the executive director may expend necessary funds from
3772 money provided by the Legislature for the use of the office.

3773 Section 60. Section **63N-1-204**, which is renumbered from Section 63M-1-205 is
3774 renumbered and amended to read:
3775 **[~~63M-1-205~~]. 63N-1-204. Executive director and the Public Service**
3776 **Commission.**
3777 (1) The executive director or the executive director's designee shall:
3778 (a) become generally informed of significant rate cases and policy proceedings before
3779 the Public Service Commission; and
3780 (b) monitor and study the potential economic development impact of these proceedings
3781 [~~before the Public Service Commission~~].
3782 (2) In the discretion of the executive director or the executive director's designee, the
3783 office may appear in [~~any~~] a proceeding before the Public Service Commission to testify,
3784 advise, or present argument regarding the economic development impact of [~~any~~] a matter that
3785 is the subject of the proceeding.
3786 Section 61. Section **63N-1-301**, which is renumbered from Section 63M-1-206 is
3787 renumbered and amended to read:
3788 **Part 3. GOED Annual Report**
3789 **[~~63M-1-206~~]. 63N-1-301. Annual report -- Content -- Format.**
3790 (1) The office shall prepare and submit to the governor and the Legislature, by October
3791 1 of each year, an annual written report of the operations, activities, programs, and services of
3792 the office, including the divisions, sections, boards, commissions, councils, and committees
3793 established under this [~~chapter~~] title, for the preceding fiscal year.
3794 (2) For each operation, activity, program, or service provided by the office, the annual
3795 report shall include:
3796 (a) a description of the operation, activity, program, or service;
3797 (b) data selected and used by the office to measure progress, performance, and scope of
3798 the operation, activity, program, or service, including summary data;
3799 (c) budget data, including the amount and source of funding, expenses, and allocation
3800 of full-time employees for the operation, activity, program, or service;
3801 (d) historical data from previous years for comparison with data reported under
3802 Subsections (2)(b) and (c);
3803 (e) goals, challenges, and achievements related to the operation, activity, program, or

3804 service;
3805 (f) relevant federal and state statutory references and requirements;
3806 (g) contact information of officials knowledgeable and responsible for each operation,
3807 activity, program, or service; and
3808 (h) other information determined by the office that:
3809 (i) may be needed, useful, or of historical significance; or
3810 (ii) promotes accountability and transparency for each operation, activity, program, or
3811 service with the public and elected officials.
3812 (3) The annual report shall be designed to provide clear, accurate, and accessible
3813 information to the public, the governor, and the Legislature.
3814 (4) The office shall:
3815 (a) submit the annual report in accordance with Section 68-3-14; and
3816 (b) make the annual report, and previous annual reports, accessible to the public by
3817 placing a link to the reports on the office's website.
3818 Section 62. Section **63N-1-401**, which is renumbered from Section 63M-1-302 is
3819 renumbered and amended to read:
3820 **Part 4. Board of Business and Economic Development**
3821 **[~~63M-1-302~~]. 63N-1-401. Board of Business and Economic Development --**
3822 **Membership -- Expenses.**
3823 (1) (a) [~~The board shall consist~~] There is created within the office the Board of
3824 Business and Economic Development, consisting of 15 members appointed by the governor to
3825 four-year terms of office with the consent of the Senate.
3826 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
3827 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
3828 board members are staggered so that approximately half of the board is appointed every two
3829 years.
3830 (c) The members may not serve more than two full consecutive terms except where the
3831 governor determines that an additional term is in the best interest of the state.
3832 (2) In appointing members of the committee, the governor shall ensure that:
3833 [~~(2) Not~~] (a) no more than eight members of the board [~~may be~~] are from one political
3834 party[~~.~~]; and

3835 [~~(3) The members shall be representative of all areas of the state.~~]
3836 (b) members represent a variety of geographic areas and economic interests of the state.
3837 [~~(4)~~] (3) When a vacancy occurs in the membership for any reason, the replacement
3838 shall be appointed for the unexpired term.
3839 [~~(5)~~] (4) Eight members of the board constitute a quorum for conducting board
3840 business and exercising board power.
3841 [~~(6)~~] (5) The governor shall select one [~~of the board members as its~~] board member as
3842 the board's chair.
3843 [~~(7)~~] (6) A member may not receive compensation or benefits for the member's service,
3844 but may receive per diem and travel expenses in accordance with:
3845 (a) Section 63A-3-106;
3846 (b) Section 63A-3-107; and
3847 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
3848 63A-3-107.
3849 Section 63. Section **63N-1-402**, which is renumbered from Section 63M-1-303 is
3850 renumbered and amended to read:
3851 **[~~63M-1-303~~]. 63N-1-402. Board duties and powers.**
3852 (1) The board shall advise and assist the office to:
3853 (a) promote and encourage the economic, commercial, financial, industrial,
3854 agricultural, and civic welfare of the state;
3855 [~~(b) do all lawful acts for the development, attraction, and retention of businesses,~~
3856 ~~industries, and commerce within the state;~~]
3857 [~~(c)~~] (b) promote and encourage the [~~expansion and retention~~] development, attraction,
3858 expansion, and retention of businesses, industries, and commerce [~~located~~] in the state;
3859 [~~(d)~~] (c) support the efforts of local government and regional nonprofit economic
3860 development organizations to encourage expansion or retention of businesses, industries, and
3861 commerce [~~located~~] in the state;
3862 [~~(e) do other acts not specifically enumerated in this chapter, if the acts are for the~~
3863 ~~betterment of the economy of the state;~~]
3864 (d) act to enhance the state's economy;
3865 [~~(f)~~] (e) work in conjunction with companies and individuals located or doing business

3866 [~~within~~] in the state to secure favorable rates, fares, tolls, charges, and classification for
3867 transportation of persons or property by:
3868 (i) railroad;
3869 (ii) motor carrier; or
3870 (iii) other common carriers;
3871 [~~(g)~~] (f) recommend policies, priorities, and objectives to the office regarding the
3872 assistance, retention, or recruitment of business, industries, and commerce in the state;
3873 [~~(h)~~] (g) recommend how [~~any money or program administered by the office or its~~
3874 ~~divisions~~] the office should administer programs for the assistance, retention, or recruitment of
3875 businesses, industries, and commerce in the state [~~shall be administered, so that the money or~~
3876 ~~program is equitably available~~];
3877 (h) help ensure that economic-development programs are available to all areas of the
3878 state [~~unless~~] in accordance with federal [~~or~~] and state law [~~requires or authorizes the~~
3879 ~~geographic location of a recipient of the money or program to be considered in the distribution~~
3880 ~~of the money or administration of the program~~]; and
3881 (i) maintain ethical and conflict of interest standards consistent with those imposed on
3882 a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
3883 (2) The board may:
3884 (a) in [~~furtherance of the authority granted under~~] accordance with Subsection
3885 (1)[~~(f)~~](e), appear as a party litigant on behalf of [~~individuals or companies~~] an individual or a
3886 company located or doing business [~~within~~] in the state in [~~proceedings~~] a proceeding before a
3887 regulatory [~~commissions~~] commission of the state, [~~other states~~] another state, or the federal
3888 government [~~having jurisdiction over such matters~~]; and
3889 (b) in consultation with the executive director, make, amend, or repeal rules for the
3890 conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3,
3891 Utah Administrative Rulemaking Act.
3892 Section 64. Section **63N-1-501**, which is renumbered from Section 63M-1-1303 is
3893 renumbered and amended to read:
3894 **Part 5. Governor's Economic Development Coordinating Council**
3895 **[~~63M-1-1303~~]. 63N-1-501. Governor's Economic Development**
3896 **Coordinating Council -- Membership -- Expenses.**

3897 (1) There is created in the office the Governor's Economic Development Coordinating
3898 Council, [~~hereafter referred to in this part as the "council",~~] consisting of the following 11
3899 members:
3900 (a) the executive director, who shall serve as chair of the council;
3901 (b) the chair of the board or the chair's designee;
3902 (c) the chair of the Utah Science Technology and Research Governing Authority
3903 created in Section 63M-2-301 or the chair's designee;
3904 (d) the chair of the [~~Utah Rural Development Council~~] Governor's Rural Partnership
3905 Board created in Section 63C-10-102 or the chair's designee;
3906 (e) the chair of the board of directors of the Utah Capital Investment Corporation
3907 created in Section 63N-6-301 or the chair's designee;
3908 (f) the chair of the Economic Development Corporation of Utah or its successor
3909 organization or the chair's designee;
3910 (g) the chair of the World Trade Center Utah or its successor organization or the chair's
3911 designee; and
3912 (h) four members appointed by the governor, with the [~~advice and~~] consent of the
3913 Senate, who have expertise in [~~the area of~~] business [~~or~~], economic development,
3914 entrepreneurship, or the raising of venture or seed capital for research and business growth.
3915 (2) (a) The four members appointed by the governor may serve for no more than two
3916 consecutive two-year terms.
3917 (b) The governor shall appoint a replacement if a vacancy occurs from the membership
3918 [~~described~~] appointed under Subsection (1)(h).
3919 (3) Six members of the council constitute a quorum for the purpose of conducting
3920 council business and the action of a majority of a quorum constitutes the action of the council.
3921 (4) A member may not receive compensation or benefits for the member's service on
3922 the council, but may receive per diem and travel expenses in accordance with:
3923 (a) Sections 63A-3-106 and 63A-3-107; and
3924 (b) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
3925 63A-3-107.
3926 (5) The office shall provide office space and administrative staff support for the
3927 council.

3928 (6) The council, as a governmental entity, has all the rights, privileges, and immunities
3929 of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open
3930 and Public Meetings Act.
3931 Section 65. Section **63N-1-502**, which is renumbered from Section 63M-1-1304 is
3932 renumbered and amended to read:
3933 **[~~63M-1-1304~~]. 63N-1-502. Council powers and duties.**
3934 (1) The council shall:
3935 (a) [~~coordinate and advise~~] make recommendations to the governor, the office, and the
3936 board on policies and objectives related to economic development and growth [~~within~~] in the
3937 state;
3938 (b) coordinate with state and private entities, including private venture capital and seed
3939 capital firms, to avoid duplication of programs and to increase the availability of venture and
3940 seed capital for research and for the development and growth of new and existing businesses in
3941 the state;
3942 (c) [~~focus on~~] give priority to technologies, industries, and geographical areas of the
3943 state in which the state can expand investment and entrepreneurship and stimulate job growth;
3944 (d) [~~coordinate~~] develop ideas and strategies to increase national and international
3945 business activities for both the urban and rural areas of the state; and
3946 (e) plan, coordinate, [~~advise,~~] or recommend [~~any other~~] action that would better the
3947 state's economy.
3948 (2) The council shall annually report its activities to the office for inclusion in the
3949 office's annual written report described in Section [~~63M-1-206~~] 63N-1-301.
3950 Section 66. Section **63N-2-101**, which is renumbered from Section 63M-1-2401 is
3951 renumbered and amended to read:
3952 **CHAPTER 2. TAX CREDIT INCENTIVES FOR ECONOMIC DEVELOPMENT**
3953 **Part 1. Economic Development Tax Increment Financing**
3954 **[~~63M-1-2401~~]. 63N-2-101. Title.**
3955 (1) This [~~part~~] chapter is known as [~~the~~] "Tax Credit Incentives for Economic
3956 Development [~~Incentives Act~~]."
3957 (2) This part is known as "Economic Development Tax Increment Financing."
3958 Section 67. Section **63N-2-102**, which is renumbered from Section 63M-1-2402 is

3959 renumbered and amended to read:
3960 **[~~63M-1-2402~~]. 63N-2-102. Purpose.**
3961 (1) The Legislature finds that:
3962 (a) to foster and develop industry in Utah is a public purpose necessary to assure
3963 adequate employment for, and the welfare of, Utah's citizens and the growth of the state's
3964 economy;
3965 (b) Utah loses prospective high paying jobs, new economic growth, and corresponding
3966 incremental new state and local revenues to competing states because of a wide variety of
3967 competing economic incentives offered by those states; and
3968 (c) economic development initiatives and interests of state and local economic
3969 development officials should be aligned and united in the creation of higher paying jobs that
3970 will lift the wage levels of the communities in which those jobs will be created.
3971 (2) This part is enacted to:
3972 (a) foster and develop industry in the state, to provide additional employment
3973 opportunities for Utah's citizens, and to improve the state's economy;
3974 [~~(a)~~] (b) address the loss of prospective high paying jobs, the loss of new economic
3975 growth, and the corresponding loss of incremental new state and local revenues [~~by providing~~]
3976 to competing states caused by economic incentives offered by those states;
3977 (c) provide tax credits to attract new commercial projects in economic development
3978 zones in the state; and
3979 [~~(b)~~] (d) provide a cooperative and unified working relationship between state and
3980 local economic development efforts.
3981 Section 68. Section **63N-2-103**, which is renumbered from Section 63M-1-2403 is
3982 renumbered and amended to read:
3983 **[~~63M-1-2403~~]. 63N-2-103. Definitions.**
3984 As used in this part:
3985 (1) "Business entity" means a person that enters into an agreement with the office to
3986 initiate a new commercial project in Utah that will qualify the person to receive a tax credit
3987 under Section 59-7-614.2 or 59-10-1107.
3988 (2) "Community development and renewal agency" [~~is~~] has the same meaning as
3989 defined in Section 17C-1-102.

3990 (3) "Development zone" means an economic development zone created under Section
3991 [~~63M-1-2404~~] 63N-2-104.
3992 (4) "High paying jobs" means:
3993 (a) with respect to a business entity, the annual wages of employment positions in a
3994 business entity that compare favorably against the average wage of a community in which the
3995 employment positions will exist;
3996 (b) with respect to a county, the annual wages of employment positions in a new
3997 commercial project within the county that compare favorably against the average wage of the
3998 county in which the employment positions will exist; or
3999 (c) with respect to a city or town, the annual wages of employment positions in a new
4000 commercial project within the city or town that compare favorably against the average wages of
4001 the city or town in which the employment positions will exist.
4002 (5) "Local government entity" means a county, city, or town that enters into an
4003 agreement with the office to have a new commercial project that:
4004 (a) is initiated within the county's, city's, or town's boundaries; and
4005 (b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.
4006 (6) (a) "New commercial project" means an economic development opportunity that
4007 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.
4008 (b) "New commercial project" does not include retail business.
4009 (7) "New incremental jobs" means employment positions that are:
4010 [~~(a) not shifted from one jurisdiction in the state to another jurisdiction in the state;~~
4011 ~~and~~]
4012 [~~(b)~~] (a) (i) with respect to a business entity, created in addition to the baseline count of
4013 employment positions that existed within the business entity before the new commercial
4014 project;
4015 (ii) with respect to a county, created as a result of a new commercial project with
4016 respect to which the county or a community development and renewal agency seeks to claim a
4017 tax credit under Section 59-7-614.2; or
4018 (iii) with respect to a city or town, created as a result of a new commercial project with
4019 respect to which the city, town, or a community development and renewal agency seeks to
4020 claim a tax credit under Section 59-7-614.2.

4021 (b) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
4022 in the state to another jurisdiction in the state.
4023 (8) "New state revenues" means:
4024 (a) with respect to a business entity:
4025 (i) incremental new state sales and use tax revenues that a business entity pays under
4026 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
4027 development zone;
4028 (ii) incremental new state tax revenues[~~, if any,~~] that a business entity pays as a result
4029 of a new commercial project in a development zone under:
4030 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
4031 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
4032 Information;
4033 (C) Title 59, Chapter 10, Part 2, Trusts and Estates; and
4034 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; [~~or~~] and
4035 (E) a combination of Subsections (8)(a)(ii)(A) through (D);
4036 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
4037 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
4038 employees of a new or expanded industrial, manufacturing, distribution, or business service
4039 within a new commercial project as evidenced by payroll records that indicate the amount of
4040 employee income taxes withheld and transmitted to the State Tax Commission by the new or
4041 expanded industrial, manufacturing, distribution, or business service within the new
4042 commercial project; or
4043 (iv) a combination of Subsections (8)(a)(i) through (iii); or
4044 (b) with respect to a local government entity:
4045 (i) incremental new state sales and use tax revenues that are collected under Title 59,
4046 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development
4047 zone;
4048 (ii) incremental new state tax revenues[~~, if any,~~] that are collected as a result of a new
4049 commercial project in a development zone under:
4050 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
4051 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and

4052 Information;
4053 (C) Title 59, Chapter 10, Part 2, Trusts and Estates; and
4054 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; [~~or~~] and
4055 (E) a combination of Subsections (8)(b)(ii)(A) through (D);
4056 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,
4057 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by
4058 employees of a new or expanded industrial, manufacturing, distribution, or business service
4059 within a new commercial project as evidenced by payroll records that indicate the amount of
4060 employee income taxes withheld and transmitted to the State Tax Commission by the new or
4061 expanded industrial, manufacturing, distribution, or business service within the new
4062 commercial project; or
4063 (iv) a combination of Subsections (8)(b)(i) through (iii).
4064 [~~(9) "Office" means the Governor's Office of Economic Development.~~]
4065 [~~(10)~~] (9) "Significant capital investment" means an amount of at least $10,000,000 to
4066 purchase a capital asset or a fixed asset:
4067 (a) with the primary purpose of the investment to increase a business entity's rate at
4068 which it produces goods based on output per unit of labor;
4069 (b) that represents an expansion of existing [~~Utah~~] operations in the state; and
4070 (c) that maintains or increases the business entity's existing [~~Utah~~] work force in the
4071 state.
4072 [~~(11)~~] (10) "Tax credit" means an economic development tax credit created by Section
4073 59-7-614.2 or 59-10-1107.
4074 [~~(12)~~] (11) "Tax credit amount" means the amount the office lists as a tax credit on a
4075 tax credit certificate for a taxable year.
4076 [~~(13)~~] (12) "Tax credit certificate" means a certificate issued by the office that:
4077 (a) lists the name of the business entity, local government entity, or community
4078 development and renewal agency to which the office authorizes a tax credit;
4079 (b) lists the business entity's, local government entity's, or community development and
4080 renewal agency's taxpayer identification number;
4081 (c) lists the amount of tax credit that the office authorizes the business entity, local
4082 government entity, or community development and renewal agency for the taxable year; and

4083 (d) may include other information as determined by the office.
4084 Section 69. Section **63N-2-104**, which is renumbered from Section 63M-1-2404 is
4085 renumbered and amended to read:
4086 **[~~63M-1-2404~~]. 63N-2-104. Creation of economic development zones -- Tax**
4087 **credits -- Assignment of tax credit.**
4088 (1) The office, with advice from the board, may create an economic development zone
4089 in the state [~~that satisfies all of~~] if the following requirements are satisfied:
4090 (a) the area is zoned commercial, industrial, manufacturing, business park, research
4091 park, or other appropriate use in a community-approved master plan;
4092 (b) the request to create a development zone has [~~been forwarded to the office after~~]
4093 first [~~being~~] been approved by an appropriate local government entity; and
4094 (c) local incentives have been [~~committed~~] or will be committed to be provided within
4095 the area.
4096 (2) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah
4097 Administrative Rulemaking Act, the office shall make rules establishing the [~~conditions that~~]
4098 requirements for a business entity or local government entity [~~shall meet~~] to qualify for a tax
4099 credit for a new commercial project in a development zone under this part.
4100 (b) The office shall ensure that the [~~conditions~~] requirements described in Subsection
4101 (2)(a) include the following [~~requirements~~]:
4102 (i) the new commercial project [~~must be~~] is within the development zone;
4103 (ii) the new commercial project includes direct investment within the geographic
4104 boundaries of the development zone;
4105 (iii) the new commercial project brings new incremental jobs to Utah;
4106 (iv) the new commercial project includes significant capital investment, the creation of
4107 high paying jobs, [~~or~~] significant purchases from Utah vendors and providers, or [~~any~~] a
4108 combination of these [~~three~~] economic factors;
4109 (v) the new commercial project generates new state revenues; and
4110 (vi) [~~(A)~~] a business entity [~~or~~], a local government entity [~~qualifying for the tax~~
4111 ~~credit~~], or a community development and renewal agency to which a local government entity
4112 assigns a tax credit under this section, meets the requirements of Section [~~63M-1-2405; or~~]
4113 63N-2-105.

4114 [~~(B) a community development and renewal agency to which a local government entity~~
4115 ~~assigns a tax credit under this section meets the requirements of Section 63M-1-2405.~~]
4116 (3) (a) [~~Subject to the other provisions of this Subsection (3), the office, with advice~~
4117 ~~from~~] The office, after consultation with the board, may enter into [~~an~~] a written agreement
4118 with a business entity or local government entity authorizing a tax credit to the business entity
4119 or local government entity if the business entity or local government entity meets the [~~standards~~
4120 ~~established under Subsection (2)~~] requirements described in this section.
4121 (b) (i) With respect to [~~one~~] a new commercial project, the office may authorize a tax
4122 credit to a business entity or a local government entity, but not both.
4123 (ii) In determining whether to authorize a tax credit with respect to [~~one~~] a new
4124 commercial project to a business entity or a local government entity, the office shall authorize
4125 the tax credit in a manner that the office determines will result in providing the most effective
4126 incentive for the new commercial project.
4127 (c) (i) [~~The~~] Except as provided in Subsection (3)(c)(ii), the office may not authorize or
4128 commit to authorize a tax credit [~~if that tax credit~~] that exceeds:
4129 (A) 50% of the new state revenues from the new commercial project in any given year;
4130 or
4131 (B) 30% of the new state revenues from the new commercial project over the lesser of
4132 the life of a new commercial project or 20 years[~~, whichever is less~~].
4133 (ii) [~~Notwithstanding Subsection (3)(c)(i), the~~] The office may authorize or commit to
4134 authorize a tax credit not exceeding 60% of new state revenues from the new commercial
4135 project in any given year, if the eligible business entity:
4136 (A) creates a significant number of high paying jobs; and
4137 (B) makes capital expenditures in the state of at least $1,000,000,000.
4138 (d) (i) A local government entity may by resolution assign a tax credit that the office
4139 authorizes to the local government entity to a community development and renewal agency.
4140 (ii) The local government entity shall provide a copy of the resolution described in
4141 Subsection (3)(d)(i) to the office.
4142 (iii) If a local government entity assigns a tax credit to a community development and
4143 renewal agency[~~: (A)~~] the written agreement described in [~~this section~~] Subsection (3)(a) shall:
4144 [~~(I)~~] (A) be among the office, the local government entity, and the community

4145 development and renewal agency; [~~and~~]
4146 [~~(II)~~] (B) establish[~~: (Aa)~~] the obligations of the local government entity and the
4147 community development and renewal agency; and
4148 [~~(Bb)~~] (C) establish the extent to which any of the local government entity's obligations
4149 are transferred to the community development and renewal agency[~~;~~].
4150 (iv) If a local government entity assigns a tax credit to a community development and
4151 renewal agency:
4152 [~~(B)~~] (A) the community development and renewal agency shall retain records as
4153 described in Subsection (4)(d); and
4154 [~~(C)~~] (B) a tax credit certificate issued in accordance with Section [~~63M-1-2406~~]
4155 63N-2-106 shall list the community development and renewal agency as the name of the
4156 applicant.
4157 (4) [~~Subject to Subsection (3), the~~] The office shall ensure that the written agreement
4158 described in Subsection (3):
4159 (a) [~~details~~] specifies the requirements that the business entity or local government
4160 entity shall meet to qualify for a tax credit under this part;
4161 (b) specifies the maximum amount of tax credit that the business entity or local
4162 government entity may be authorized for a taxable year and over the life of the new commercial
4163 project;
4164 (c) establishes the length of time the business entity or local government entity may
4165 claim a tax credit;
4166 (d) requires the business entity or local government entity to retain records supporting a
4167 claim for a tax credit for at least four years after the business entity or local government entity
4168 claims a tax credit under this part; and
4169 (e) requires the business entity or local government entity to submit to audits for
4170 verification of the tax credit claimed.
4171 Section 70. Section **63N-2-105**, which is renumbered from Section 63M-1-2405 is
4172 renumbered and amended to read:
4173 **[~~63M-1-2405~~]. 63N-2-105. Qualifications for tax credit -- Procedure.**
4174 (1) The office shall certify a business entity's or local government entity's eligibility for
4175 a tax credit as provided in this [~~section~~] part.

4176 (2) A business entity or local government entity seeking to receive a tax credit as
4177 provided in this part shall provide the office with:
4178 (a) an application for a tax credit certificate, including a certification, by an officer of
4179 the business entity, of any signature on the application;
4180 (b) (i) for a business entity, documentation of the new state revenues from the business
4181 entity's new commercial project that were paid during the preceding calendar year; or
4182 (ii) for a local government entity, documentation of the new state revenues from the
4183 new commercial project within the area of the local government entity that were paid during
4184 the preceding calendar year;
4185 (c) known or expected detriments to the state or existing businesses in the state;
4186 (d) if a local government entity seeks to assign the tax credit to a community
4187 development and renewal agency [~~in accordance with~~] as described in Section [~~63M-1-2404~~]
4188 63N-2-104, a statement providing the name and taxpayer identification number of the
4189 community development and renewal agency to which the local government entity seeks to
4190 assign the tax credit;
4191 (e) (i) with respect to a business entity, a document that expressly directs and
4192 authorizes the State Tax Commission to disclose to the office the business entity's returns and
4193 other information that would otherwise be subject to confidentiality under Section 59-1-403 or
4194 Section 6103, Internal Revenue Code[~~, to the office~~];
4195 (ii) with respect to a local government entity that seeks to claim the tax credit:
4196 (A) a document that expressly directs and authorizes the State Tax Commission to
4197 disclose to the office the local government entity's returns and other information that would
4198 otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal
4199 Revenue Code[~~, to the office~~]; and
4200 (B) if the new state revenues collected as a result of a new commercial project are
4201 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4202 business service within a new commercial project within the area of the local government
4203 entity, a document signed by an authorized representative of the new or expanded industrial,
4204 manufacturing, distribution, or business service that:
4205 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4206 the returns of [~~that~~] the new or expanded industrial, manufacturing, distribution, or business

4207 service and other information that would otherwise be subject to confidentiality under Section
4208 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and
4209 (II) lists the taxpayer identification number of [~~that~~] the new or expanded industrial,
4210 manufacturing, distribution, or business service; or
4211 (iii) with respect to a local government entity that seeks to assign the tax credit to a
4212 community development and renewal agency:
4213 (A) a document signed by the members of the governing body of the community
4214 development and renewal agency that expressly directs and authorizes the State Tax
4215 Commission to disclose to the office the returns of the community development and renewal
4216 agency and other information that would otherwise be subject to confidentiality under Section
4217 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and
4218 (B) if the new state revenues collected as a result of a new commercial project are
4219 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4220 business service within a new commercial project within the community development and
4221 renewal agency, a document signed by an authorized representative of the new or expanded
4222 industrial, manufacturing, distribution, or business service that:
4223 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4224 the returns of [~~that~~] the new or expanded industrial, manufacturing, distribution, or business
4225 service and other information that would otherwise be subject to confidentiality under Section
4226 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and
4227 (II) lists the taxpayer identification number of [~~that~~] the new or expanded industrial,
4228 manufacturing, distribution, or business service; and
4229 (f) for a business entity only, documentation that the business entity has satisfied the
4230 performance benchmarks outlined in the written agreement described in Subsection
4231 [~~63M-1-2404(3)(a)~~] 63N-2-104(3), including:
4232 (i) significant capital investment;
4233 (ii) the creation of high paying jobs;
4234 (iii) significant purchases from Utah vendors and providers; or
4235 (iv) [~~any combination of Subsections (2)(f)(i), (ii), and (iii)~~] a combination of these
4236 benchmarks.
4237 (3) (a) The office shall submit the documents described in Subsection (2)(e) to the

4238 State Tax Commission.
4239 (b) Upon receipt of a document described in Subsection (2)(e), the State Tax
4240 Commission shall provide the office with the returns and other information requested by the
4241 office that the State Tax Commission is directed or authorized to provide to the office in
4242 accordance with Subsection (2)(e).
4243 (4) If, after review of the returns and other information provided by the State Tax
4244 Commission, or after review of the ongoing performance of the business entity or local
4245 government entity, the office determines that the returns and other information are inadequate
4246 to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:
4247 (a) (i) deny the tax credit; or
4248 (ii) terminate the agreement described in Subsection [~~63M-1-2404(3)(a)~~] 63N-2-104(3)
4249 for failure to meet the performance standards established in the agreement; or
4250 (b) inform the business entity or local government entity that the returns or other
4251 information were inadequate and ask the business entity or local government entity to submit
4252 new documentation.
4253 (5) If after review of the returns and other information provided by the State Tax
4254 Commission, the office determines that the returns and other information provided by the
4255 business entity or local government entity provide reasonable justification for authorizing a tax
4256 credit, the office shall, based upon the returns and other information:
4257 (a) determine the amount of the tax credit to be granted to the business entity, local
4258 government entity, or if the local government entity assigns the tax credit [~~in accordance with~~]
4259 as described in Section [~~63M-1-2404~~] 63N-2-104, to the community development and renewal
4260 agency to which the local government entity assigns the tax credit;
4261 (b) issue a tax credit certificate to the business entity, local government entity, or if the
4262 local government entity assigns the tax credit [~~in accordance with~~] as described in Section
4263 [~~63M-1-2404~~] 63N-2-104, to the community development and renewal agency to which the
4264 local government entity assigns the tax credit; and
4265 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
4266 (6) A business entity, local government entity, or community development and renewal
4267 agency may not claim a tax credit unless the business entity, local government entity, or
4268 community development and renewal agency has a tax credit certificate issued by the office.

4269 (7) (a) A business entity, local government entity, or community development and
4270 renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its
4271 tax return.
4272 (b) A business entity, local government entity, or community development and renewal
4273 agency that claims a tax credit under this section shall retain the tax credit certificate in
4274 accordance with Section 59-7-614.2 or 59-10-1107.
4275 Section 71. Section **63N-2-106**, which is renumbered from Section 63M-1-2406 is
4276 renumbered and amended to read:
4277 **[~~63M-1-2406~~]. 63N-2-106. Reports -- Posting monthly and annual reports --**
4278 **Audit and study of tax credits.**
4279 (1) The office shall include the following information in the annual written report
4280 described in Section [~~63M-1-206~~] 63N-1-301:
4281 (a) the office's success in attracting new commercial projects to development zones
4282 under this part and the corresponding increase in new incremental jobs;
4283 (b) the estimated amount of tax credit commitments made by the office and the period
4284 of time over which tax credits will be paid;
4285 (c) the economic impact on the state [~~related to generating~~] from new state revenues
4286 and [~~providing~~] the provision of tax credits under this part;
4287 (d) the estimated costs and economic benefits of the tax credit commitments [~~that~~]
4288 made by the office [~~made~~];
4289 (e) the actual costs and economic benefits of the tax credit commitments [~~that~~] made
4290 by the office [~~made~~]; and
4291 (f) tax credit commitments [~~that~~] made by the office [~~made~~], with the associated
4292 calculation.
4293 (2) [~~The~~] Each month, the office shall [~~monthly~~] post on its website and on a state
4294 website:
4295 (a) the new tax credit commitments [~~that~~] made by the office [~~made~~] during the
4296 previous month; and
4297 (b) the estimated costs and economic benefits of those tax credit commitments.
4298 (3) (a) On or before November 1, 2014, and every five years after November 1, 2014,
4299 the office shall:

4300 (i) conduct an audit of the tax credits allowed under Section [~~63M-1-2405~~] 63N-2-105;
4301 (ii) study the tax credits allowed under Section [~~63M-1-2405~~] 63N-2-105; and
4302 (iii) make recommendations concerning whether the tax credits should be continued,
4303 modified, or repealed.
4304 (b) [~~An~~] The audit [~~under Subsection (3)(a)(i)~~] shall include an evaluation of:
4305 (i) the cost of the tax credits;
4306 (ii) the purposes and effectiveness of the tax credits; and
4307 (iii) the extent to which the state benefits from the tax credits.
4308 Section 72. Section **63N-2-107**, which is renumbered from Section 63M-1-2407 is
4309 renumbered and amended to read:
4310 **[~~63M-1-2407~~]. 63N-2-107. Reports of new state revenues, partial rebates,**
4311 **and tax credits.**
4312 (1) Before December 1 of each year, the office shall submit a report to the Governor's
4313 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
4314 of Finance identifying:
4315 (a) (i) the total estimated amount of new state revenues created from new commercial
4316 projects in [~~the~~] development zones; and
4317 (ii) the estimated amount of new state revenues from new commercial projects in [~~the~~]
4318 development zones that will be generated from:
4319 (A) sales tax;
4320 (B) income tax; and
4321 (C) corporate franchise and income tax; and
4322 [~~(b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408~~
4323 ~~that the office projects will be required to be paid in the next fiscal year; and~~]
4324 [~~(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are~~
4325 ~~attributable to:~~]
4326 [~~(A) sales tax;~~]
4327 [~~(B) income tax; and~~]
4328 [~~(C) corporate franchise and income tax; and~~]
4329 [~~(c)~~] (b) the total estimated amount of tax credits that the office projects that business
4330 entities, local government entities, or community development and renewal agencies will

4331 qualify to claim under this part.
4332 (2) By the first business day of each month, the office shall submit a report to the
4333 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
4334 Division of Finance identifying:
4335 (a) each new agreement entered into by the office since the last report;
4336 (b) the estimated amount of new state revenues that will be generated under each
4337 agreement; and
4338 (c) the estimated maximum amount of tax credits that a business entity, local
4339 government entity, or community development and renewal agency could qualify for under
4340 each agreement.
4341 Section 73. Section **63N-2-108**, which is renumbered from Section 63M-1-2409 is
4342 renumbered and amended to read:
4343 **[~~63M-1-2409~~]. 63N-2-108. Expenditure of amounts received by a local**
4344 **government entity or community development and renewal agency as a tax credit --**
4345 **Commingling of tax credit amounts with certain other amounts.**
4346 (1) Subject to Subsections (2) and (3), a local government entity or community
4347 development and renewal agency may expend amounts the local government entity or
4348 community development and renewal agency receives as a tax credit under Section 59-7-614.2:
4349 (a) for infrastructure, including real property or personal property, if that infrastructure
4350 is related to the new commercial project with respect to which the local government entity or
4351 community development and renewal agency claims the tax credit under Section 59-7-614.2; or
4352 (b) for another economic development purpose related to the new commercial project
4353 with respect to which the local government entity or community development and renewal
4354 agency claims the tax credit under Section 59-7-614.2.
4355 (2) A local government entity may:
4356 (a) commingle amounts the local government entity receives as a tax credit under
4357 Section 59-7-614.2 with amounts the local government entity receives under Title [~~63M~~] 63N,
4358 Chapter [~~1~~] 3, Part [~~9~~] 1, Industrial Assistance [~~Fund~~] Account; and
4359 (b) expend the commingled amounts described in Subsection (2)(a) for a purpose
4360 described in Title [~~63M~~] 63N, Chapter [~~1~~] 3, Part [~~9~~] 1, Industrial Assistance [~~Fund~~] Account,
4361 if that purpose is related to the new commercial project with respect to which the local

4362 government entity claims the tax credit under Section 59-7-614.2.
4363 (3) A community development and renewal agency may:
4364 (a) commingle amounts the community development and renewal agency receives as a
4365 tax credit under Section 59-7-614.2 with amounts the community development and renewal
4366 agency receives under Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax; and
4367 (b) expend the commingled amounts described in Subsection (3)(a) for a purpose
4368 described in Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax, if that purpose is
4369 related to the new commercial project with respect to which the community development and
4370 renewal agency claims the tax credit under Section 59-7-614.2.
4371 Section 74. Section **63N-2-201**, which is renumbered from Section 63M-1-401 is
4372 renumbered and amended to read:
4373 **Part 2. Enterprise Zone Act**
4374 **[~~63M-1-401~~]. 63N-2-201. Title.**
4375 This part is known as the "Enterprise Zone Act."
4376 Section 75. Section **63N-2-202**, which is renumbered from Section 63M-1-402 is
4377 renumbered and amended to read:
4378 **[~~63M-1-402~~]. 63N-2-202. Definitions.**
4379 As used in this part:
4380 (1) "Business entity" means an entity, sole proprietorship, or individual:
4381 (a) including a claimant, estate, or trust; and
4382 (b) under which or by whom business is conducted or transacted.
4383 (2) "Claimant" means a resident or nonresident person that has:
4384 (a) Utah taxable income as defined in Section 59-7-101; or
4385 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and
4386 Reporting of Tax Liability and Information.
4387 (3) "County applicant" means the governing authority of a county that meets the
4388 requirements for designation as an enterprise zone under Section [~~63M-1-404~~] 63N-2-204.
4389 (4) "Estate" means a nonresident estate or a resident estate that has state taxable
4390 income under Title 59, Chapter 10, Part 2, Trusts and Estates.
4391 (5) "Municipal applicant" means the governing authority of a city or town that meets
4392 the requirements for designation as an enterprise zone under Section [~~63M-1-404~~] 63N-2-204.

4393 (6) "New full-time employee position" means a position that has been newly created
4394 and then filled by an employee working at least 30 hours per week:
4395 (a) for a period of not less than six consecutive months; and
4396 (b) where the period ends in the tax year for which the credit is claimed.
4397 (7) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity
4398 may:
4399 (a) claim:
4400 (i) as provided by statute; and
4401 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
4402 year under:
4403 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
4404 (B) Title 59, Chapter 10, Individual Income Tax Act; and
4405 (b) carry forward or carry back:
4406 (i) if allowed by statute; and
4407 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
4408 liability for a taxable year under:
4409 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
4410 (B) Title 59, Chapter 10, Individual Income Tax Act.
4411 (8) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in
4412 Section [~~63M-1-413~~] 63N-2-213.
4413 (9) "Trust" means a nonresident trust or a resident trust that has state taxable income
4414 under Title 59, Chapter 10, Part 2, Trusts and Estates.
4415 Section 76. Section **63N-2-203**, which is renumbered from Section 63M-1-403 is
4416 renumbered and amended to read:
4417 **[~~63M-1-403~~]. 63N-2-203. Powers of the office.**
4418 The office shall:
4419 (1) monitor the implementation and operation of this part and conduct a continuing
4420 evaluation of the progress made in the enterprise zones;
4421 (2) evaluate an application for designation as an enterprise zone from a county
4422 applicant or a municipal applicant and determine if the applicant qualifies for that designation;
4423 (3) provide technical assistance to county applicants and municipal applicants in

4424 developing applications for designation as enterprise zones;
4425 (4) assist county applicants and municipal applicants designated as enterprise zones in
4426 obtaining assistance from the federal government and agencies of the state;
4427 (5) assist a qualified business entity in obtaining the benefits of an incentive or
4428 inducement program authorized by this part; and
4429 (6) as part of the annual written report described in Section [~~63M-1-206~~] 63N-2-301,
4430 prepare an annual evaluation based, in part, on data provided by the State Tax Commission that
4431 evaluates the effectiveness of the program and any suggestions for legislation.
4432 Section 77. Section **63N-2-204**, which is renumbered from Section 63M-1-404 is
4433 renumbered and amended to read:
4434 **[~~63M-1-404~~]. 63N-2-204. Criteria for designation of enterprise zones --**
4435 **Application.**
4436 (1) A county applicant seeking designation as an enterprise zone shall file an
4437 application with the office that, in addition to complying with the other requirements of this
4438 part:
4439 (a) verifies that the county has a population of not more than 50,000; and
4440 (b) provides clear evidence of the need for development in the county.
4441 (2) A municipal applicant seeking designation as an enterprise zone shall file an
4442 application with the office that, in addition to complying with other requirements of this part:
4443 (a) verifies that the municipality has a population that does not exceed 15,000;
4444 (b) verifies that the municipality is within a county that has a population of not more
4445 than 50,000; and
4446 (c) provides clear evidence of the need for development in the municipality.
4447 (3) An application filed under Subsection (1) or (2) shall be in a form and in
4448 accordance with procedures approved by the office, and shall include the following
4449 information:
4450 (a) a plan developed by the county applicant or municipal applicant that identifies local
4451 contributions meeting the requirements of Section [~~63M-1-405~~] 63N-2-205;
4452 (b) the county applicant or municipal applicant has a development plan that outlines:
4453 (i) the types of investment and development within the zone that the county applicant
4454 or municipal applicant expects to take place if the incentives specified in this part are provided;

4455 (ii) the specific investment or development reasonably expected to take place;
4456 (iii) any commitments obtained from businesses;
4457 (iv) the projected number of jobs that will be created and the anticipated wage level of
4458 those jobs;
4459 (v) any proposed emphasis on the type of jobs created, including any affirmative action
4460 plans; and
4461 (vi) a copy of the county applicant's or municipal applicant's economic development
4462 plan to demonstrate coordination between the zone and overall county or municipal goals;
4463 (c) the county applicant's or municipal applicant's proposed means of assessing the
4464 effectiveness of the development plan or other programs within the zone once they have been
4465 implemented within the zone;
4466 (d) any additional information required by the office; and
4467 (e) any additional information the county applicant or municipal applicant considers
4468 relevant to its designation as an enterprise zone.
4469 Section 78. Section **63N-2-205**, which is renumbered from Section 63M-1-405 is
4470 renumbered and amended to read:
4471 **[~~63M-1-405~~]. 63N-2-205. Qualifying local contributions.**
4472 (1) An area may be designated as an enterprise zone only if the county applicant or
4473 municipal applicant agrees to make a qualifying local contribution.
4474 (2) The qualifying local contribution may vary depending on available resources, and
4475 may include such elements as:
4476 (a) simplified procedures for obtaining permits;
4477 (b) dedication of available government grants;
4478 (c) dedication of training funds;
4479 (d) waiver of business license fees;
4480 (e) infrastructure improvements;
4481 (f) private contributions;
4482 (g) utility rate concessions;
4483 (h) small business incubator programs; or
4484 (i) management assistance programs.
4485 Section 79. Section **63N-2-206**, which is renumbered from Section 63M-1-406 is

4486 renumbered and amended to read:

4487 **[~~63M-1-406~~]. 63N-2-206. Eligibility review.**

4488 (1) The office shall:

4489 (a) review and evaluate the applications submitted under Section [~~63M-1-404~~]

4490 63N-2-204; and

4491 (b) determine whether each county applicant or municipal applicant is eligible for

4492 designation as an enterprise zone.

4493 (2) (a) The office shall designate enterprise zones.

4494 (b) The office shall consider and evaluate an application using the following criteria:

4495 (i) the pervasiveness of poverty, unemployment, and general distress in the proposed

4496 zone;

4497 (ii) the extent of chronic abandonment, deterioration, or reduction in value of

4498 commercial, industrial, or residential structures in the proposed zone, and the extent of property

4499 tax arrearages in the proposed zone;

4500 (iii) the potential for new investment and economic development in the proposed zone;

4501 (iv) the county applicant's or municipal applicant's proposed use of other state and

4502 federal development funds or programs to increase the probability of new investment and

4503 development occurring;

4504 (v) the extent to which the projected development in the zone will provide employment

4505 to residents of the county and particularly individuals who are unemployed or who are

4506 economically disadvantaged;

4507 (vi) the degree to which the county applicant's or municipal applicant's application

4508 promotes innovative solutions to economic development problems and demonstrates local

4509 initiative; and

4510 (vii) other relevant factors that the office specifies in its recommendation.

4511 Section 80. Section **63N-2-207**, which is renumbered from Section 63M-1-407 is

4512 renumbered and amended to read:

4513 **[~~63M-1-407~~]. 63N-2-207. Quarterly consideration.**

4514 The office shall consider designating enterprise zones quarterly.

4515 Section 81. Section **63N-2-208**, which is renumbered from Section 63M-1-408 is

4516 renumbered and amended to read:

4517 **[~~63M-1-408~~]. 63N-2-208. Duration of designation.**
4518 Each enterprise zone has a duration of five years, at the end of which the county may
4519 reapply for the designation.
4520 Section 82. Section **63N-2-209**, which is renumbered from Section 63M-1-409 is
4521 renumbered and amended to read:
4522 **[~~63M-1-409~~]. 63N-2-209. Contingent designations.**
4523 (1) The office may accept applications for, and may at any time grant, a contingent
4524 designation of any county as an enterprise zone for purposes of seeking a designation of the
4525 county as a federally designated zone.
4526 (2) This designation does not entitle a business operating in that county to the tax
4527 incentives under this part.
4528 Section 83. Section **63N-2-210**, which is renumbered from Section 63M-1-410 is
4529 renumbered and amended to read:
4530 **[~~63M-1-410~~]. 63N-2-210. Revocation of designations.**
4531 (1) The office may revoke the designation of an enterprise zone, if no businesses utilize
4532 the tax incentives during any calendar year.
4533 (2) Prior to that action, the office shall conduct a public hearing to determine reasons
4534 for inactivity and explore possible alternative actions.
4535 Section 84. Section **63N-2-211**, which is renumbered from Section 63M-1-411 is
4536 renumbered and amended to read:
4537 **[~~63M-1-411~~]. 63N-2-211. Disqualifying transfers.**
4538 Except in counties of the first or second class, tax incentives provided by this part are
4539 not available to companies that close or permanently curtail operations in another part of the
4540 state in connection with a transfer of any part of its business operations to an enterprise zone, if
4541 the closure or permanent curtailment is reasonably expected to diminish employment in that
4542 part of the state.
4543 Section 85. Section **63N-2-212**, which is renumbered from Section 63M-1-412 is
4544 renumbered and amended to read:
4545 **[~~63M-1-412~~]. 63N-2-212. Business entities qualifying for tax incentives.**
4546 (1) Except as otherwise provided in Subsection (2), the tax incentives described in this

4547 part are available only to a business entity for which at least 51% of the employees employed at
4548 facilities of the business entity located in the enterprise zone are individuals who, at the time of
4549 employment, reside in:
4550 (a) the county in which the enterprise zone is located; or
4551 (b) an enterprise zone that is immediately adjacent and contiguous to the county in
4552 which the enterprise zone is located.
4553 (2) Subsection (1) does not apply to a business entity that has no employees.
4554 Section 86. Section **63N-2-213**, which is renumbered from Section 63M-1-413 is
4555 renumbered and amended to read:
4556 **[~~63M-1-413~~]. 63N-2-213. State tax credits.**
4557 (1) Subject to the limitations of Subsections (2) through (4), the following
4558 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
4559 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
4560 enterprise zone:
4561 (a) a tax credit of $750 may be claimed by a business entity for each new full-time
4562 employee position created within the enterprise zone;
4563 (b) an additional $500 tax credit may be claimed if the new full-time employee position
4564 created within the enterprise zone pays at least 125% of:
4565 (i) the county average monthly nonagricultural payroll wage for the respective industry
4566 as determined by the Department of Workforce Services; or
4567 (ii) if the county average monthly nonagricultural payroll wage is not available for the
4568 respective industry, the total average monthly nonagricultural payroll wage in the respective
4569 county where the enterprise zone is located;
4570 (c) an additional tax credit of $750 may be claimed if the new full-time employee
4571 position created within the enterprise zone is in a business entity that adds value to agricultural
4572 commodities through manufacturing or processing;
4573 (d) an additional tax credit of $200 may be claimed for two consecutive years for each
4574 new full-time employee position created within the enterprise zone that is filled by an
4575 employee who is insured under an employer-sponsored health insurance program if the
4576 employer pays at least 50% of the premium cost for the year for which the credit is claimed;
4577 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit

4578 corporation, except that the credit claimed may not exceed $100,000:
4579 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
4580 Revenue Code;
4581 (ii) whose primary purpose is community and economic development; and
4582 (iii) that has been accredited by the Governor's Rural Partnership Board;
4583 (f) a tax credit of 25% of the first $200,000 spent on rehabilitating a building in the
4584 enterprise zone that has been vacant for two years or more; and
4585 (g) an annual investment tax credit of 10% of the first $250,000 in investment, and 5%
4586 of the next $1,000,000 qualifying investment in plant, equipment, or other depreciable
4587 property.
4588 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax
4589 credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time
4590 employee positions per taxable year.
4591 (b) A business entity that received a tax credit for one or more new full-time employee
4592 positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for
4593 a new full-time employee position in a subsequent taxable year under Subsections (1)(a)
4594 through (d) if:
4595 (i) the business entity has created a new full-time position within the enterprise zone;
4596 and
4597 (ii) the total number of full-time employee positions at the business entity at any point
4598 during the tax year for which the tax credit is being claimed is greater than the number of
4599 full-time employee positions that existed at the business entity at any point during the taxable
4600 year immediately preceding the taxable year for which the credit is being claimed.
4601 (c) Construction jobs are not eligible for the tax credits under Subsections (1)(a)
4602 through (d).
4603 (3) If the amount of a tax credit under this section exceeds a business entity's tax
4604 liability under this chapter for a taxable year, the business entity may carry forward the amount
4605 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
4606 years.
4607 (4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business
4608 entity primarily engaged in retail trade or by a public utilities business.

4609 (5) A business entity that has no employees:
4610 (a) may not claim tax credits under Subsections (1)(a) through (d); and
4611 (b) may claim tax credits under Subsections (1)(e) through (g).
4612 (6) A business entity may not claim or carry forward a tax credit available under this
4613 part for a taxable year during which the business entity has claimed the targeted business
4614 income tax credit available under Section 63M-1-504.
4615 Section 87. Section **63N-2-214**, which is renumbered from Section 63M-1-414 is
4616 renumbered and amended to read:
4617 **[~~63M-1-414~~]. 63N-2-214. Annual report.**
4618 Each county applicant or municipal applicant designated as an enterprise zone shall
4619 annually report to the office regarding the economic activity that has occurred in the zone
4620 following the designation.
4621 Section 88. Section **63N-2-215**, which is renumbered from Section 63M-1-415 is
4622 renumbered and amended to read:
4623 **[~~63M-1-415~~]. 63N-2-215. Indian tribes -- Application.**
4624 (1) For purposes of this section:
4625 (a) "Indian reservation" [~~is~~] has the same meaning as defined in Section 9-9-210.
4626 (b) "Indian tribe" [~~is~~] has the same meaning as defined in Subsection 9-9-402(6).
4627 (c) "Tribal applicant" means the governing authority of a tribe that meets the
4628 requirements for designation as an enterprise zone under Subsection (2).
4629 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
4630 enterprise zone.
4631 (3) The tribal applicant shall follow the application procedure for a municipal applicant
4632 in this part except for the population requirement in Subsections [~~63M-1-404~~] 63N-2-204(2)(a)
4633 and (b).
4634 Section 89. Section **63N-2-301** is enacted to read:
4635 **Part 3. Targeted Business Income Tax Credit in an Enterprise Zone**
4636 **63N-2-301. Title.**
4637 This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."
4638 Section 90. Section **63N-2-302**, which is renumbered from Section 63M-1-501 is
4639 renumbered and amended to read:

4640 **[~~63M-1-501~~]. 63N-2-302. Definitions.**
4641 As used in this part:
4642 (1) "Allocated cap amount" means the total amount of the targeted business income tax
4643 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
4644 share of the total amount of $300,000 for each fiscal year allowed under Subsection
4645 63M-1-504(2).
4646 (2) "Business applicant" means a business that:
4647 (a) is a:
4648 (i) claimant;
4649 (ii) estate; or
4650 (iii) trust; and
4651 (b) meets the criteria established in Section [~~63M-1-503~~] 63N-2-304.
4652 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
4653 nonresident person.
4654 (b) "Claimant" does not include an estate or trust.
4655 (4) "Community investment project" means a project that includes one or more of the
4656 following criteria in addition to the normal operations of the business applicant:
4657 (a) substantial new employment;
4658 (b) new capital development; or
4659 (c) a combination of both Subsections (4)(a) and (b).
4660 (5) "Community investment project period" means the total number of years that the
4661 office determines a business applicant is eligible for a targeted business income tax credit for
4662 each community investment project.
4663 (6) "Enterprise zone" means an area within a county or municipality that has been
4664 designated as an enterprise zone by the office under Part [~~4~~] 2, Enterprise Zone Act.
4665 (7) "Estate" means a nonresident estate or a resident estate.
4666 (8) "Local zone administrator" means a person:
4667 (a) designated by the governing authority of the county or municipal applicant as the
4668 local zone administrator in an enterprise zone application; and
4669 (b) approved by the office as the local zone administrator.
4670 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or

4671 trust may claim:
4672 (a) as provided by statute; and
4673 (b) regardless of whether, for the taxable year for which the claimant, estate, or trust
4674 claims the tax credit, the claimant, estate, or trust has a tax liability under:
4675 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
4676 (ii) Title 59, Chapter 10, Individual Income Tax Act.
4677 (10) "Targeted business income tax credit" means a refundable tax credit available
4678 under Section [~~63M-1-504~~] 63N-2-305.
4679 (11) "Targeted business income tax credit eligibility form" means a document provided
4680 annually to the business applicant by the office that complies with the requirements of
4681 Subsection [~~63M-1-504~~] 63N-2-305(8).
4682 (12) "Trust" means a nonresident trust or a resident trust.
4683 Section 91. Section **63N-2-303**, which is renumbered from Section 63M-1-502 is
4684 renumbered and amended to read:
4685 **[~~63M-1-502~~]. 63N-2-303. Rulemaking authority.**
4686 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
4687 purposes of this [~~section~~] part, the office shall make rules:
4688 (1) to determine what constitutes:
4689 (a) substantial new employment;
4690 (b) new capital development; and
4691 (c) a project; and
4692 (2) to establish a formula for determining the allocated cap amount for each business
4693 applicant.
4694 Section 92. Section **63N-2-304**, which is renumbered from Section 63M-1-503 is
4695 renumbered and amended to read:
4696 **[~~63M-1-503~~]. 63N-2-304. Application for targeted business income tax**
4697 **credit.**
4698 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
4699 may elect to claim a targeted business income tax credit available under Section [~~63M-1-504~~]
4700 63N-2-305 if the business applicant:
4701 (i) is located in:

4702 (A) an enterprise zone; and
4703 (B) a county with:
4704 (I) a population of less than 25,000; and
4705 (II) an unemployment rate that for six months or more of each calendar year is at least
4706 one percentage point higher than the state average;
4707 (ii) meets the requirements of Section [~~63M-1-412~~] 63N-2-212;
4708 (iii) provides:
4709 (A) a community investment project within the enterprise zone; and
4710 (B) a portion of the community investment project during each taxable year for which
4711 the business applicant claims the targeted business tax incentive; and
4712 (iv) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is
4713 not engaged in the following, as defined by the State Tax Commission by rule:
4714 (A) construction;
4715 (B) retail trade; or
4716 (C) public utility activities.
4717 (b) For a taxable year for which a business applicant claims a targeted business income
4718 tax credit available under this part, the business applicant may not claim or carry forward a tax
4719 credit available under Section 59-7-610, 59-10-1007, or [~~63M-1-413~~] 63N-2-213.
4720 (2) (a) A business applicant seeking to claim a targeted business income tax credit
4721 under this part shall file an application as provided in Subsection (2)(b) with the local zone
4722 administrator by no later than June 1 of the year in which the business applicant is seeking to
4723 claim a targeted business income tax credit.
4724 (b) The application described in Subsection (2)(a) shall include:
4725 (i) any documentation required by the local zone administrator to demonstrate that the
4726 business applicant meets the requirements of Subsection (1);
4727 (ii) a plan developed by the business applicant that outlines:
4728 (A) if the community investment project includes substantial new employment, the
4729 projected number and anticipated wage level of the jobs that the business applicant plans to
4730 create as the basis for qualifying for a targeted business income tax credit;
4731 (B) if the community investment project includes new capital development, a
4732 description of the capital development the business applicant plans to make as the basis for

4733 qualifying for a targeted business income tax credit; and
4734 (C) a description of how the business applicant's plan coordinates with:
4735 (I) the goals of the enterprise zone in which the business applicant is providing a
4736 community investment project; and
4737 (II) the overall economic development goals of the county or municipality in which the
4738 business applicant is providing a community investment project; and
4739 (iii) any additional information required by the local zone administrator.
4740 (3) (a) The local zone administrator shall:
4741 (i) evaluate an application filed under Subsection (2); and
4742 (ii) determine whether the business applicant is eligible for a targeted business income
4743 tax credit.
4744 (b) If the local zone administrator determines that the business applicant is eligible for
4745 a targeted business income tax credit, the local zone administrator shall:
4746 (i) certify that the business applicant is eligible for the targeted business income tax
4747 credit;
4748 (ii) structure the targeted business income tax credit for the business applicant in
4749 accordance with Section [~~63M-1-504~~] 63N-2-305; and
4750 (iii) monitor a business applicant to ensure compliance with this section.
4751 (4) A local zone administrator shall report to the office by no later than June 30 of each
4752 year:
4753 (a) (i) any application approved by the local zone administrator during the last fiscal
4754 year; and
4755 (ii) the information established in Subsections [~~63M-1-504~~] 63N-2-305(4)(a) through
4756 (d) for each new business applicant; and
4757 (b) (i) the status of any existing business applicants that the local zone administrator
4758 monitors; and
4759 (ii) any information required by the office to determine the status of an existing
4760 business applicant.
4761 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
4762 of the allocated cap amount that each business applicant that the local zone administrator
4763 monitors is eligible to claim.

4764 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
4765 each business applicant that the local zone administrator monitors of the allocated cap amount
4766 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
4767 for a taxable year.
4768 Section 93. Section **63N-2-305**, which is renumbered from Section 63M-1-504 is
4769 renumbered and amended to read:
4770 **[~~63M-1-504~~]. 63N-2-305. Targeted business income tax credit structure --**
4771 **Duties of the local zone administrator -- Duties of the State Tax Commission.**
4772 (1) [~~For taxable years beginning on or after January 1, 2002, a~~] A business applicant
4773 that is certified under Subsection [~~63M-1-503~~] 63N-2-304(3) and issued a targeted business tax
4774 credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:
4775 (a) against the business applicant's tax liability under:
4776 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
4777 (ii) Title 59, Chapter 10, Individual Income Tax Act; and
4778 (b) subject to requirements and limitations provided by this part.
4779 (2) The total amount of the targeted business income tax credits allowed under this part
4780 for all business applicants may not exceed $300,000 in any fiscal year.
4781 (3) (a) A targeted business income tax credit allowed under this part for each
4782 community investment project provided by a business applicant may not:
4783 (i) be claimed by a business applicant for more than seven consecutive taxable years
4784 from the date the business applicant first qualifies for a targeted business income tax credit on
4785 the basis of a community investment project;
4786 (ii) be carried forward or carried back;
4787 (iii) exceed $100,000 in total amount for the community investment project period
4788 during which the business applicant is eligible to claim a targeted business income tax credit;
4789 or
4790 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
4791 of:
4792 (A) 50% of the maximum amount allowed by the local zone administrator; or
4793 (B) the allocated cap amount determined by the office under Subsection [~~63M-1-503~~]
4794 63N-2-304(5).

4795 (b) A business applicant may apply to the local zone administrator to claim a targeted
4796 business income tax credit allowed under this part for each community investment project
4797 provided by the business applicant as the basis for its eligibility for a targeted business income
4798 tax credit.
4799 (4) Subject to other provisions of this section, the local zone administrator shall
4800 establish for each business applicant that qualifies for a targeted business income tax credit:
4801 (a) criteria for maintaining eligibility for the targeted business income tax credit that
4802 are reasonably related to the community investment project that is the basis for the business
4803 applicant's targeted business income tax credit;
4804 (b) the maximum amount of the targeted business income tax credit the business
4805 applicant is allowed for the community investment project period;
4806 (c) the time period over which the total amount of the targeted business income tax
4807 credit may be claimed;
4808 (d) the maximum amount of the targeted business income tax credit that the business
4809 applicant will be allowed to claim each year; and
4810 (e) requirements for a business applicant to report to the local zone administrator
4811 specifying:
4812 (i) the frequency of the business applicant's reports to the local zone administrator,
4813 which shall be made at least quarterly; and
4814 (ii) the information needed by the local zone administrator to monitor the business
4815 applicant's compliance with this Subsection (4) or Section [~~63M-1-503~~] 63N-2-304 that shall
4816 be included in the report.
4817 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
4818 business income tax credit under this part shall report to the local zone administrator.
4819 (6) The amount of a targeted business income tax credit that a business applicant is
4820 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
4821 or the local zone administrator determines that the business applicant has failed to comply with
4822 a requirement of Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.
4823 (7) The office or local zone administrator may audit a business applicant to ensure:
4824 (a) eligibility for a targeted business income tax credit; or
4825 (b) compliance with Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.

4826 (8) The office shall issue a targeted business income tax credit eligibility form in a
4827 form jointly developed by the State Tax Commission and the office no later than 30 days after
4828 the last day of the business applicant's taxable year showing:
4829 (a) the maximum amount of the targeted business income tax credit that the business
4830 applicant is eligible for that taxable year;
4831 (b) any reductions in the maximum amount of the targeted business income tax credit
4832 because of failure to comply with a requirement of Subsection (3) or Section [~~63M-1-503~~]
4833 63N-2-304;
4834 (c) the allocated cap amount that the business applicant may claim for that taxable
4835 year; and
4836 (d) the actual amount of the targeted business income tax credit that the business
4837 applicant may claim for that taxable year.
4838 (9) (a) A business applicant shall retain the targeted business income tax credit
4839 eligibility form provided by the office under this Subsection (9).
4840 (b) The State Tax Commission may audit a business applicant to ensure:
4841 (i) eligibility for a targeted business income tax credit; or
4842 (ii) compliance with Subsection (3) or Section [~~63M-1-503~~] 63N-2-304.
4843 Section 94. Section **63N-2-401**, which is renumbered from Section 63M-1-1101 is
4844 renumbered and amended to read:
4845 **Part 4. Recycling Market Development Zone Act**
4846 **[~~63M-1-1101~~]. 63N-2-401. Title.**
4847 This part is known as the "Recycling Market Development Zone Act."
4848 Section 95. Section **63N-2-402**, which is renumbered from Section 63M-1-1102 is
4849 renumbered and amended to read:
4850 **[~~63M-1-1102~~]. 63N-2-402. Definitions.**
4851 As used in this part:
4852 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
4853 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
4854 organisms.
4855 (2) "Postconsumer waste material" means any product generated by a business or
4856 consumer that has served its intended end use, and that has been separated from solid waste for

4857 the purposes of collection, recycling, and disposition and that does not include secondary waste
4858 material.
4859 (3) (a) "Recovered materials" means waste materials and by-products that have been
4860 recovered or diverted from solid waste.
4861 (b) "Recovered materials" does not include those materials and by-products generated
4862 from, and commonly reused within, an original manufacturing process.
4863 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
4864 the beneficial use of the materials and includes a series of activities by which materials that
4865 would become or otherwise remain waste are diverted from the waste stream for collection,
4866 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
4867 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
4868 the materials as substitutes for goods made from virgin materials.
4869 (b) "Recycling" does not include burning municipal solid waste for energy recovery.
4870 (5) "Recycling market development zone" or "zone" means an area designated by the
4871 office as meeting the requirements of this part.
4872 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
4873 facilities and waste generated after completion of a manufacturing process.
4874 (b) "Secondary waste material" does not include internally generated scrap commonly
4875 returned to industrial or manufacturing processes, such as home scrap and mill broke.
4876 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
4877 tax credits available under Sections 59-7-608 and 59-10-1007.
4878 Section 96. Section **63N-2-403**, which is renumbered from Section 63M-1-1103 is
4879 renumbered and amended to read:
4880 **[~~63M-1-1103~~]. 63N-2-403. Duties of the office.**
4881 The office shall:
4882 (1) facilitate recycling development zones through state support of county incentives
4883 which encourage development of manufacturing enterprises that use recycling materials
4884 currently collected;
4885 (2) evaluate an application from a county or municipality executive authority to be
4886 designated as a recycling market development zone and determine if the county or municipality
4887 qualifies for that designation;

4888 (3) provide technical assistance to municipalities and counties in developing
4889 applications for designation as a recycling market development zone;
4890 (4) assist counties and municipalities designated as recycling market development
4891 zones in obtaining assistance from the federal government and agencies of the state;
4892 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
4893 program authorized by this part;
4894 (6) monitor the implementation and operation of this part and conduct a continuing
4895 evaluation of the progress made in the recycling market development zone; and
4896 (7) include in the annual written report described in Section [~~63M-1-206~~] 63N-2-301,
4897 an evaluation of the effectiveness of the program and recommendations for legislation.
4898 Section 97. Section **63N-2-404**, which is renumbered from Section 63M-1-1104 is
4899 renumbered and amended to read:
4900 **[~~63M-1-1104~~]. 63N-2-404. Criteria for recycling market development zone**
4901 **-- Application process and fees.**
4902 (1) An area may be designated as a recycling market development zone only if:
4903 (a) the county or municipality agrees to make a qualifying local contribution under
4904 Section [~~63M-1-1105~~] 63N-2-405; and
4905 (b) the county or municipality provides for postconsumer waste collection for recycling
4906 within the county or municipality.
4907 (2) The executive authority of any municipality or county desiring to be designated as a
4908 recycling market development zone shall:
4909 (a) obtain the written approval of the municipality or county's legislative body; and
4910 (b) file an application with the office demonstrating the county or municipality meets
4911 the requirements of this part.
4912 (3) The application shall be in a form prescribed by the office, and shall include:
4913 (a) a plan developed by the county or municipality that identifies local contributions
4914 meeting the requirements of Section [~~63M-1-1105~~] 63N-2-405;
4915 (b) a county or municipality development plan that outlines:
4916 (i) the specific investment or development reasonably expected to take place;
4917 (ii) any commitments obtained from businesses to participate, and in what capacities
4918 regarding recycling markets;

4919 (iii) the county's or municipality's economic development plan and demonstration of
4920 coordination between the zone and the county or municipality in overall development goals;
4921 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
4922 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
4923 businesses;
4924 (v) the county's or municipality's long-term waste management plan and evidence that
4925 the zone will be adequately served by the plan; and
4926 (vi) the county or municipality postconsumer waste collection infrastructure;
4927 (c) the county's or municipality's proposed means of assessing the effectiveness of the
4928 development plan or other programs implemented within the zone;
4929 (d) state whether within the zone either of the following will be established:
4930 (i) commercial manufacturing or industrial processes that will produce end products
4931 that consist of not less than 50% recovered materials, of which not less than 25% is
4932 postconsumer waste material; or
4933 (ii) commercial composting;
4934 (e) any additional information required by the office; and
4935 (f) any additional information the county or municipality considers relevant to its
4936 designation as a recycling market development zone.
4937 (4) A county or municipality applying for designation as a recycling market
4938 development zone shall pay to the office an application fee determined under Section
4939 63J-1-504.
4940 Section 98. Section **63N-2-405**, which is renumbered from Section 63M-1-1105 is
4941 renumbered and amended to read:
4942 **[~~63M-1-1105~~]. 63N-2-405. Qualifying local contributions.**
4943 Qualifying local contributions to the recycling market development zone may vary
4944 depending on available resources, and may include:
4945 (1) simplified procedures for obtaining permits;
4946 (2) dedication of available government grants;
4947 (3) waiver of business license or permit fees;
4948 (4) infrastructure improvements;
4949 (5) private contributions;

4950 (6) utility rate concessions;
4951 (7) suspension or relaxation of locally originated zoning laws or general plans; and
4952 (8) other proposed local contributions as the office finds promote the purposes of this
4953 part.
4954 Section 99. Section **63N-2-406**, which is renumbered from Section 63M-1-1106 is
4955 renumbered and amended to read:
4956 **[~~63M-1-1106~~]. 63N-2-406. Eligibility review.**
4957 (1) The office shall:
4958 (a) review and evaluate an application submitted under Section [~~63M-1-1104~~]
4959 63N-2-404; and
4960 (b) determine whether the municipality or county is eligible for designation as a
4961 recycling market development zone.
4962 (2) In designating recycling market development zones, the office shall consider:
4963 (a) whether the current waste management practices and conditions of the county or
4964 municipality are favorable to the development of postconsumer waste material markets;
4965 (b) whether the creation of the zone is necessary to assist in attracting private sector
4966 recycling investments to the area; and
4967 (c) the amount of available landfill capacity to serve the zone.
4968 Section 100. Section **63N-2-407**, which is renumbered from Section 63M-1-1107 is
4969 renumbered and amended to read:
4970 **[~~63M-1-1107~~]. 63N-2-407. Quarterly consideration.**
4971 The office shall take action quarterly on any application requesting designation as a
4972 recycling market development zone.
4973 Section 101. Section **63N-2-408**, which is renumbered from Section 63M-1-1108 is
4974 renumbered and amended to read:
4975 **[~~63M-1-1108~~]. 63N-2-408. Duration of designation.**
4976 A recycling market development zone designation ends five years from the date the
4977 office designates the area as a recycling market development zone, at the end of which the
4978 county or municipality may reapply for the designation.
4979 Section 102. Section **63N-2-409**, which is renumbered from Section 63M-1-1109 is

4980 renumbered and amended to read:

4981 **[~~63M-1-1109~~]. 63N-2-409. Revocation of designations.**

4982 (1) The office may revoke the designation of a recycling market development zone if
4983 no businesses utilize the tax incentives during any calendar year.

4984 (2) Before revocation of the zone, the office shall conduct a public hearing within a
4985 reasonable distance of the zone to determine reasons for inactivity and explore possible
4986 alternative actions.

4987 Section 103. Section **63N-2-410**, which is renumbered from Section 63M-1-1110 is
4988 renumbered and amended to read:

4989 **[~~63M-1-1110~~]. 63N-2-410. Recycling market development zones credit.**

4990 For a taxpayer within a recycling market development zone, there are allowed the
4991 nonrefundable credits against tax as provided by Sections 59-7-610 and 59-10-1007.

4992 Section 104. Section **63N-2-411**, which is renumbered from Section 63M-1-1111 is
4993 renumbered and amended to read:

4994 **[~~63M-1-1111~~]. 63N-2-411. Annual report.**

4995 (1) A county or municipality designated as a recycling market development zone shall
4996 report by no later than July 31 of each year to the office regarding the economic activity that
4997 has occurred in the zone following the designation.

4998 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4999 office may make rules providing for the form and content of the annual reports.

5000 Section 105. Section **63N-2-412**, which is renumbered from Section 63M-1-1112 is
5001 renumbered and amended to read:

5002 **[~~63M-1-1112~~]. 63N-2-412. Technology Commercialization and Innovation**
5003 **Program.**

5004 In accordance with [~~Part 6~~] Chapter 12, Part 1, State Advisory Council on Science and
5005 Technology, the office may award grants to the Technology Commercialization and Innovation
5006 Program, as defined by Section [~~63M-1-703~~] 63N-3-203, to fund development of new
5007 technology for recycling if the program funded is a cooperative effort between the Technology
5008 Commercialization and Innovation Program and one or more recycling market development
5009 zones created under this part.

5010 Section 106. Section **63N-2-501**, which is renumbered from Section 63M-1-3401 is

5011 renumbered and amended to read:

5012 **Part 5. New Convention Facility Development Incentives**

5013 **[~~63M-1-3401~~]. 63N-2-501. Title.**

5014 This part is known as [~~the~~] "New Convention Facility Development [~~Incentive Act~~]
5015 Incentives."

5016 Section 107. Section **63N-2-502**, which is renumbered from Section 63M-1-3402 is
5017 renumbered and amended to read:

5018 **[~~63M-1-3402~~]. 63N-2-502. Definitions.**

5019 As used in this part:

5020 (1) "Agreement" means an agreement described in Section [~~63M-1-3403~~] 63N-2-503.

5021 (2) "Commission" means the Utah State Tax Commission.

5022 (3) "Community development and renewal agency" has the same meaning as defined in
5023 Section 17C-1-102.

5024 (4) "Eligibility period" means:

5025 (a) the period that:

5026 (i) begins the date construction of a qualified hotel begins; and

5027 (ii) ends:

5028 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
5029 qualified hotel; or

5030 (B) for purposes of the local portion, 25 years after the date of initial occupancy of that
5031 hotel; or

5032 (b) as provided in an agreement between the office and a qualified hotel owner or host
5033 local government, a period that:

5034 (i) begins no earlier than the date construction of a qualified hotel begins; and

5035 (ii) is shorter than the period described in Subsection (4)(a).

5036 (5) "Endorsement letter" means a letter:

5037 (a) from the county in which a qualified hotel is located or is proposed to be located;

5038 (b) signed by the county executive; and

5039 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting
5040 all the county's criteria for receiving the county's endorsement.

5041 (6) "Host agency" means the community development and renewal agency of the host

5042 local government.
5043 (7) "Host local government" means:
5044 (a) a county that enters into an agreement with the office for the construction of a
5045 qualified hotel within the unincorporated area of the county; or
5046 (b) a city or town that enters into an agreement with the office for the construction of a
5047 qualified hotel within the boundary of the city or town.
5048 (8) "Hotel property" means a qualified hotel and any property that is included in the
5049 same development as the qualified hotel, including convention, exhibit, and meeting space,
5050 retail shops, restaurants, parking, and other ancillary facilities and amenities.
5051 (9) "Incremental property tax revenue" means the amount of property tax revenue
5052 generated from hotel property that equals the difference between:
5053 (a) the amount of property tax revenue generated in any tax year by all taxing entities
5054 from hotel property, using the current assessed value of the hotel property; and
5055 (b) the amount of property tax revenue that would be generated that tax year by all
5056 taxing entities from hotel property, using a base taxable value of the hotel property as
5057 established by the county in which the hotel property is located.
5058 (10) "Local portion" means:
5059 (a) the portion of new tax revenue that is not the state portion; and
5060 (b) incremental property tax revenue.
5061 (11) "New tax revenue" means:
5062 (a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5063 Act, on transactions occurring during the eligibility period as a result of the construction of the
5064 hotel property, including purchases made by a qualified hotel owner and its subcontractors;
5065 (b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5066 Act, on transactions occurring on hotel property during the eligibility period; and
5067 (c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5068 Act, on transactions by a third-party seller occurring other than on hotel property during the
5069 eligibility period, if:
5070 (i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
5071 and
5072 (ii) the third-party seller voluntarily consents to the disclosure of information to the

5073 office, as provided in Subsection [~~63M-1-3405~~] 63N-2-505(1)(b)(i)(E).
5074 (12) "Public infrastructure" means:
5075 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
5076 systems and lines;
5077 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
5078 transportation facilities; and
5079 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
5080 (13) "Qualified hotel" means a full-service hotel development constructed in the state
5081 on or after July 1, 2014 that:
5082 (a) requires a significant capital investment;
5083 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
5084 room; and
5085 (c) is located within 1,000 feet of a convention center that contains at least 500,000
5086 square feet of convention, exhibit, and meeting space.
5087 (14) "Qualified hotel owner" means a person who owns a qualified hotel.
5088 (15) "Review committee" means the independent review committee established under
5089 Section [~~63M-1-3404~~] 63N-2-205.
5090 (16) "Significant capital investment" means an amount of at least $200,000,000.
5091 (17) "State portion" means the portion of new tax revenue that is attributable to a tax
5092 imposed under Subsection 59-12-103(2)(a)(i)(A).
5093 (18) "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.
5094 (19) "Tax credit applicant" means a qualified hotel owner or host local government
5095 that:
5096 (a) has entered into an agreement with the office; and
5097 (b) pursuant to that agreement, submits an application for the issuance of a tax credit
5098 certificate.
5099 (20) "Tax credit certificate" means a certificate issued by the office that includes:
5100 (a) the name of the tax credit recipient;
5101 (b) the tax credit recipient's taxpayer identification number;
5102 (c) the amount of the tax credit authorized under this part for a taxable year; and
5103 (d) other information as determined by the office.

5104 (21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit
5105 certificate.
5106 (22) "Third-party seller" means a person who is a seller in a transaction:
5107 (a) occurring other than on hotel property;
5108 (b) that is:
5109 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
5110 facilities on hotel property; or
5111 (ii) the sale of tangible personal property or a service that is part of a bundled
5112 transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in
5113 Subsection (22)(b)(i); and
5114 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
5115 Section 108. Section **63N-2-503**, which is renumbered from Section 63M-1-3403 is
5116 renumbered and amended to read:
5117 **[~~63M-1-3403~~]. 63N-2-503. Agreement for development of new convention**
5118 **hotel -- Tax credit authorized -- Agreement requirements.**
5119 (1) The office, with the board's advice, may enter into an agreement with a qualified
5120 hotel owner or a host local government:
5121 (a) for the development of a qualified hotel; and
5122 (b) to authorize a tax credit:
5123 (i) to the qualified hotel owner or host local government, but not both;
5124 (ii) for a period not to exceed the eligibility period;
5125 (iii) if:
5126 (A) the county in which the qualified hotel is proposed to be located has issued an
5127 endorsement letter endorsing the qualified hotel owner; and
5128 (B) all applicable requirements of this part and the agreement are met; and
5129 (iv) that is reduced by $1,900,000 per year during the first two years of the eligibility
5130 period, as described in Subsection (2)(c).
5131 (2) An agreement shall:
5132 (a) specify the requirements for a tax credit recipient to qualify for a tax credit;
5133 (b) require compliance with the terms of the endorsement letter issued by the county in
5134 which the qualified hotel is proposed to be located;

5135 (c) require the amount of a tax credit listed in a tax credit certificate issued during the
5136 first two years of the eligibility period to be reduced by $1,900,000 per year;
5137 (d) with respect to the state portion of any tax credit that the tax credit recipient may
5138 receive during the eligibility period:
5139 (i) specify the maximum dollar amount that the tax credit recipient may receive,
5140 subject to a maximum of:
5141 (A) for any taxable year, the amount of the state portion of new tax revenue in that
5142 taxable year; and
5143 (B) $75,000,000 in the aggregate for any tax credit recipient during an eligibility
5144 period, calculated as though the two $1,900,000 reductions of the tax credit amount under
5145 Subsection (1)(b)(iv) had not occurred; and
5146 (ii) specify the maximum percentage of the state portion of new tax revenue that may
5147 be used in calculating a tax credit that a tax credit recipient may receive during the eligibility
5148 period for each taxable year and in the aggregate;
5149 (e) establish a shorter period of time than the period described in Subsection
5150 [~~63M-1-3402~~] 63N--2-502(5)(a) during which the tax credit recipient may claim a tax credit or
5151 that the host agency may be paid incremental property tax revenue, if the office and qualified
5152 hotel owner or host local government agree to a shorter period of time;
5153 (f) require the tax credit recipient to retain books and records supporting a claim for a
5154 tax credit as required by Section 59-1-1406;
5155 (g) allow the transfer of the agreement to a third party if the third party assumes all
5156 liabilities and responsibilities in the agreement;
5157 (h) limit the expenditure of funds received under a tax credit as provided in Section
5158 [~~63M-1-3412~~] 63N-2-512; and
5159 (i) require the tax credit recipient to submit to any audit the office considers
5160 appropriate for verification of any tax credit or claimed tax credit.
5161 Section 109. Section **63N-2-504**, which is renumbered from Section 63M-1-3404 is
5162 renumbered and amended to read:
5163 **[~~63M-1-3404~~]. 63N-2-504. Independent review committee.**
5164 (1) In accordance with rules adopted by the office under Section [~~63M-1-3408~~]
5165 63N-2-508, the board shall establish a separate, independent review committee to:

5166 (a) review each initial tax credit application submitted under this part for compliance
5167 with the requirements of this part and the agreement; and
5168 (b) consult with the office, as provided in this part.
5169 (2) The review committee shall consist of:
5170 (a) one member appointed by the director to represent the office;
5171 (b) two members appointed by the mayor or chief executive of the county in which the
5172 qualified hotel is located or proposed to be located;
5173 (c) two members appointed by:
5174 (i) the mayor of the municipality in which the qualified hotel is located or proposed to
5175 be located, if the qualified hotel is located or proposed to be located within the boundary of a
5176 municipality; or
5177 (ii) the mayor or chief executive of the county in which the qualified hotel is located or
5178 proposed to be located, in addition to the two members appointed under Subsection (2)(b), if
5179 the qualified hotel is located or proposed to be located outside the boundary of a municipality;
5180 (d) an individual representing the hotel industry, appointed by the Utah Hotel and
5181 Lodging Association;
5182 (e) an individual representing the commercial development and construction industry,
5183 appointed by the president or chief executive officer of the local chamber of commerce;
5184 (f) an individual representing the convention and meeting planners industry, appointed
5185 by the president or chief executive officer of the local convention and visitors bureau; and
5186 (g) one member appointed by the board.
5187 (3) (a) A member serves an indeterminate term and may be removed from the review
5188 committee by the appointing authority at any time.
5189 (b) A vacancy may be filled in the same manner as an appointment under Subsection
5190 (2).
5191 (4) A member of the review committee may not be paid for serving on the review
5192 committee and may not receive per diem or expense reimbursement.
5193 (5) The office shall provide any necessary staff support to the review committee.
5194 Section 110. Section **63N-2-505**, which is renumbered from Section 63M-1-3405 is
5195 renumbered and amended to read:
5196 **[~~63M-1-3405~~]. <u>63N-2-505.</u> Submission of written application for tax credit**

5197 **certificate -- Disclosure of tax returns and other information -- Determination of tax**
5198 **credit application.**
5199 (1) For each taxable year for which a tax credit applicant seeks the issuance of a tax
5200 credit certificate, the tax credit applicant shall submit to the office:
5201 (a) a written application for a tax credit certificate;
5202 (b) (i) for an application submitted by a qualified hotel owner:
5203 (A) a certification by the individual signing the application that the individual is duly
5204 authorized to sign the application on behalf of the qualified hotel owner;
5205 (B) documentation of the new tax revenue generated during the preceding year;
5206 (C) a document in which the qualified hotel owner expressly directs and authorizes the
5207 commission to disclose to the office the qualified hotel owner's tax returns and other
5208 information that would otherwise be subject to confidentiality under Section 59-1-403 or
5209 Section 6103, Internal Revenue Code;
5210 (D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors,
5211 as applicable, expressly direct and authorize the commission to disclose to the office the tax
5212 returns and other information of those vendors, lessees, or subcontractors that would otherwise
5213 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
5214 (E) a document in which a third-party seller expressly and voluntarily directs and
5215 authorizes the commission to disclose to the office the third-party seller's tax returns and other
5216 information that would otherwise be subject to confidentiality under Section 59-1-403 or
5217 Section 6103, Internal Revenue Code; and
5218 (F) documentation verifying that the qualified hotel owner is in compliance with the
5219 terms of the agreement;
5220 (ii) for an application submitted by a host local government, documentation of the new
5221 tax revenue generated during the preceding year;
5222 (c) if the host local government intends to assign the tax credit sought in the tax credit
5223 application to a community development and renewal agency:
5224 (i) the taxpayer identification number of the community development and renewal
5225 agency; and
5226 (ii) a document signed by the governing body members of the community development
5227 and renewal agency that expressly directs and authorizes the commission to disclose to the

5228 office the agency's tax returns and other information that would otherwise be subject to
5229 confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
5230 (d) a statement provided by an independent certified public accountant, at the tax credit
5231 applicant's expense, attesting to the accuracy of the documentation of new tax revenue.
5232 (2) (a) The office shall submit to the commission the documents described in
5233 Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and
5234 other information.
5235 (b) Upon receipt of the documents described in Subsection (2)(a), the commission shall
5236 provide to the office the tax returns and other information described in those documents.
5237 (3) If the office determines that the tax returns and other information is inadequate to
5238 validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant
5239 that the tax returns and other information were inadequate and request the tax credit applicant
5240 to submit additional documentation to validate the issuance of a tax credit certificate.
5241 (4) If the office determines that the returns and other information, including any
5242 additional documentation provided under Subsection (3), provide reasonable justification for
5243 the issuance of a tax credit certificate, the office shall:
5244 (a) determine the amount of the tax credit to be listed on the tax credit certificate;
5245 (b) issue a tax credit certificate to the tax credit applicant for the amount of that tax
5246 credit; and
5247 (c) provide a copy of the tax credit certificate to the commission.
5248 Section 111. Section **63N-2-506**, which is renumbered from Section 63M-1-3406 is
5249 renumbered and amended to read:
5250 **[~~63M-1-3406~~]. 63N-2-506. Effect of tax credit certificate -- Retaining tax**
5251 **credit certificate.**
5252 (1) A person may not claim a tax credit unless the office has issued the person a tax
5253 credit certificate.
5254 (2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in
5255 a tax credit certificate.
5256 (3) A tax credit recipient shall retain the tax credit certificate in accordance with the
5257 requirements of Section 59-1-1406 for retaining books and records.
5258 (4) The amount of a tax credit indicated on a tax credit certificate issued during the

5259 eligibility period may not exceed the amount of eligible new tax revenue generated during the
5260 taxable year preceding the taxable year for which the tax credit certificate is issued.
5261 Section 112. Section **63N-2-507**, which is renumbered from Section 63M-1-3407 is
5262 renumbered and amended to read:
5263 **[~~63M-1-3407~~]. 63N-2-507. Assigning tax credit.**
5264 (1) A host local government that enters into an agreement with the office may, by
5265 resolution, assign a tax credit to a community development and renewal agency, in accordance
5266 with rules adopted by the office.
5267 (2) A host local government that adopts a resolution assigning a tax credit under
5268 Subsection (1) shall provide a copy of the resolution to the office and the commission.
5269 Section 113. Section **63N-2-508**, which is renumbered from Section 63M-1-3408 is
5270 renumbered and amended to read:
5271 **[~~63M-1-3408~~]. 63N-2-508. Payment of incremental property tax revenue.**
5272 (1) (a) In accordance with rules adopted by the office, a host agency shall be paid
5273 incremental property tax revenue during the eligibility period.
5274 (b) Incremental property tax revenue may be used only for:
5275 (i) the purchase of or payment for, or reimbursement of a previous purchase of or
5276 payment for:
5277 (A) tangible personal property used in the construction of convention, exhibit, or
5278 meeting space on hotel property;
5279 (B) tangible personal property that, upon the construction of hotel property, becomes
5280 affixed to hotel property as real property; or
5281 (C) any labor and overhead costs associated with the construction described in
5282 Subsections (1)(b)(i)(A) and (B);
5283 (ii) public infrastructure; and
5284 (iii) other purposes as approved by the host agency.
5285 (2) A county that collects property tax on hotel property during the eligibility period
5286 shall pay and distribute to the host agency the incremental property tax revenue that the host
5287 agency is entitled to collect under Subsection (1), in the manner and at the time provided in
5288 Section 59-2-1365.
5289 Section 114. Section **63N-2-509**, which is renumbered from Section 63M-1-3409 is

5290 renumbered and amended to read:

5291 **[~~63M-1-3409~~]. 63N-2-509. Rulemaking authority -- Requirements for rules.**

5292 (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative
5293 Rulemaking Act, make rules to carry out its responsibilities under this part and to implement
5294 the provisions of this part.

5295 (2) The rules the office makes under Subsection (1) shall:

5296 (a) establish, consistent with this part, the conditions that a tax credit applicant is
5297 required to meet to qualify for a tax credit;

5298 (b) require that a significant capital investment be made in the development of the
5299 hotel property;

5300 (c) require a tax credit applicant to meet all applicable requirements in order to receive
5301 a tax credit certificate;

5302 (d) require that a qualified hotel owner meet the county's requirements to receive an
5303 endorsement letter; and

5304 (e) provide for the establishment of an independent review committee, in accordance
5305 with the requirements of Section [~~63M-1-3404~~] 63N-2-504.

5306 Section 115. Section **63N-2-510**, which is renumbered from Section 63M-1-3410 is
5307 renumbered and amended to read:

5308 **[~~63M-1-3410~~]. 63N-2-510. Report by office.**

5309 (1) [~~Before November 1 of each year, the~~] The office shall [~~submit a written report to~~
5310 ~~the Economic Development and Workforce Services Interim Committee of the Legislature, the~~
5311 ~~Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst~~
5312 ~~describing~~] include the following information in the office's annual written report described in
5313 Section 63N-1-301:

5314 (a) the state's success in attracting new conventions and corresponding new state
5315 revenue;

5316 (b) the estimated amount of tax credit commitments and the associated calculation
5317 made by the office and the period of time over which tax credits are expected to be paid;

5318 (c) the economic impact on the state related to generating new state revenue and
5319 providing tax credits; and

5320 (d) the estimated and actual costs and economic benefits of the tax credit commitments

5321 that the office made.
5322 [~~(2) The office shall post the annual report under Subsection (1) on its website and on a~~
5323 ~~state website.~~]
5324 [~~(3)~~] (2) Upon the commencement of the construction of a qualified hotel, the office
5325 shall send a written notice to the Division of Finance:
5326 (a) referring to the two annual deposits required under Subsection 59-12-103(14); and
5327 (b) notifying the Division of Finance that construction on the qualified hotel has begun.
5328 Section 116. Section **63N-2-511**, which is renumbered from Section 63M-1-3411 is
5329 renumbered and amended to read:
5330 **[~~63M-1-3411~~]. 63N-2-511. Stay Another Day and Bounce Back Fund.**
5331 (1) As used in this section:
5332 (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created
5333 in Subsection (2).
5334 (b) "Tourism board" means the Board of Tourism Development created in Section
5335 63M-1-1401.
5336 (2) There is created an expendable special revenue fund known as the Stay Another
5337 Day and Bounce Back Fund.
5338 (3) The bounce back fund shall:
5339 (a) be administered by the tourism board;
5340 (b) earn interest; and
5341 (c) be funded by:
5342 (i) annual payments under Section 17-31-9 from the county in which a qualified hotel
5343 is located;
5344 (ii) money transferred to the bounce back fund under Section [~~63M-1-3412~~]
5345 63N-2-512; and
5346 (iii) any money that the Legislature chooses to appropriate to the bounce back fund.
5347 (4) Interest earned by the bounce back fund shall be deposited into the bounce back
5348 fund.
5349 (5) The tourism board may use money in the bounce back fund to pay for a tourism
5350 program of advertising, marketing, and branding of the state, taking into consideration the
5351 long-term strategic plan, economic trends, and opportunities for tourism development on a

5352 statewide basis.

5353 Section 117. Section **63N-2-512**, which is renumbered from Section 63M-1-3412 is
5354 renumbered and amended to read:

5355 **[~~63M-1-3412~~]. 63N-2-512. Hotel Impact Mitigation Fund.**

5356 (1) As used in this section:

5357 (a) "Affected hotel" means a hotel built in the state before July 1, 2014.

5358 (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to
5359 the qualified hotel room supply being added to the market in the state.

5360 (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection
5361 (2).

5362 (2) There is created an expendable special revenue fund known as the Hotel Impact
5363 Mitigation Fund.

5364 (3) The mitigation fund shall:

5365 (a) be administered by the board;

5366 (b) earn interest; and

5367 (c) be funded by:

5368 (i) payments required to be deposited into the mitigation fund by the Division of
5369 Finance under Subsection 59-12-103(14);

5370 (ii) money required to be deposited into the mitigation fund under Subsection
5371 17-31-9(2) by the county in which a qualified hotel is located; and

5372 (iii) any money deposited into the mitigation fund under Subsection (6).

5373 (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

5374 (5) (a) In accordance with office rules, the board shall annually pay up to $2,100,000 of
5375 money in the mitigation fund:

5376 (i) to affected hotels;

5377 (ii) for four consecutive years, beginning 12 months after the date of initial occupancy
5378 of the qualified hotel occurs; and

5379 (iii) to mitigate direct losses.

5380 (b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than
5381 $2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in
5382 Section [~~63M-1-3411~~] 63N-2-511, the difference between $2,100,000 and the amount paid

5383 under Subsection (5)(a).
5384 (ii) The board shall make any required payment under Subsection (5)(b)(i) within 90
5385 days after the end of the year for which a determination is made of how much the board is
5386 required to pay to affected hotels under Subsection (5)(a).
5387 (6) A host local government or qualified hotel owner may make payments to the
5388 Division of Finance for deposit into the mitigation fund.
5389 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5390 office shall, in consultation with the Utah Hotel and Lodging Association and the county in
5391 which the qualified hotel is located, make rules establishing procedures and criteria governing
5392 payments under Subsection (5)(a) to affected hotels.
5393 Section 118. Section **63N-2-513**, which is renumbered from Section 63M-1-3413 is
5394 renumbered and amended to read:
5395 **[~~63M-1-3413~~]. 63N-2-513. Authorized expenditures of tax credit money.**
5396 (1) A tax credit recipient may spend money received as a direct result of the state
5397 portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous
5398 purchase of or payment for:
5399 (a) tangible personal property used in the construction of convention, exhibit, or
5400 meeting space on hotel property;
5401 (b) tangible personal property that, upon the construction of hotel property, becomes
5402 affixed to hotel property as real property; or
5403 (c) any labor and overhead costs associated with the construction described in
5404 Subsections (1)(a) and (b).
5405 (2) A tax credit recipient may spend money received as a direct result of the local
5406 portion of a tax credit only for:
5407 (a) a purpose described in Subsection (1);
5408 (b) public infrastructure; and
5409 (c) other purposes as approved by the host agency.
5410 Section 119. Section **63N-2-601**, which is renumbered from Section 63M-1-3501 is
5411 renumbered and amended to read:
5412 **Part 6. Utah Small Business Jobs Act**
5413 **[~~63M-1-3501~~]. 63N-2-601. Title.**

5414 This part is known as the "Utah Small Business Jobs Act."
5415 Section 120. Section **63N-2-602**, which is renumbered from Section 63M-1-3502 is
5416 renumbered and amended to read:
5417 **[~~63M-1-3502~~]. 63N-2-602. Definitions.**
5418 As used in this part:
5419 (1) "Affiliate" means an entity that directly, or indirectly through one or more
5420 intermediaries, controls, or is controlled by, or is under common control with, the entity
5421 specified.
5422 (2) "Applicable percentage" means:
5423 (a) 0% for the first two credit allowance dates;
5424 (b) 12% for the next three credit allowance dates; and
5425 (c) 11% for the next two credit allowance dates.
5426 (3) "Community Development Financial Institutions Fund" means the fund created in
5427 12 U.S.C. Sec. 4703.
5428 (4) "Credit allowance date" means with respect to a qualified equity investment:
5429 (a) the date on which the qualified equity investment is initially made; and
5430 (b) each of the six anniversary dates of the date described in Subsection (4)(a).
5431 (5) "Federal New Markets Tax Credit Program" means the program created under
5432 Section 45D, Internal Revenue Code.
5433 (6) "Long-term debt security" means a debt instrument issued by a qualified
5434 community development entity:
5435 (a) with an original maturity date of at least seven years from the date of its issuance;
5436 and
5437 (b) with no repayment, amortization, or prepayment features before its original
5438 maturity date.
5439 (7) "Purchase price" means the amount paid to the qualified community development
5440 entity that issues a qualified equity investment for the qualified equity investment that may not
5441 exceed the amount of qualified equity investment authority certified pursuant to Section
5442 [~~63M-1-3503~~] 63N-2-603.
5443 (8) (a) "Qualified active low-income community business" is as defined in Section
5444 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses

5445 meeting the United States Small Business Administration size eligibility standards established
5446 in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is
5447 made.
5448 (b) Notwithstanding Subsection (8)(a), "qualified active low-income community
5449 business" does not include a business that derives or projects to derive 15% or more of its
5450 annual revenue from the rental or sale of real estate, unless the business is controlled by or
5451 under common control with another business if the second business:
5452 (i) does not derive or project to derive 15% or more of its annual revenue from the
5453 rental or sale of real estate; and
5454 (ii) is the primary tenant of the real estate leased from the initial business.
5455 (c) A business is considered a qualified active low-income community business for the
5456 duration of the qualified community development entity's investment in, or loan to, the
5457 business if the qualified community development entity reasonably expects, at the time it
5458 makes the investment or loan, that the business will continue to satisfy the requirements for
5459 being a qualified active low-income community business, other than the United States Small
5460 Business Administration size standards, throughout the entire period of the investment or loan.
5461 (9) (a) "Qualified community development entity" is as defined in Section 45D,
5462 Internal Revenue Code, if the entity has entered into an allocation agreement with the
5463 Community Development Financial Institutions Fund of the United States Treasury
5464 Department with respect to credits authorized by Section 45D, Internal Revenue Code, that
5465 includes Utah within the service area set forth in the allocation agreement.
5466 (b) An entity may not be considered to be controlled by another entity solely as a result
5467 of the entity having made a direct or indirect equity investment in the other entity that earns tax
5468 credits under Section 45D, Internal Revenue Code, or in a similar state program.
5469 (c) "Qualified community development entity" includes a subsidiary community
5470 development entity of a qualified community development entity.
5471 (10) (a) "Qualified equity investment" means an equity investment in, or long-term
5472 debt security issued by, a qualified community development entity that:
5473 (i) is acquired on or after September 2, 2014, at its original issuance solely in exchange
5474 for cash;
5475 (ii) has at least 85% of its cash purchase price used by the qualified community

5476 development entity to make qualified low-income community investments in qualified active
5477 low-income community businesses located in this state by the first anniversary of the initial
5478 credit allowance date; and
5479 (iii) is designated by the qualified community development entity as a qualified equity
5480 investment and is certified by the office pursuant to Section [~~63M-1-3503~~] 63N-2-603.
5481 (b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a
5482 qualified equity investment that does not meet the provisions of Subsection (10)(a) if the
5483 investment was a qualified equity investment in the hands of a prior holder.
5484 (11) "Qualified low-income community investment" means a capital or equity
5485 investment in, or a loan to, a qualified active low-income community business, except, with
5486 respect to any one qualified active low-income community business, the maximum amount of
5487 qualified low-income community investments made in such business, on a collective basis with
5488 all of the business's affiliates, with the proceeds of qualified equity investments certified under
5489 Section [~~63M-1-3503~~] 63N-2-603 shall be $4,000,000, exclusive of qualified low-income
5490 community investments made with repaid or redeemed qualified low-income community
5491 investments or interest or profits realized on the repaid or redeemed qualified low-income
5492 community investments.
5493 (12) "Tax credit certificate" is a certificate issued by the office under Subsection
5494 [~~63M-1-3503~~] 63N-2-603(11) to an entity eligible for a tax credit under Section 59-9-107 that:
5495 (a) lists the name of the entity eligible for a tax credit;
5496 (b) lists the entity's taxpayer identification number;
5497 (c) lists the amount of tax credit that the office determines the entity is eligible for the
5498 calendar year; and
5499 (d) may include other information as determined by the office.
5500 Section 121. Section **63N-2-603**, which is renumbered from Section 63M-1-3503 is
5501 renumbered and amended to read:
5502 **[~~63M-1-3503~~]. 63N-2-603. Certification of qualified equity investments --**
5503 **Issuance of tax credit related certificates.**
5504 (1) (a) A qualified community development entity that seeks to have an equity
5505 investment or long-term debt security certified as a qualified equity investment and as eligible
5506 for tax credits under Section 59-9-107 shall apply to the office.

5507 (b) The office shall begin accepting applications on September 2, 2014.
5508 (c) The qualified community development entity shall include the following in the
5509 qualified community development entity's application:
5510 [~~(a)~~] (i) evidence of the applicant's certification as a qualified community development
5511 entity, including evidence of the service area of the applicant that includes this state;
5512 [~~(b)~~] (ii) a copy of an allocation agreement executed by the applicant, or its controlling
5513 entity, and the Community Development Financial Institutions Fund;
5514 [~~(c)~~] (iii) a certificate executed by an executive officer of the applicant attesting that:
5515 [~~(i)~~] (A) the applicant or its controlling entity has received more than one allocation of
5516 qualified equity investment authority under the Federal New Markets Tax Credit Program; and
5517 [~~(ii)~~] (B) the allocation agreement submitted with the application remains in effect and
5518 has not been revoked or cancelled by the Community Development Financial Institutions Fund;
5519 [~~(d)~~] (iv) a description of the proposed amount, structure, and purchaser of the
5520 qualified equity investment;
5521 [~~(e)~~] (v) examples of the types of qualified active low-income businesses in which the
5522 applicant, its controlling entity, or affiliates of its controlling entity have invested under the
5523 Federal New Markets Tax Credit Program, except that when submitting an application an
5524 applicant is not required to identify qualified active low-income community businesses in
5525 which the applicant will invest;
5526 [~~(f)~~] (vi) the amount of qualified equity investment authority the applicant agrees to
5527 designate as a federal qualified equity investment under Section 45D, Internal Revenue Code,
5528 including a copy of the screen shot from the Community Development Financial Institutions
5529 Fund's Allocation Tracking System of the applicant's remaining federal qualified equity
5530 investment authority;
5531 [~~(g)~~] (vii) if applicable, the refundable performance deposit required by Subsection
5532 63M-1-3506(1);
5533 [~~(h)~~] (viii) a copy of a certificate of qualified equity investment authority under another
5534 state's new markets tax credit program; and
5535 [~~(i)~~] (ix) evidence that the applicant, its controlling entity, and subsidiary qualified
5536 community development entities of the controlling entity have collectively made at least
5537 $40,000,000 in qualified low-income community investments under the Federal New Markets

5538 Tax Credit Program and other state's new markets tax credit programs with a maximum
5539 qualified low-income community investment size of $4,000,000 per business.
5540 (2) (a) Within 30 days after receipt of a completed application containing the
5541 information set forth in Subsection (1), including, if applicable, the refundable performance
5542 deposit, the office shall grant or deny the application in full or in part.
5543 (b) If the office denies any part of the application, the office shall inform the applicant
5544 of the grounds for the denial. If the applicant provides additional information required by the
5545 office or otherwise completes its application within 15 days of the notice of denial, the
5546 application shall be considered completed as of the original date of submission.
5547 (c) If the applicant fails to provide the information or complete its application within
5548 the 15-day period:
5549 (i) the application is denied;
5550 (ii) the applicant shall resubmit an application in full with a new submission date; and
5551 (iii) the office shall return any refundable performance deposit required by Subsection
5552 [~~63M-1-3506~~] 63N-2-606(1).
5553 (3) (a) If the application is complete, the office shall certify the proposed equity
5554 investment or long-term debt security as a qualified equity investment, subject to the limitation
5555 contained in Subsection (6).
5556 (b) The office shall provide written notice of the certification to the qualified
5557 community development entity.
5558 (4) The office shall certify qualified equity investments in the order applications are
5559 received by the office. Applications received on the same day are considered to have been
5560 received simultaneously.
5561 (5) For applications that are complete and received on the same day, the office shall
5562 certify, consistent with remaining qualified equity investment capacity, qualified equity
5563 investments of applicants as follows:
5564 (a) First, the office shall certify applications by applicants that agree to designate
5565 qualified equity investments as federal qualified equity investments in accordance with
5566 Subsection (1)[~~(f)~~](c)(vi) in proportionate percentages based upon the ratio of the amount of
5567 qualified equity investments requested in an application to be designated as federal qualified
5568 equity investments to the total amount of qualified equity investments to be designated as

5569 federal qualified equity investments requested in all applications received on the same day.
5570 (b) After complying with Subsection (5)(a), the office shall certify the qualified equity
5571 investments of all other applicants, including the remaining qualified equity investment
5572 authority requested by applicants not designated as federal qualified equity investments in
5573 accordance with Subsection (1)[~~(f)~~](c)(vi), in proportionate percentages based upon the ratio of
5574 the amount of qualified equity investments requested in the applications to the total amount of
5575 qualified equity investments requested in all applications received on the same day.
5576 (6) (a) (i) The office shall certify $50,000,000 in qualified equity investments pursuant
5577 to this section.
5578 (ii) If a pending request cannot be fully certified due to this limit, the office shall
5579 certify the portion that may be certified unless the qualified community development entity
5580 elects to withdraw its request rather than receive partial certification.
5581 (b) If a qualified community development entity withdraws its request pursuant to
5582 Subsection (6)(a), the office shall return any refundable performance deposit required by
5583 Subsection [~~63M-1-3506~~] 63N-2-606(1).
5584 (c) A partial certification does not decrease the amount of the refundable performance
5585 deposit required under Subsection [~~63M-1-3506~~] 63N-2-606(1).
5586 (7) An approved applicant may transfer all or a portion of its certified qualified equity
5587 investment authority to its controlling entity or a subsidiary qualified community development
5588 entity of the controlling entity, provided that the applicant and the transferee notify the office of
5589 the transfer with the notice set forth in Subsection (8) and include with the notice the
5590 information required in the application with respect to the transferee.
5591 (8) (a) Within 45 days of the applicant receiving notice of certification, the qualified
5592 community development entity or any transferee under Subsection (7) shall:
5593 (i) issue the qualified equity investment;
5594 (ii) receive cash in the amount of the certified amount; and
5595 (iii) if applicable, designate the required amount of qualified equity investment
5596 authority as federal qualified equity investments.
5597 (b) The qualified community development entity or transferee under Subsection (7)
5598 shall provide the office with evidence of the receipt of the cash investment and designation of
5599 the qualified equity investment as a federal qualified equity investment within 50 days of the

5600 applicant receiving notice of certification.
5601 (c) The certification under this section lapses and the qualified community
5602 development entity may not issue the qualified equity investment without reapplying to the
5603 office for certification if, within 45 days following receipt of the certification notice, the
5604 qualified community development entity or any transferee under Subsection (7) does not:
5605 (i) receive the cash investment;
5606 (ii) issue the qualified equity investment; and
5607 (iii) if applicable, designate the required amount of qualified equity investment
5608 authority as federal qualified equity investments.
5609 (d) A lapsed certification under this Subsection (8) reverts back to the office and shall
5610 be reissued as follows:
5611 (i) first, pro rata to applicants whose qualified equity investment allocations were
5612 reduced under Subsection (5)(a), if applicable;
5613 (ii) second, pro rata to applicants whose qualified equity investment allocations were
5614 reduced under Subsection (5)(b); and
5615 (iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the
5616 application process.
5617 (e) (i) The office shall:
5618 (A) calculate an annual fee to be paid by each applicant certified pursuant to
5619 Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing
5620 $100,000 by the number of applications certified pursuant to Subsection (3)(a); and
5621 (B) notify each successful applicant of the amount of the annual fee.
5622 (ii) (A) The initial annual fee shall be due and payable to the office with the evidence
5623 of receipt of cash investment set forth in Subsection (8)(b).
5624 (B) After the initial annual fee, an annual fee shall be due and payable to the office
5625 with each report submitted pursuant to Section [~~63M-1-3510~~] 63N-2-610.
5626 (iii) An annual fee may not be required once a qualified community development entity
5627 together with all transferees under Subsection (7) have decertified all qualified equity
5628 investments in accordance with Subsection [~~63M-1-3507~~] 63N-2-607(2).
5629 (iv) To maintain an aggregate annual fee of $100,000 for all qualified community
5630 development entities, the office shall recalculate the annual fee as needed upon:

5631 (A) the lapse of any certification under Subsection (8)(c);
5632 (B) the recapture of tax credits pursuant to Section [~~63M-1-3504~~] 63N-2-604; or
5633 (C) the decertification of qualified equity investments pursuant to Subsection
5634 [~~63M-1-3507~~] 63N-2-607(2).
5635 (v) An annual fee collected under this Subsection (8)(e) shall be deposited into the
5636 General Fund as a dedicated credit for use by the office to implement this part.
5637 (9) (a) A qualified community development entity that issues a debt instrument
5638 described in Subsection [~~63M-1-3502~~] 63N-2-602(6) may not make cash interest payments on
5639 the debt instrument during the period beginning on the date of issuance and ending on the final
5640 credit allowance date in an amount that exceeds the cumulative operating income, as defined
5641 by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community
5642 development entity for that period before giving effect to the interest expense of the long-term
5643 debt security.
5644 (b) This Subsection (9) does not limit the holder of the debt instrument's ability to
5645 accelerate payments on the debt instrument in situations when the qualified community
5646 development entity has defaulted on covenants designed to ensure compliance with this part or
5647 Section 45D, Internal Revenue Code.
5648 (10) (a) A qualified community development entity that issues qualified equity
5649 investments shall notify the office of the names of the entities that are eligible to use tax credits
5650 under this section and Section 59-9-107:
5651 (i) pursuant to an allocation of tax credits;
5652 (ii) pursuant to a change in allocation of tax credits; or
5653 (iii) due to a transfer of a qualified equity investment.
5654 (b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah
5655 Administrative Rulemaking Act, provide for the form and content of the notice required under
5656 this Subsection (10).
5657 (11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability
5658 under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:
5659 (i) makes a qualified equity investment; and
5660 (ii) obtains a tax credit certificate in accordance with Subsection (11)(b).
5661 (b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a

5662 tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax
5663 credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of
5664 the tax credit certificate.
5665 (c) On each credit allowance date of the qualified equity investment, the entity that
5666 made the qualified equity investment, or the subsequent holder of the qualified equity
5667 investment, may claim a portion of the tax credit during the calendar year that includes the
5668 credit allowance date.
5669 (d) The office shall calculate the tax credit amount and the tax credit amount shall be
5670 equal to the applicable percentage for the credit allowance date multiplied by the purchase
5671 price paid to the qualified community development entity for the qualified equity investment.
5672 (e) A tax credit allowed to a partnership, limited liability company, or S-corporation
5673 shall be allocated to the partners, members, or shareholders of the partnership, limited liability
5674 company, or S-corporation for the partners', members', or shareholders' direct use in accordance
5675 with the provisions of any agreement among the partners, members, or shareholders.
5676 (f) An entity may not sell a tax credit allowed under this section on the open market.
5677 (12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall
5678 provide the office with a document that expressly directs and authorizes the State Tax
5679 Commission to disclose to the office the entity's tax returns and other information concerning
5680 the entity that are required by the office and that would otherwise be subject to confidentiality
5681 under Section 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~].
5682 (b) The office shall submit the document described in Subsection (12)(a) to the State
5683 Tax Commission.
5684 (c) Upon receipt of the document described in Subsection (12)(a), the State Tax
5685 Commission shall provide the office with the information requested by the office that the entity
5686 authorized the State Tax Commission to provide to the office in the document described in
5687 Subsection (12)(a).
5688 Section 122. Section **63N-2-604**, which is renumbered from Section 63M-1-3504 is
5689 renumbered and amended to read:
5690 **[~~63M-1-3504~~]. 63N-2-604. Recapture.**
5691 (1) The office may recapture a tax credit from an entity that claimed the tax credit
5692 allowed under Section 59-9-107 on a return, if any of the following occur:

5693 (a) If any amount of a federal tax credit available with respect to a qualified equity
5694 investment that is eligible for a tax credit under this part is recaptured under Section 45D,
5695 Internal Revenue Code, the office may recapture the tax credit in an amount that is
5696 proportionate to the federal recapture with respect to the qualified equity investment.
5697 (b) If the qualified community development entity redeems or makes principal
5698 repayment with respect to a qualified equity investment before the seventh anniversary of the
5699 issuance of the qualified equity investment, the office may recapture an amount proportionate
5700 to the amount of the redemption or repayment with respect to the qualified equity investment.
5701 (c) (i) If the qualified community development entity fails to invest an amount equal to
5702 85% of the purchase price of the qualified equity investment in qualified low-income
5703 community investments in Utah within 12 months of the issuance of the qualified equity
5704 investment and maintains at least 85% of the level of investment in qualified low-income
5705 community investments in Utah until the last credit allowance date for the qualified equity
5706 investment, the office may recapture the tax credit.
5707 (ii) For purposes of this part, an investment is considered held by a qualified
5708 community development entity even if the investment has been sold or repaid if the qualified
5709 community development entity reinvests an amount equal to the capital returned to or
5710 recovered by the qualified community development entity from the original investment,
5711 exclusive of any profits realized, in another qualified low-income community investment
5712 within 12 months of the receipt of the capital.
5713 (iii) Periodic amounts received as repayment of principal pursuant to regularly
5714 scheduled amortization payments on a loan that is a qualified low-income community
5715 investment shall be treated as continuously invested in a qualified low-income community
5716 investment if the amounts are reinvested in one or more qualified low-income community
5717 investments by the end of the following calendar year.
5718 (iv) A qualified community development entity is not required to reinvest capital
5719 returned from a qualified low-income community investment after the sixth anniversary of the
5720 issuance of the qualified equity investment, and the qualified low-income community
5721 investment shall be considered held by the qualified community development entity through
5722 the seventh anniversary of the qualified equity investment's issuance.
5723 (d) If a qualified community development entity makes a distribution or debt payment

5724 in violation of Subsection [~~63M-1-3507~~] 63N-2-607(1), the office may recapture the tax credit.
5725 (e) If there is a violation of Section [~~63M-1-3509~~] 63N2-609, the office may recapture
5726 the tax credit.
5727 (2) A recaptured tax credit and the related qualified equity investment authority revert
5728 back to the office and shall be reissued:
5729 (a) first, pro rata to applicants whose qualified equity investment allocations were
5730 reduced under Subsection [~~63M-1-3503~~] 63N-2-603(5)(a);
5731 (b) second, pro rata to applicants whose qualified equity investment allocations were
5732 reduced under Subsection [~~63M-1-3503~~] 63N-2-603(5)(b); and
5733 (c) after complying with Subsections (2)(a) and (b), in accordance with the application
5734 process.
5735 Section 123. Section **63N-2-605**, which is renumbered from Section 63M-1-3505 is
5736 renumbered and amended to read:
5737 **[~~63M-1-3505~~]. 63N-2-605. Notice of noncompliance.**
5738 (1) Enforcement of a recapture provision under Subsection [~~63M-1-3504~~]
5739 63N-2-604(1) is subject to a six-month cure period.
5740 (2) The office may not recapture a tax credit until the office notifies the qualified
5741 community development entity of noncompliance and affords the qualified community
5742 development entity six months from the date of the notice to cure the noncompliance.
5743 Section 124. Section **63N-2-606**, which is renumbered from Section 63M-1-3506 is
5744 renumbered and amended to read:
5745 **[~~63M-1-3506~~]. 63N-2-606. Refundable performance deposit -- Small**
5746 **Business Jobs Performance Guarantee Account.**
5747 (1) (a) A qualified community development entity that seeks to have an equity
5748 investment or long-term debt security certified as a qualified equity investment and as eligible
5749 for tax credits under Section 59-9-107 shall pay a deposit in the amount of .5% of the amount
5750 of the equity investment or long-term debt security requested in an application to be certified as
5751 a qualified equity investment to the office for deposit into the Small Business Jobs
5752 Performance Guarantee Account.
5753 (b) (i) There is created in the General Fund a restricted account known as the "Small
5754 Business Jobs Performance Guarantee Account" that consists of deposits made under

5755 Subsection (1)(a).
5756 (ii) The Small Business Jobs Performance Guarantee Account does not earn interest.
5757 (iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance
5758 Guarantee Account that a qualified community development entity forfeits under this section is
5759 to be transferred to the General Fund.
5760 (iv) The office shall work with the Division of Finance to ensure that money in the
5761 Small Business Jobs Performance Guarantee Account is properly accounted for at the end of
5762 each fiscal year.
5763 (c) A qualified community development entity shall forfeit the deposit required under
5764 Subsection (1)(a) in its entirety if:
5765 (i) the qualified community development entity and its subsidiary qualified community
5766 development entities fail to issue the total amount of qualified equity investments certified by
5767 the office and receive cash in the total amount certified under Section [~~63M-1-3503~~]
5768 63N-2-603; or
5769 (ii) the qualified community development entity or any subsidiary qualified community
5770 development entity that issues a qualified equity investment certified under this part fails to
5771 make qualified low-income community investments in qualified active low-income community
5772 businesses in Utah equal to at least 85% of the purchase price of the qualified equity
5773 investment by the second credit allowance date of such qualified equity investment.
5774 (d) The six-month cure period established under Section [~~63M-1-3505~~] 63N-2-605 is
5775 not applicable to the forfeiture of a deposit under Subsection (1)(c).
5776 (2) (a) A deposit required under Subsection (1) shall be paid to the office and held in
5777 the Small Business Jobs Performance Guarantee Account until such time as compliance with
5778 this Subsection (2) is established.
5779 (b) A qualified community development entity may request a refund of the deposit
5780 from the office no sooner than 30 days after the qualified community development entity and
5781 all transferees under Subsection [~~63M-1-3503~~] 63N-2-603(7) have invested 85% of the
5782 purchase price of the qualified equity investment authority certified by the office pursuant to
5783 Subsection [~~63M-1-3503~~] 63N-2-603(3).
5784 (c) The office has 30 days to comply with the request for a refund or give notice of
5785 noncompliance.

5786 Section 125. Section **63N-2-607**, which is renumbered from Section 63M-1-3507 is
5787 renumbered and amended to read:
5788 **[~~63M-1-3507~~]. 63N-2-607. 150% investment requirement -- Ceasing of**
5789 **certification.**
5790 (1) (a) Once certified under Section [~~63M-1-3503~~] 63N-2-603, a qualified equity
5791 investment shall remain certified until all of the requirements of Subsection (2) have been met.
5792 (b) Until such time as the qualified equity investments issued by a qualified community
5793 development entity are no longer certified, the qualified community development entity may
5794 not distribute to its equity holders or make cash payments on long-term debt securities that
5795 have been certified as qualified equity investments in an amount that exceeds the sum of:
5796 (i) the cumulative operating income, as defined by regulations adopted under Section
5797 45D, Internal Revenue Code, earned by the qualified community development entity since
5798 issuance of the qualified equity investment, before giving effect to any interest expense from
5799 long-term debt securities certified as qualified equity investments; and
5800 (ii) 50% of the purchase price of the qualified equity investments issued by the
5801 qualified community development entity.
5802 (2) Subject to the other provisions of this section, a qualified equity investment ceases
5803 to be certified when:
5804 (a) it is beyond its seventh credit allowance date;
5805 (b) the qualified community development entity issuing the qualified equity investment
5806 has been in compliance with Section [~~63M-1-3504~~] 63N-2-604 through its seventh credit
5807 allowance date, including any cures under Section [~~63M-1-3505~~] 63N-2-605;
5808 (c) the qualified community development entity issuing such qualified equity
5809 investment has used the cash purchase of such qualified equity investment, together with
5810 capital returned, repaid, or redeemed or profits realized with qualified low-income community
5811 investments, to invest in qualified active low-income community businesses such that the total
5812 qualified low-income community investments made, cumulatively including reinvestments,
5813 exceeds 150% of the qualified equity investment; and
5814 (d) the qualified community development complies with Subsection (4).
5815 (3) For purposes of making the calculation under Subsection (2)(c), qualified
5816 low-income community investments to any one qualified active low-income community

5817 business, on a collective basis with its affiliates, in excess of $4,000,000 may not be included,
5818 unless such investments are made with capital returned or repaid from qualified low-income
5819 community investments made by the qualified community development entity in other
5820 qualified active low-income community businesses or interest earned on or profits realized
5821 from any qualified low-income community investments.
5822 (4) (a) A qualified community development entity shall file a request for ceasing
5823 certification of a qualified equity investment in a form, provided by the office, that establishes
5824 that the qualified community development entity has met the requirements of Subsection (2)
5825 along with evidence supporting the request for ceasing certification.
5826 (b) Subsection (2)(b) shall be considered to be met if no recapture action has been
5827 commenced by the office as of the seventh credit allowance date.
5828 (5) (a) A request for ceasing certification may not be unreasonably denied and the
5829 office shall respond to the request within 30 days of the office receiving the request.
5830 (b) Upon grant of a request for ceasing certification, the qualified community
5831 development entity is no longer subject to Section [~~63M-1-3510~~] 63N-2-610.
5832 (c) If the request is denied for any reason, the office has the burden of proof in any
5833 administrative or legal proceeding that follows.
5834 Section 126. Section **63N-2-608**, which is renumbered from Section 63M-1-3508 is
5835 renumbered and amended to read:
5836 **[~~63M-1-3508~~]. 63N-2-608. Limitation on fees.**
5837 (1) A qualified community development entity or purchaser of a qualified equity
5838 investment may not pay to any qualified community development entity or affiliate of a
5839 qualified community development entity any fee in connection with any activity under this part
5840 before meeting the requirements of Subsection [~~63M-1-3507~~] 63N-2-607(2) with respect to all
5841 qualified equity investments issued by such qualified community development entity and its
5842 affiliates.
5843 (2) Subsection (1) does not prohibit the allocation or distribution of income earned by a
5844 qualified community development entity or purchaser of a qualified equity investment to the
5845 qualified community development entity's or purchaser's equity owners or the payment of
5846 reasonable interest on amounts lent to a qualified community development entity or purchaser
5847 of a qualified equity investment.

5848 Section 127. Section **63N-2-609**, which is renumbered from Section 63M-1-3509 is
5849 renumbered and amended to read:
5850 **[~~63M-1-3509~~]. 63N-2-609. New capital requirement.**
5851 (1) A qualified active low-income community business that receives a qualified
5852 low-income community investment from a qualified community development entity that issues
5853 qualified equity investments under this part, or any affiliates of a qualified active low-income
5854 community business, may not directly or indirectly:
5855 (a) own or have the right to acquire an ownership interest in a qualified community
5856 development entity or member or affiliate of a qualified community development entity,
5857 including a holder of a qualified equity investment issued by the qualified community
5858 development entity; or
5859 (b) loan to or invest in a qualified community development entity or member or
5860 affiliate of a qualified community development entity, including a holder of a qualified equity
5861 investment issued by a qualified community development entity when the proceeds of the loan
5862 or investment are directly or indirectly used to fund or refinance the purchase of a qualified
5863 equity investment under this part.
5864 (2) For purposes of this section, a qualified community development entity may not be
5865 considered an affiliate of a qualified active low-income community business solely as a result
5866 of its qualified low-income community investment in the business.
5867 Section 128. Section **63N-2-610**, which is renumbered from Section 63M-1-3510 is
5868 renumbered and amended to read:
5869 **[~~63M-1-3510~~]. 63N-2-610. Reporting.**
5870 (1) (a) A qualified community development entity that issues qualified equity
5871 investments shall submit a report to the office within the first five business days after the first
5872 anniversary of the initial credit allowance date that provides documentation as to the
5873 investment of 85% of the purchase price in qualified low-income community investments in
5874 qualified active low-income community businesses located in Utah.
5875 (b) The report shall include:
5876 [~~(a)~~] (i) a bank statement of the qualified community development entity evidencing
5877 each qualified low-income community investment; and
5878 [~~(b)~~] (ii) evidence that the business was a qualified active low-income community

5879 business at the time of the qualified low-income community investment.
5880 (2) (a) After the initial report under Subsection (1), a qualified community
5881 development entity shall submit an annual report to the office within 60 days of the beginning
5882 of the calendar year during the compliance period. [~~An~~]
5883 (b) The annual report is not due before the first anniversary of the initial credit
5884 allowance date.
5885 (c) The annual report shall include the following:
5886 [~~(a)~~] (i) the number of employment positions created and retained as a result of
5887 qualified low-income community investments;
5888 [~~(b)~~] (ii) the average annual salary of positions described in Subsection (2)[~~(a)~~](c)(i);
5889 and
5890 [~~(c)~~] (iii) certification from the qualified community development entity that the
5891 grounds for recapture under Section [~~63M-1-3504~~] 63N-2-604 have not occurred.
5892 Section 129. Section **63N-2-611**, which is renumbered from Section 63M-1-3511 is
5893 renumbered and amended to read:
5894 **[~~63M-1-3511~~]. 63N-2-611. Revenue impact assessment.**
5895 (1) Before making a qualified low-income community investment, a qualified
5896 community development entity shall submit to the office a revenue impact assessment prepared
5897 using a nationally recognized economic development model that demonstrates that the
5898 qualified low-income community investment will have a revenue positive impact on the state
5899 over 10 years against the 58% tax credit utilization over the same 10-year period.
5900 (2) The office [~~must~~] shall notify the qualified community development entity within
5901 five business days if the qualified low-income community investment does not have a revenue
5902 positive impact on the state over 10 years against the 58% tax credit utilization over the same
5903 10-year period using the revenue impact assessment submitted.
5904 (3) If the office determines that the revenue impact assessment does not reflect a
5905 revenue positive qualified low-income community investment, the office may waive the
5906 requirement under this section if the office determines that the proposed qualified low-income
5907 community investment will further economic development.
5908 Section 130. Section **63N-2-612**, which is renumbered from Section 63M-1-3512 is
5909 renumbered and amended to read:

5910 **[~~63M-1-3512~~]. 63N-2-612. Scope of part.**
5911 This part applies only to a return or report originally due on or after September 2, 2014.
5912 Section 131. Section **63N-2-701**, which is renumbered from Section 63M-1-3101 is
5913 renumbered and amended to read:
5914 **Part 7. Alternative Energy Manufacturing Tax Credit Act**
5915 **[~~63M-1-3101~~]. 63N-2-701. Title.**
5916 This part is known as the "Alternative Energy Manufacturing Tax Credit Act."
5917 Section 132. Section **63N-2-702**, which is renumbered from Section 63M-1-3102 is
5918 renumbered and amended to read:
5919 **[~~63M-1-3102~~]. 63N-2-702. Definitions.**
5920 As used in this [~~section~~] part:
5921 (1) "Alternative energy" [~~is~~] has the same meaning as defined in Section 59-12-102.
5922 (2) (a) "Alternative energy entity" means a person that:
5923 (i) conducts business within the state; and
5924 (ii) enters into an agreement with the office that qualifies the person to receive a tax
5925 credit.
5926 (b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in
5927 Section 59-10-1402, of a person described in Subsection (2)(a).
5928 (3) "Alternative energy manufacturing project" means a project produced by an
5929 alternative energy entity if that project involves:
5930 (a) a new or expanding operation in the state of a new or expanding alternative energy
5931 entity; and
5932 (b) the manufacturing of machinery or equipment used directly in the production of
5933 alternative energy.
5934 (4) "New incremental job within the state" means, with respect to an alternative energy
5935 entity, an employment position that:
5936 (a) did not exist within the state before:
5937 (i) the alternative energy entity entered into an agreement with the office in accordance
5938 with Section [~~63M-1-3103~~] 63N-2-703; and
5939 (ii) the alternative energy manufacturing project began;
5940 (b) is not shifted from one location in the state to another location in the state; and

5941 (c) is established to the satisfaction of the office, including by amounts paid or
5942 withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax
5943 Act.
5944 (5) "New state revenues" means an increased amount of tax revenues generated as a
5945 result of an alternative energy manufacturing project by an alternative energy entity or a new
5946 incremental job within the state under the following:
5947 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
5948 (b) Title 59, Chapter 10, Individual Income Tax Act; and
5949 (c) Title 59, Chapter 12, Sales and Use Tax Act.
5950 [~~(6) "Office" means the Governor's Office of Economic Development.~~]
5951 [~~(7)~~] (6) "Tax credit" means a tax credit under Section 59-7-614.8 or 59-10-1030.
5952 [~~(8)~~] (7) "Tax credit applicant" means an alternative energy entity that applies to the
5953 office to receive a tax credit certificate under this part.
5954 [~~(9)~~] (8) "Tax credit certificate" means a certificate issued by the office that:
5955 (a) lists the name of the tax credit certificate recipient;
5956 (b) lists the tax credit certificate recipient's taxpayer identification number;
5957 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
5958 this part for a taxable year; and
5959 (d) includes other information as determined by the office.
5960 [~~(10)~~] (9) "Tax credit certificate recipient" means an alternative energy entity that
5961 receives a tax credit certificate for a tax credit in accordance with this part.
5962 Section 133. Section **63N-2-703**, which is renumbered from Section 63M-1-3103 is
5963 renumbered and amended to read:
5964 **[~~63M-1-3103~~]. 63N-2-703. Tax credits.**
5965 (1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5966 the office, with advice from the board, shall make rules establishing standards an alternative
5967 energy entity shall meet to qualify for a tax credit.
5968 (b) Before the office enters into an agreement described in Subsection (2) with an
5969 alternative energy entity, the office shall certify:
5970 (i) that the alternative energy manufacturing project will generate new state revenues;
5971 (ii) the economic life of the alternative energy manufacturing project produced by the

5972 alternative energy entity;
5973 (iii) that local incentives have been committed or will be committed to be provided to
5974 the alternative energy manufacturing project;
5975 (iv) that the alternative energy entity meets the requirements of Section [~~63M-1-3104~~]
5976 63N-2-704; and
5977 (v) that the alternative energy entity has received a Certificate of Good Standing from
5978 the Division of Corporations and Commercial Code.
5979 (2) If an alternative energy entity meets the requirements of this part to receive a tax
5980 credit, the office may enter into an agreement with the alternative energy entity to authorize the
5981 tax credit in accordance with Subsection (3).
5982 (3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a
5983 tax credit under this part that may not exceed 100% of new state revenues generated by the
5984 alternative energy manufacturing project.
5985 (b) As determined by the office, the office may authorize or commit a tax credit under
5986 this section for a time period that does not exceed the lesser of:
5987 (i) the economic life of the alternative energy manufacturing project; or
5988 (ii) 20 years.
5989 (c) The office shall consider economic modeling, including the costs and benefits of an
5990 alternative energy manufacturing project to the state and local governments, in determining:
5991 (i) the amount of tax credit to authorize or commit in accordance with Subsection
5992 (3)(a); and
5993 (ii) the time period for which the office will authorize or commit a tax credit in
5994 accordance with Subsection (3)(b).
5995 (d) For a taxable year, a tax credit under this section may not exceed the new state
5996 revenues generated by an alternative energy manufacturing project during that taxable year.
5997 (4) An alternative energy entity that seeks to receive a tax credit or has entered into an
5998 agreement described in Subsection (2) with the office shall:
5999 (a) annually file a report with the office showing the new state revenues generated by
6000 the alternative energy manufacturing project during the taxable year for which the alternative
6001 energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030;
6002 (b) submit to an audit for verification of a tax credit under Section 59-7-614.8 or

6003 59-10-1030;
6004 (c) provide the office with information required by the office to certify the economic
6005 life of the alternative energy manufacturing project produced by the alternative energy entity,
6006 which may include a power purchase agreement, a lease, or a permit; and
6007 (d) retain records supporting a claim for a tax credit for at least four years after the
6008 alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.
6009 (5) The office shall annually certify the new state revenues generated by an alternative
6010 energy manufacturing project for a taxable year for which an alternative energy entity seeks to
6011 receive a tax credit under Section 59-7-614.8 or 59-10-1030.
6012 Section 134. Section **63N-2-704**, which is renumbered from Section 63M-1-3104 is
6013 renumbered and amended to read:
6014 **[~~63M-1-3104~~]. 63N-2-704. Qualifications for tax credit -- Procedure.**
6015 (1) The office, with advice from the board, shall certify an alternative energy entity's
6016 eligibility for a tax credit as provided in this section.
6017 (2) A tax credit applicant shall provide the office with:
6018 (a) an application for a tax credit certificate;
6019 (b) documentation that the tax credit applicant meets the standards and requirements
6020 described in Section [~~63M-1-3103~~] 63N-2-703 to the satisfaction of the office for the taxable
6021 year for which the tax credit applicant seeks to claim a tax credit; and
6022 (c) documentation that expressly directs and authorizes the State Tax Commission to
6023 disclose to the office the tax credit applicant's returns and other information concerning the tax
6024 credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or
6025 Section 6103, Internal Revenue Code.
6026 (3) (a) The office shall submit the documentation described in Subsection (2)(c) to the
6027 State Tax Commission.
6028 (b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax
6029 Commission shall provide the office with the documentation described in Subsection (2)(c)
6030 requested by the office that the tax credit applicant directed and authorized the State Tax
6031 Commission to provide to the office.
6032 (4) If, after the office reviews the documentation described in Subsections (2) and (3),
6033 the office determines that the documentation supporting the tax credit applicant's claim for a

6034 tax credit is not substantially accurate, the office shall:
6035 (a) deny the tax credit; or
6036 (b) inform the tax credit applicant that the documentation supporting the tax credit
6037 applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new
6038 documentation.
6039 (5) If, after the office reviews the documentation described in Subsections (2) and (3),
6040 the office determines that the documentation supporting the tax credit applicant's claim for a
6041 tax credit is substantially accurate, the office shall, on the basis of that documentation:
6042 (a) enter into the agreement described in Section [~~63M-1-3103~~] 63N-2-703;
6043 (b) issue a tax credit certificate to the tax credit applicant; and
6044 (c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b)
6045 to the State Tax Commission.
6046 (6) An alternative energy entity may not claim a tax credit under this part unless the
6047 alternative energy entity is a tax credit certificate recipient.
6048 (7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit
6049 certificate in accordance with Subsection [~~63M-1-3103~~] 63N-2-703(4).
6050 Section 135. Section **63N-2-705**, which is renumbered from Section 63M-1-3105 is
6051 renumbered and amended to read:
6052 **[~~63M-1-3105~~]. 63N-2-705. Reporting.**
6053 The office shall provide the following information in the annual written report
6054 described in Section [~~63M-1-206~~] 63N-2-301:
6055 (1) the office's success in attracting alternative energy manufacturing projects to the
6056 state and the resulting increase in new state revenues under this part;
6057 (2) the amount of tax credits the office has granted or will grant and the time period
6058 during which the tax credits have been or will be granted; and
6059 (3) the economic impact on the state by comparing new state revenues to tax credits
6060 that have been or will be granted under this part.
6061 Section 136. Section **63N-2-801**, which is renumbered from Section 63M-1-2901 is
6062 renumbered and amended to read:
6063 **Part 8. Technology and Life Science Economic Development Act**
6064 **[~~63M-1-2901~~]. 63N-2-801. Title.**

6065 This part is known as the "Technology and Life Science Economic Development Act."
6066 Section 137. Section **63N-2-802**, which is renumbered from Section 63M-1-2902 is
6067 renumbered and amended to read:
6068 **[~~63M-1-2902~~]. 63N-2-802. Definitions.**
6069 As used in this part:
6070 [~~(1) "Board" means the Governor's Office of Economic Development Board of~~
6071 ~~Directors.~~]
6072 [~~(2)~~] (1) "Claimant" [~~is~~] has the same meaning as defined in Section 59-10-1002.
6073 [~~(3)~~] (2) "Eligible business entity" means a person that:
6074 (a) enters into an agreement with the office in accordance with this part to receive a tax
6075 credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;
6076 (b) is:
6077 (i) a life science establishment; or
6078 (ii) described in NAICS Code 334413, Semiconductor and Related Device
6079 Manufacturing, of the 2007 North American Industry Classification System of the federal
6080 Executive Office of the President, Office of Management and Budget;
6081 (c) has at least 50% of its employees in the state for each day of a taxable year the
6082 eligible business entity claims a tax credit under Section 59-7-614.6 or 59-10-1109; and
6083 (d) receives a tax credit certificate from the office in accordance with this part.
6084 [~~(4)~~] (3) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
6085 (a) enters into an agreement with the office in accordance with this part to receive a tax
6086 credit certificate for a tax credit under Section 59-10-1025; and
6087 (b) receives a tax credit certificate from the office in accordance with this part.
6088 [~~(5)~~] (4) "Eligible new state tax revenues" means an increased amount of tax revenues
6089 generated as a result of an eligible product or project by an eligible business entity or a new
6090 incremental job within the state under the following:
6091 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
6092 (b) Title 59, Chapter 10, Individual Income Tax Act; and
6093 (c) Title 59, Chapter 12, Sales and Use Tax Act.
6094 [~~(6)~~] (5) "Eligible product or project" means any product or project produced by an
6095 eligible business entity that was not produced prior to the date of an agreement with the office

6096 under Section [~~63M-1-2908~~] 63N-2-808:
6097 (a) by the eligible business entity; and
6098 (b) within the state.
6099 [~~(7)~~] (6) "Life science establishment" [~~is~~] has the same meaning as defined in Section
6100 59-10-1025.
6101 [~~(8)~~] (7) "New incremental job within the state" means, with respect to an eligible
6102 business entity, an employment position that:
6103 (a) did not exist within the state before:
6104 (i) the eligible business entity entered into an agreement with the office in accordance
6105 with this part; and
6106 (ii) the eligible product was produced or the eligible project began;
6107 (b) is not shifted from one location in the state to another location in the state; and
6108 (c) is established to the satisfaction of the office, including by amounts paid or
6109 withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.
6110 [~~(9) "Office" means the Governor's Office of Economic Development.~~]
6111 [~~(10)~~] (8) "Tax credit" means a tax credit under:
6112 (a) Section 59-7-614.6;
6113 (b) Section 59-10-1025; or
6114 (c) Section 59-10-1109.
6115 [~~(11)~~] (9) "Tax credit applicant" means a person that applies to the office to receive a
6116 tax credit certificate under this part.
6117 [~~(12)~~] (10) "Tax credit certificate" means a certificate issued by the office that:
6118 (a) lists the name of the tax credit certificate recipient;
6119 (b) lists the tax credit certificate recipient's taxpayer identification number;
6120 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
6121 this part for a taxable year; and
6122 (d) includes other information as determined by the office.
6123 [~~(13)~~] (11) "Tax credit certificate recipient" means:
6124 (a) an eligible business entity that receives a tax credit certificate in accordance with
6125 this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or
6126 (b) an eligible claimant, estate, or trust that receives a tax credit certificate in

6127 accordance with this part for a tax credit under Section 59-10-1025.
6128 Section 138. Section **63N-2-803**, which is renumbered from Section 63M-1-2903 is
6129 renumbered and amended to read:
6130 **[~~63M-1-2903~~]. 63N-2-803. Tax credits issued by office.**
6131 (1) (a) The office may issue tax credit certificates under this part only to the extent that
6132 the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates
6133 under this part for a fiscal year.
6134 (b) The Legislature intends that a statutory authorization under Subsection (1)(a)
6135 specify:
6136 (i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and
6137 (ii) the allocation to the tax credit under Section 59-10-1025.
6138 (2) For fiscal year 2011-12 only, the office may issue a total of $1,300,000 in tax credit
6139 certificates in accordance with this part.
6140 (3) (a) If the total amount of tax credit certificates the office issues in a fiscal year is
6141 less than the amount of tax credit certificates the office may issue under this part in a fiscal
6142 year, the office may issue the remaining amount of tax credit certificates in a fiscal year after
6143 the fiscal year for which there is a remaining amount of tax credit certificates.
6144 (b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates
6145 the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the
6146 office may issue under this part in that quarter, the office may issue the remaining amount of
6147 tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax
6148 credit certificates.
6149 (c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office
6150 issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may
6151 issue in tax credit certificates under Subsection (2), the office:
6152 (i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal
6153 year 2011-12; and
6154 (ii) is not required to allocate the tax credit certificates to any particular quarter.
6155 Section 139. Section **63N-2-804**, which is renumbered from Section 63M-1-2904 is
6156 renumbered and amended to read:
6157 **[~~63M-1-2904~~]. 63N-2-804. Person may not claim or pass through a tax**

6158 **credit without tax credit certificate.**
6159 A person may not claim or pass through a tax credit unless the person has received a tax
6160 credit certificate from the office for the taxable year for which the person claims or passes
6161 through the tax credit.
6162 Section 140. Section **63N-2-805**, which is renumbered from Section 63M-1-2905 is
6163 renumbered and amended to read:
6164 **[~~63M-1-2905~~]. 63N-2-805. Application process.**
6165 (1) A tax credit applicant may apply to the office to receive a tax credit certificate by
6166 filing an application with the office:
6167 (a) on or before the quarterly deadline established by the office by rule made in
6168 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
6169 (b) on a form and in the manner prescribed by the office.
6170 (2) The application shall include:
6171 (a) tax return information as required by the office that is necessary for the office to
6172 determine eligibility for and the amount of a tax credit; and
6173 (b) other documentation as required by the office.
6174 (3) As part of the application required by this section, a tax credit applicant shall sign a
6175 separate document that expressly directs and authorizes the State Tax Commission to disclose
6176 to the office the tax credit certificate recipient's tax returns and other information concerning
6177 the tax credit certificate that:
6178 (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section
6179 6103, Internal Revenue Code; and
6180 (b) are necessary for the office to determine eligibility for and the amount of a tax
6181 credit under this part.
6182 (4) Upon receipt of the document described in Subsection (3), the State Tax
6183 Commission shall provide the office with the tax returns and other information requested by
6184 the office that the tax credit applicant directed or authorized the State Tax Commission to
6185 provide to the office, including information necessary to determine eligibility for the amount of
6186 a tax credit.
6187 (5) If the office determines that the information a tax credit applicant provides is
6188 inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

6189 (a) deny the tax credit; or
6190 (b) inform the tax credit applicant that the information is inadequate and ask the tax
6191 credit applicant to submit new or additional documentation.
6192 Section 141. Section **63N-2-806**, which is renumbered from Section 63M-1-2906 is
6193 renumbered and amended to read:
6194 **[~~63M-1-2906~~]. 63N-2-806. Criteria for tax credits.**
6195 (1) A tax credit applicant shall establish as part of the application required by Section
6196 [~~63M-1-2905~~] 63N-2-805 that the tax credit applicant:
6197 (a) meets all of the criteria to receive the tax credit for which the tax credit applicant
6198 applies, except for the requirement to obtain a tax credit certificate; and
6199 (b) will provide a long-term economic benefit to the state.
6200 (2) The office may not issue a tax credit certificate to a tax credit applicant that fails to
6201 meet the requirements of Subsection (1)(a).
6202 Section 142. Section **63N-2-807**, which is renumbered from Section 63M-1-2907 is
6203 renumbered and amended to read:
6204 **[~~63M-1-2907~~]. 63N-2-807. Rulemaking authority.**
6205 The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah
6206 Administrative Rulemaking Act, establish:
6207 (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a
6208 manner consistent with this part; and
6209 (2) procedures for documenting the office's application of the criteria described in
6210 Subsection (1).
6211 Section 143. Section **63N-2-808**, which is renumbered from Section 63M-1-2908 is
6212 renumbered and amended to read:
6213 **[~~63M-1-2908~~]. 63N-2-808. Agreement between tax credit applicant and**
6214 **office -- Tax credit certificate.**
6215 (1) (a) Except as provided in Subsection [~~63M-1-2903~~] 63N-2-803(3)(b), for each
6216 quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:
6217 (i) 25% of the total amounts made available for allocation in accordance with Section
6218 [~~63M-1-2903~~] 63N-2-803 for the tax credits under Sections 59-7-614.6 and 59-10-1109; and
6219 (ii) 25% of the amounts made available for allocation in accordance with Section

6220 [~~63M-1-2903~~] 63N-2-803 for the tax credit under Section 59-10-1025.
6221 (b) Subject to the other provisions of this part, the office, with advice from the board,
6222 shall determine quarterly:
6223 (i) the tax credit applicant or applicants to which a tax credit certificate may be
6224 provided; and
6225 (ii) the amount of tax credit a tax credit applicant may receive.
6226 (2) The office, with advice from the board, may enter into an agreement to grant a tax
6227 credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit
6228 applicant meets the conditions established in the agreement and under this part.
6229 (3) The agreement described in Subsection (2) shall:
6230 (a) detail the requirements that the tax credit applicant shall meet prior to receiving a
6231 tax credit certificate;
6232 (b) require the tax credit certificate recipient to retain records supporting a claim for a
6233 tax credit for at least four years after the tax credit certificate recipient claims a tax credit under
6234 this part; and
6235 (c) require the tax credit certificate recipient to submit to audits for verification of the
6236 tax credit claimed, including audits by the office and by the State Tax Commission.
6237 Section 144. Section **63N-2-809**, which is renumbered from Section 63M-1-2909 is
6238 renumbered and amended to read:
6239 **[~~63M-1-2909~~]. 63N-2-809. Issuance of tax credit certificates.**
6240 (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax
6241 credit certificate to the tax credit applicant:
6242 (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit
6243 and enters into an agreement with the office;
6244 (b) for two taxable years immediately following the taxable year described in
6245 Subsection (1)(a); and
6246 (c) for the seven taxable years immediately following the last of the two taxable years
6247 described in Subsection (1)(b) if:
6248 (i) the agreement with the office described in Section [~~63M-1-2908~~] 63N-2-808
6249 includes a provision that the tax credit applicant will make new capital expenditures of at least
6250 $1,000,000,000 in the state; and

6251 (ii) the tax credit applicant makes new capital expenditures of at least $1,000,000,000
6252 in the state in accordance with the agreement with the office described in Section
6253 [~~63M-1-2908~~] 63N-2-808.
6254 (2) The office shall provide a duplicate copy of each tax credit certificate to the State
6255 Tax Commission.
6256 Section 145. Section **63N-2-810**, which is renumbered from Section 63M-1-2910 is
6257 renumbered and amended to read:
6258 **[~~63M-1-2910~~]. 63N-2-810. Reports on tax credit certificates -- Study by**
6259 **legislative committees.**
6260 (1) The office shall include the following information in the annual written report
6261 described in Section [~~63M-1-206~~] 63N-1-301:
6262 (a) the total amount listed on tax credit certificates the office issues under this part;
6263 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6264 credit applicants under this part; and
6265 (c) the economic impact on the state related to providing tax credits under this part.
6266 (2) (a) On or before November 1, 2016, and every five years after November 1, 2016,
6267 the Revenue and Taxation Interim Committee shall:
6268 (i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and
6269 59-10-1109; and
6270 (ii) make recommendations concerning whether the tax credits should be continued,
6271 modified, or repealed.
6272 (b) The study under Subsection (2)(a) shall include an evaluation of:
6273 (i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;
6274 (ii) the purposes and effectiveness of the tax credits; and
6275 (iii) the extent to which the state benefits from the tax credits.
6276 Section 146. Section **63N-2-811**, which is renumbered from Section 63M-1-2911 is
6277 renumbered and amended to read:
6278 **[~~63M-1-2911~~]. 63N-2-811. Reports of tax credits.**
6279 (1) Before December 1 of each year, the office shall submit a report to the Governor's
6280 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
6281 of Finance identifying:

6282 (a) the total amount listed on tax credit certificates the office issues under this part; and
6283 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6284 credit applicants.
6285 (2) By the first business day of each month, the office shall submit a report to the
6286 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
6287 Division of Finance identifying:
6288 (a) each new agreement entered into by the office since the last report;
6289 (b) the total amount listed on tax credit certificates the office issues under this part; and
6290 (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6291 credit applicants.
6292 Section 147. Section **63N-3-101**, which is renumbered from Section 63M-1-901 is
6293 renumbered and amended to read:
6294 **CHAPTER 3. ECONOMIC DEVELOPMENT PROGRAMS**
6295 **Part 1. Industrial Assistance Account**
6296 **[~~63M-1-901~~]. 63N-3-101. Title -- Purpose.**
6297 (1) This chapter is known as "Economic Development Programs."
6298 (2) This part is known as the "Industrial Assistance Account."
6299 (3) The Legislature finds and declares that the fostering and development of industry in
6300 Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its
6301 economy, and adequate employment for its citizens.
6302 Section 148. Section **63N-3-102**, which is renumbered from Section 63M-1-902 is
6303 renumbered and amended to read:
6304 **[~~63M-1-902~~]. 63N-3-102. Definitions.**
6305 As used in this part:
6306 (1) "Administrator" means the executive director or the executive director's designee.
6307 [~~(2) "Board" means the Board of Business and Economic Development.~~]
6308 [~~(3)~~] (2) "Company creating an economic impediment" means a company that
6309 discourages economic development within a reasonable radius of its location because of:
6310 (a) odors;
6311 (b) noise;
6312 (c) pollution;

6313 (d) health hazards; or
6314 (e) other activities similar to those described in Subsections (3)(a) through (d).
6315 [~~(4)~~] (3) "Economic opportunities" means unique business situations or community
6316 circumstances which lend themselves to the furtherance of the economic interests of the state
6317 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and
6318 industry in the state, including retention of companies whose relocation outside the state would
6319 have a significant detrimental economic impact on the state as a whole, regions of the state, or
6320 specific components of the state as determined by the board.
6321 [~~(5)~~] (4) "Economically disadvantaged rural area" means a geographic area designated
6322 by the board under Section [~~63M-1-910~~] 63N-3-111.
6323 [~~(6)~~] (5) "Replacement company" means a company locating its business or part of its
6324 business in a location vacated by a company creating an economic impediment.
6325 [~~(7)~~] (6) "Restricted Account" means the restricted account known as the Industrial
6326 Assistance Account created in Section [~~63M-1-903~~] 63N-3-103.
6327 [~~(8)~~] (7) "Targeted industry" means an industry or group of industries targeted by the
6328 board under Section [~~63M-1-910~~] 63N-3-111, for economic development in the state.
6329 Section 149. Section **63N-3-103**, which is renumbered from Section 63M-1-903 is
6330 renumbered and amended to read:
6331 **[~~63M-1-903~~]. 63N-3-103. Industrial Assistance Account created -- Uses --**
6332 **Administrator duties -- Costs.**
6333 (1) There is created a restricted account within the General Fund known as the
6334 "Industrial Assistance Account" of which:
6335 (a) up to 50% may be used in economically disadvantaged rural areas;
6336 (b) up to 25% may be used to take timely advantage of economic opportunities as they
6337 arise;
6338 (c) up to 4% may be used to promote business and economic development in rural
6339 areas of the state with the Business Expansion and Retention Initiative; and
6340 (d) up to $3,000,000 may be used for the purpose of incubating technology solutions
6341 related to economic and workforce development.
6342 (2) The administrator shall administer:
6343 (a) the restricted account created under Subsection (1), under the policy direction of the

6344 board; and
6345 (b) the Business Expansion and Retention Initiative for the rural areas of the state.
6346 (3) The administrator may hire appropriate support staff to perform the duties required
6347 under this section.
6348 (4) The cost of administering the restricted account shall be paid from money in the
6349 restricted account.
6350 (5) Interest accrued from investment of money in the restricted account shall remain in
6351 the restricted account.
6352 Section 150. Section **63N-3-104**, which is renumbered from Section 63M-1-904 is
6353 renumbered and amended to read:
6354 **[~~63M-1-904~~]. 63N-3-104. Rural Fast Track Program -- Creation --**
6355 **Funding -- Qualifications for program participation -- Awards -- Reports.**
6356 (1) (a) There is created the Rural Fast Track Program.
6357 (b) The program is a funded component of the economically disadvantaged rural areas
6358 designation in Subsection [~~63M-1-903~~] 63N-3-103(1)(a).
6359 (2) The purpose of the program is to provide an efficient way for small companies in
6360 rural areas of the state to receive incentives for creating high paying jobs in those areas of the
6361 state.
6362 (3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance
6363 Account created in Subsection [~~63M-1-903~~] 63N-3-103(1) at the beginning of each fiscal year
6364 shall be used to fund the program.
6365 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up
6366 to 50% designation for economically disadvantaged rural areas referred to in Subsection
6367 [~~63M-1-903~~] 63N-3-103(1)(a).
6368 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the
6369 program by the end of the third quarter of each fiscal year, that money may be used for any
6370 other loan, grant, or assistance program offered through the Industrial Assistance Account
6371 during the fiscal year.
6372 (4) (a) To qualify for participation in the program a company shall:
6373 (i) complete and file with the office an application for participation in the program,
6374 signed by an officer of the company;

6375 (ii) be located and conduct its business operations in a county in the state that has:
6376 (A) a population of less than 30,000; and
6377 (B) an average household income of less than $60,000 as reflected in the most recently
6378 available data collected and reported by the United States Census Bureau;
6379 (iii) have been in business in the state for at least two years; and
6380 (iv) have at least two employees.
6381 (b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).
6382 (ii) The application must be approved by the administrator in order for a company to
6383 receive an incentive or other assistance under this section.
6384 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6385 administrator may make rules governing:
6386 (i) the content of the application form referred to in Subsection (4)(a)(i);
6387 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and
6388 (iii) the verification procedure referred to in Subsection (4)(b).
6389 (5) (a) The administrator shall make incentive cash awards to small companies under
6390 this section based on the following criteria:
6391 (i) $1,000 for each new incremental job that pays over 110% of the county's average
6392 annual wage;
6393 (ii) $1,250 for each incremental job that pays over 115% of the county's average annual
6394 wage; and
6395 (iii) $1,500 for each incremental job that pays over 125% of the county's average
6396 annual wage.
6397 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
6398 incremental job has been in place for at least 12 months.
6399 (c) The creation of a new incremental job by a company is based on the number of
6400 employees at the company during the previous 24 months.
6401 (d) (i) A small company may also apply for grants, loans, or other financial assistance
6402 under the program to help develop its business in rural Utah and may receive up to $50,000
6403 under the program if approved by the administrator.
6404 (ii) The board must approve a distribution that exceeds the $50,000 cap under
6405 Subsection (5)(d)(i).

6406 (6) The administrator shall make a quarterly report to the board of the awards made by
6407 the administrator under this section and submit a report to the office on the awards and their
6408 impact on economic development in the state's rural areas for inclusion in the office's annual
6409 written report described in Section [~~63M-1-206~~] 63N-1-301.
6410 Section 151. Section **63N-3-105**, which is renumbered from Section 63M-1-906 is
6411 renumbered and amended to read:
6412 **[~~63M-1-906~~]. 63N-3-105. Qualification for assistance.**
6413 (1) Except as provided in Section [~~63M-1-908, 63M-1-909, or 63M-1-909.5~~]
6414 63N-3-108, 63N-3-109, or 63N-3-110, the administrator shall determine which industries,
6415 companies, and individuals qualify to receive money from the Industrial Assistance Account.
6416 Except as provided by Subsection (2), to qualify for financial assistance from the restricted
6417 account, an applicant shall:
6418 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
6419 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
6420 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
6421 year or other more stringent requirements as established from time to time by the board for a
6422 minimum period of five years beginning with the date the loan or grant was approved;
6423 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
6424 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
6425 loan provided by the restricted account; and
6426 (c) satisfy other criteria the administrator considers appropriate.
6427 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
6428 (1)(a) or (b) if:
6429 (i) the financial assistance is provided to an applicant for the purpose of locating all or
6430 any portion of its operations to an economically disadvantaged rural area;
6431 (ii) the applicant is part of a targeted industry;
6432 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
6433 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
6434 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
6435 significant economic stimulus to the growth of commerce and industry in the state; or
6436 (iv) the applicant is an entity offering an economic opportunity under Section

6437 [~~63M-1-909~~] 63N-3-109.
6438 (b) The administrator may not exempt the applicant from the requirement under
6439 Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be structured so that the repayment or
6440 return to the state equals at least the amount of the assistance together with an annual interest
6441 charge.
6442 (3) The administrator shall:
6443 (a) for applicants not described in Subsection (2)(a):
6444 (i) make findings as to whether or not each applicant has satisfied each of the
6445 conditions set forth in Subsection (1); and
6446 (ii) monitor the continued compliance by each applicant with each of the conditions set
6447 forth in Subsection (1) for five years;
6448 (b) for applicants described in Subsection (2)(a), make findings as to whether the
6449 economic activities of each applicant has resulted in the creation of new jobs on a per capita
6450 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
6451 located;
6452 (c) monitor the compliance by each applicant with the provisions of any contract or
6453 agreement entered into between the applicant and the state as provided in Section [~~63M-1-907~~]
6454 63N-3-107; and
6455 (d) make funding decisions based upon appropriate findings and compliance.
6456 Section 152. Section **63N-3-106**, which is renumbered from Section 63M-1-905 is
6457 renumbered and amended to read:
6458 **[~~63M-1-905~~]. 63N-3-106. Loans, grants, and assistance -- Repayment --**
6459 **Earned credits.**
6460 (1) (a) A company that qualifies under Section [~~63M-1-906~~] 63N-3-105 may receive
6461 loans, grants, or other financial assistance from the Industrial Assistance Account for expenses
6462 related to establishment, relocation, or development of industry in Utah.
6463 (b) A company creating an economic impediment that qualifies under Section
6464 [~~63M-1-908~~] 63N-3-108 may in accordance with this part receive loans, grants, or other
6465 financial assistance from the restricted account for the expenses of the company creating an
6466 economic impediment related to:
6467 (i) relocation to a rural area in Utah of the company creating an economic impediment;

6468 and
6469 (ii) the siting of a replacement company.
6470 (c) An entity offering an economic opportunity that qualifies under Section
6471 [~~63M-1-909~~] 63N-3-109 may:
6472 (i) receive loans, grants, or other financial assistance from the restricted account for
6473 expenses related to the establishment, relocation, retention, or development of industry in the
6474 state; and
6475 (ii) include infrastructure or other economic development precursor activities that act
6476 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
6477 enlargement of the state's tax base.
6478 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
6479 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted
6480 account.
6481 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
6482 or return to the state, including cash or credit, equals at least the amount of the assistance
6483 together with an annual interest charge as negotiated by the administrator.
6484 (c) Payments resulting from grants awarded from the restricted account shall be made
6485 only after the administrator has determined that the company has satisfied the conditions upon
6486 which the payment or earned credit was based.
6487 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
6488 system of earned credits that may be used to support grant payments or in lieu of cash
6489 repayment of a restricted account loan obligation.
6490 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
6491 determined by the administrator, including:
6492 (A) the number of Utah jobs created;
6493 (B) the increased economic activity in Utah; or
6494 (C) other events and activities that occur as a result of the restricted account assistance.
6495 (b) (i) The administrator shall provide for a system of credits to be used to support
6496 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
6497 a company creating an economic impediment.
6498 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors

6499 determined by the administrator, including:
6500 (A) the number of Utah jobs created;
6501 (B) the increased economic activity in Utah; or
6502 (C) other events and activities that occur as a result of the restricted account assistance.
6503 (4) (a) A cash loan repayment or other cash recovery from a company receiving
6504 assistance under this section, including interest, shall be deposited into the restricted account.
6505 (b) The administrator and the Division of Finance shall determine the manner of
6506 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
6507 grant payments as provided in Subsection (3).
6508 (5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the
6509 balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers
6510 of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance
6511 Account in an amount equal to any credit that has accrued under this part.
6512 (ii) The set aside under Subsection (5)(a)(i) shall be capped at $50,000,000, at which
6513 time no subsequent contributions may be made and any interest accrued above the $50,000,000
6514 cap shall be deposited into the General Fund.
6515 (b) The set aside required by Subsection (5)(a) shall be made after the transfer of
6516 surplus General Fund revenue surplus is made:
6517 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
6518 provided in Section 63J-1-315;
6519 (ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312;
6520 and
6521 (iii) to the State Disaster Recovery Restricted Account, as provided in Section
6522 63J-1-314.
6523 (c) These credit amounts may not be used for purposes of the restricted account as
6524 provided in this part until appropriated by the Legislature.
6525 Section 153. Section **63N-3-107**, which is renumbered from Section 63M-1-907 is
6526 renumbered and amended to read:
6527 **[~~63M-1-907~~]. 63N-3-107. Agreements.**
6528 The administrator shall enter into agreements with each successful applicant that have
6529 specific terms and conditions for each loan or assistance, including:

6530 (1) repayment schedules;
6531 (2) interest rates;
6532 (3) specific economic activity required to qualify for the loan or assistance or for
6533 repayment credits;
6534 (4) collateral or security, if any; and
6535 (5) other terms and conditions considered appropriate by the administrator.
6536 Section 154. Section **63N-3-108**, which is renumbered from Section 63M-1-908 is
6537 renumbered and amended to read:
6538 **[~~63M-1-908~~]. 63N-3-108. Financial assistance to companies that create**
6539 **economic impediments.**
6540 (1) (a) The administrator may provide money from the Industrial Assistance Account to
6541 a company creating an economic impediment if that company:
6542 (i) applies to the administrator;
6543 (ii) relocates to a rural area in Utah; and
6544 (iii) meets the qualifications of Subsection (1)(b).
6545 (b) Except as provided by Subsection (2), to qualify for financial assistance from the
6546 restricted account, a company creating an economic impediment shall:
6547 (i) demonstrate to the satisfaction of the administrator that the company creating an
6548 economic impediment, its replacement company, or in the aggregate the company creating the
6549 economic impediment and its replacement company:
6550 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
6551 businesses in an amount proportional with money provided from the restricted account at a
6552 minimum ratio of 2 to 1 per year or other more stringent requirements as established from time
6553 to time by the board for a minimum period of five years beginning with the date the loan or
6554 grant was approved; and
6555 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
6556 appropriate credits, the loan provided by the restricted account; and
6557 (ii) satisfy other criteria the administrator considers appropriate.
6558 (2) (a) The administrator may exempt a company creating an economic impediment
6559 from the requirements of Subsection (1)(b)(i)(A) if:
6560 (i) the financial assistance is provided to a company creating an economic impediment

6561 for the purpose of locating all or any portion of its operations to an economically disadvantaged
6562 rural area; or
6563 (ii) its replacement company is part of a targeted industry.
6564 (b) The administrator may not exempt a company creating an economic impediment
6565 from the requirement under Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be
6566 structured so that the repayment or return to the state equals at least the amount of the
6567 assistance together with an annual interest charge.
6568 (3) The administrator shall:
6569 (a) make findings as to whether or not a company creating an economic impediment,
6570 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
6571 (1);
6572 (b) monitor the compliance by a company creating an economic impediment, its
6573 replacement company, or both, with:
6574 (i) each of the conditions set forth in Subsection (1); and
6575 (ii) any contract or agreement under Section [~~63M-1-907~~] 63N-3-107 entered into
6576 between:
6577 (A) the company creating an economic impediment; and
6578 (B) the state; and
6579 (c) make funding decisions based upon appropriate findings and compliance.
6580 Section 155. Section **63N-3-109**, which is renumbered from Section 63M-1-909 is
6581 renumbered and amended to read:
6582 **[~~63M-1-909~~]. 63N-3-109. Financial assistance to entities offering economic**
6583 **opportunities.**
6584 (1) Subject to the duties and powers of the board under Section [~~63M-1-303~~]
6585 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an
6586 entity offering an economic opportunity if that entity:
6587 (a) applies to the administrator; and
6588 (b) meets the qualifications of Subsection (2).
6589 (2) The applicant shall:
6590 (a) demonstrate to the satisfaction of the administrator the nature of the economic
6591 opportunity and the related benefit to the economic well-being of the state by providing

6592 evidence documenting the logical and compelling linkage, either direct or indirect, between the
6593 expenditure of money necessitated by the economic opportunity and the likelihood that the
6594 state's tax base, regions of the state's tax base, or specific components of the state's tax base
6595 will not be reduced but will be maintained or enlarged;
6596 (b) demonstrate how the funding request will act in concert with other state, federal, or
6597 local agencies to achieve the economic benefit;
6598 (c) demonstrate how the funding request will act in concert with free market principles;
6599 (d) in the case of an economic opportunity that includes the retention of jobs,
6600 demonstrate how the potential relocation of jobs outside the state is related to a merger,
6601 acquisition, consolidation, or similar business reason other than the applicant simply requesting
6602 state assistance to remain in the state;
6603 (e) satisfy other criteria the administrator considers appropriate; and
6604 (f) be either:
6605 (i) an entity whose purpose is to exclusively or substantially promote, develop, or
6606 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or
6607 specific components of the state, including:
6608 (A) an entity that is a sports development organization under contract with the state for
6609 sports development and sporting event attraction and related activities that provide an
6610 economic impact or promotional value to the state; or
6611 (B) an entity that implements technology innovation in public schools, including
6612 whole-school one-to-one mobile device technology deployment for the purpose of incubating
6613 technology solutions related to economic and workforce development.
6614 (ii) a company or individual that does not otherwise qualify under Section [~~63M-1-906~~]
6615 63N-3-105.
6616 (3) Subject to the duties and powers of the board under Section [~~63M-1-303~~]
6617 63N-1-402, the administrator shall:
6618 (a) make findings as to whether an applicant has satisfied each of the conditions set
6619 forth in Subsection (2);
6620 (b) establish benchmarks and timeframes in which progress toward the completion of
6621 the agreed upon activity is to occur;
6622 (c) monitor compliance by an applicant with any contract or agreement entered into by

6623 the applicant and the state as provided by Section [~~63M-1-907~~] 63N-3-107; and
6624 (d) make funding decisions based upon appropriate findings and compliance.
6625 Section 156. Section **63N-3-110**, which is renumbered from Section 63M-1-909.5 is
6626 renumbered and amended to read:
6627 **[~~63M-1-909.5~~]. 63N-3-110. Selection of educational technology provider to**
6628 **implement whole-school one-to-one mobile device technology deployment plan for**
6629 **schools.**
6630 The board shall select an educational technology provider to develop and implement a
6631 whole-school one-to-one mobile device technology deployment plan for schools in accordance
6632 with the requirements of this part and Section 53A-1-709.
6633 Section 157. Section **63N-3-111**, which is renumbered from Section 63M-1-910 is
6634 renumbered and amended to read:
6635 **[~~63M-1-910~~]. 63N-3-111. Annual policy considerations.**
6636 (1) The board shall determine annually which industries or groups of industries shall be
6637 targeted industries as defined in Section [~~63M-1-902~~] 63N-3-102.
6638 (2) In designating an economically disadvantaged rural area, the board shall consider
6639 the average agricultural and nonagricultural wage, personal income, unemployment, and
6640 employment in the area.
6641 (3) In evaluating the economic impact of applications for assistance, the board shall use
6642 an econometric cost-benefit model or models adopted by the Governor's Office of Management
6643 and Budget.
6644 (4) The board may establish:
6645 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
6646 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
6647 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
6648 such as the rate of unemployment; and
6649 (b) minimum applicant expense ratios, as long as they are at least equal to those
6650 required under Subsection [~~63M-1-906~~] 63N-3-105(1)(a) or [~~63M-1-908~~]
6651 63N-3-108(1)(b)(i)(A).
6652 Section 158. Section **63N-3-201**, which is renumbered from Section 63M-1-701 is
6653 renumbered and amended to read:

6654 **Part 2. Technology Commercialization and Innovation Act**

6655 **[~~63M-1-701~~]. 63N-3-201. Title.**

6656 This part is known as the "Technology Commercialization and Innovation Act."

6657 Section 159. Section **63N-3-202**, which is renumbered from Section 63M-1-702 is
6658 renumbered and amended to read:

6659 **[~~63M-1-702~~]. 63N-3-202. Purpose.**

6660 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
6661 existing industry requires a strong technology base, new ideas, concepts, innovations, and
6662 prototypes.

6663 (b) Growth in industry frequently results from technological innovation generated by
6664 strong research institutions of higher education and by small businesses.

6665 (c) Technical research in Utah's institutions of higher education should be enhanced
6666 and expanded, particularly in those areas targeted by the state for economic development.

6667 (d) Most states enhance their research base by direct funding, usually on a matching
6668 basis.

6669 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
6670 by:

6671 (i) encouraging interdisciplinary research activities in targeted areas;

6672 (ii) facilitating the transition of these technologies out of the higher education
6673 environment into industry where the technologies can be used to enhance job creation; and

6674 (iii) supporting the commercialization of technologies developed by small business to
6675 enhance job creation.

6676 (f) The Legislature recognizes that one source of funding is to match state funds with
6677 federal funds and industrial support to provide and develop new technologies.

6678 (2) The Legislature recommends that the governor consider matching the allocation of
6679 economic development funds for the Technology Commercialization and Innovation Program
6680 with industry and federal grants.

6681 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

6682 (i) to the various institutions of higher education in the state;

6683 (ii) to companies working in partnership with institutions of higher education to
6684 commercialize their technologies; and

6685 (iii) to small businesses that are developing promising technologies.
6686 (b) The funds made available should be used to support:
6687 (i) interdisciplinary research in the Technology Commercialization and Innovation
6688 Program in technologies that are considered to have potential for economic development in the
6689 state and to help transition these technologies out of institutions of higher education and into
6690 industry; and
6691 (ii) small businesses in commercializing their promising technologies that have the
6692 potential to increase economic development in the state.
6693 Section 160. Section **63N-3-203**, which is renumbered from Section 63M-1-703 is
6694 renumbered and amended to read:
6695 **[~~63M-1-703~~]. 63N-3-203. Definitions.**
6696 As used in this part:
6697 (1) "Business team consultant" means an experienced technology executive,
6698 entrepreneur, or business person who:
6699 (a) is recruited by the office through a request for proposal process to work directly
6700 with a college or university in the Technology Commercialization and Innovation Program; and
6701 (b) works with the institution to facilitate the transition of its technology into industry
6702 by assisting the institution in developing strategies, including spin out strategies when
6703 appropriate, and go-to-market plans, and identifying and working with potential customers and
6704 partners.
6705 (2) "Direct license" means a written license agreement between a company and a Utah
6706 institution of higher education related to technology developed at the institution of higher
6707 education with the intent of commercializing the technology or facilitating its transition into
6708 industry.
6709 (3) "Institution of higher education" means:
6710 (a) a state institution of higher education as defined in Section 53B-3-102; or
6711 (b) a private institution of higher education in the state accredited by a regional or
6712 national accrediting agency recognized by the United States Department of Education.
6713 (4) "Licensee" means:
6714 (a) a company that executes or is in the process of executing a direct license; or
6715 (b) a sublicensee of the technology from a direct license.

6716 (5) "Small business" means a business that:
6717 (a) meets the size standards for the business's industry classification as identified by the
6718 United States Small Business Administration in 13 C.F.R. Sec. 121.201;
6719 (b) is organized for profit;
6720 (c) operates primarily within the United States;
6721 (d) has a principal place of business in the state, including a manufacturing or service
6722 location; and
6723 (e) is independently owned and operated.
6724 (6) "Technology Commercialization and Innovation Program" means:
6725 (a) a federal- and industry-supported cooperative research and development program
6726 based at an institution of higher education; or
6727 (b) a federal- and state-supported program for funding technologically innovative small
6728 businesses.
6729 Section 161. Section **63N-3-204**, which is renumbered from Section 63M-1-704 is
6730 renumbered and amended to read:
6731 **[~~63M-1-704~~]. 63N-3-204. Administration -- Grants and loans.**
6732 (1) The [~~Governor's Office of Economic Development~~] office shall administer this
6733 part.
6734 (2) (a) (i) The office may award Technology Commercialization and Innovation
6735 Program grants or issue loans under this part to an applicant that is:
6736 (A) an institution of higher education;
6737 (B) a licensee; or
6738 (C) a small business.
6739 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a
6740 fund or account as necessary for the proper accounting of the loans.
6741 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6742 office shall make rules for a process to determine whether an institution of higher education
6743 that receives a grant under this part must return the grant proceeds or a portion of the grant
6744 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee
6745 that:
6746 (i) does not maintain a manufacturing or service location in the state from which the

6747 licensee or a sublicensee exploits the technology; or
6748 (ii) initially maintains a manufacturing or service location in the state from which the
6749 licensee or a sublicensee exploits the technology, but within five years after issuance of the
6750 license the licensee or sublicensee transfers the manufacturing or service location for the
6751 technology to a location out of the state.
6752 (c) A repayment by an institution of higher education of grant proceeds or a portion of
6753 the grant proceeds may only come from the proceeds of the license established between the
6754 licensee and the institution of higher education.
6755 (d) (i) An applicant that is a licensee or small business that receives a grant under this
6756 part shall return the grant proceeds or a portion of the grant proceeds to the office if the
6757 applicant:
6758 (A) does not maintain a manufacturing or service location in the state from which the
6759 applicant exploits the technology; or
6760 (B) initially maintains a manufacturing or service location in the state from which the
6761 applicant exploits the technology, but within five years after issuance of the grant, the applicant
6762 transfers the manufacturing or service location for the technology to an out-of-state location.
6763 (ii) A repayment by an applicant shall be prorated based on the number of full years the
6764 applicant operated in the state from the date of the awarded grant.
6765 (iii) A repayment by a licensee that receives a grant may only come from the proceeds
6766 of the license to that licensee.
6767 (3) (a) Funding allocations shall be made by the office with the advice of the board.
6768 (b) Each proposal shall receive the best available outside review.
6769 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of
6770 matching funds from private and federal sources, and the potential for job creation and
6771 economic development.
6772 (b) Proposals or consortia that combine and coordinate related research at two or more
6773 institutions of higher education shall be encouraged.
6774 (5) The office shall review the activities and progress of grant recipients on a regular
6775 basis and, as part of the office's annual written report described in Section [~~63M-1-206~~]
6776 63N-1-301, report on the accomplishments and direction of the Technology Commercialization
6777 and Innovation Program.

6778 Section 162. Section **63N-3-205**, which is renumbered from Section 63M-1-705 is
6779 renumbered and amended to read:
6780 **[~~63M-1-705~~]. 63N-3-205. Business team consultants.**
6781 (1) The office may enter into work agreements with business team consultants through
6782 a request for proposal process to participate in the Technology Commercialization and
6783 Innovation Program.
6784 (2) Under a work agreement, a business team consultant shall assist a college or
6785 university in facilitating the transition of its technology into industry.
6786 Section 163. Section **63N-3-301**, which is renumbered from Section 63M-1-2701 is
6787 renumbered and amended to read:
6788 **Part 3. Utah Business Resource Centers Act**
6789 **[~~63M-1-2701~~]. 63N-3-301. Title.**
6790 This part is known as the "Utah Business Resource Centers Act."
6791 Section 164. Section **63N-3-302**, which is renumbered from Section 63M-1-2702 is
6792 renumbered and amended to read:
6793 **[~~63M-1-2702~~]. 63N-3-302. Purpose.**
6794 The Legislature recognizes that:
6795 (1) the development of and assistance to business in Utah is a state public purpose
6796 necessary to assure the growth of the state's economy and provide adequate employment
6797 opportunities for its citizens;
6798 (2) public colleges and universities in the state hereafter, referred to as "host
6799 institutions," have academic and physical resources that can enhance economic development
6800 within the state through a partnership with the Governor's Office of Economic Development;
6801 (3) state funded economic development agencies, hereafter referred to as "agencies"
6802 could broaden and improve services to business clients through better regional and statewide
6803 coordination;
6804 (4) coordination of business clients needs is best done in the regions where they are
6805 established;
6806 (5) this coordination needs to be done under the direction of one designated state
6807 agency;
6808 (6) an important tool in these coordination efforts will be the development of a data

6809 base to identify, track, and assign agencies to be accountable for clients;
6810 (7) agency accountability can be improved through client tracking and monitoring at
6811 the regional level;
6812 (8) the state has historically experienced a high business start-up rate and has
6813 experienced a commensurate failure rate partially due to lack of coordination and
6814 accountability by state agencies;
6815 (9) the state's economy will continue to improve as state agencies and resources
6816 become more responsive to private business by identifying them, focusing on their needs, and
6817 tracking their progress; and
6818 (10) the governor and the Legislature will benefit from an annual report measuring tax
6819 revenue increases, new job creation, and other economic impact as a result of tracking and
6820 measuring state agencies' performance in the various regions of the state.
6821 Section 165. Section **63N-3-303**, which is renumbered from Section 63M-1-2703 is
6822 renumbered and amended to read:
6823 **[~~63M-1-2703~~]. 63N-3-303. Definitions.**
6824 As used in this part, "business resource centers" means entities established by the
6825 Governor's Office of Economic Development in partnership with state public institutions of
6826 higher education as certified resource centers to provide private businesses with one-stop
6827 technical assistance and access to statewide resources and programs, and to identify,
6828 coordinate, track, and measure the impact of business resource programs provided by state
6829 agencies in the various regions of the state.
6830 Section 166. Section **63N-3-304**, which is renumbered from Section 63M-1-2704 is
6831 renumbered and amended to read:
6832 **[~~63M-1-2704~~]. 63N-3-304. Establishment and administration of business**
6833 **resource centers -- Components.**
6834 (1) The [~~Governor's Office of Economic Development, hereafter referred to in this part~~
6835 ~~as "the office,"~~] office shall establish business resource centers in at least four different
6836 geographical regions of the state where host institutions are located and the host institutions
6837 agree to enter into a business resource center partnership with the office.
6838 (2) The office, in partnership with a host institution, shall provide methodology and
6839 oversight for a business resource center.

6840 (3) A host institution shall contribute 50% of a business resource center's operating
6841 costs through cash or in-kind contributions, unless otherwise provided under Subsection
6842 [~~63M-1-2707~~] 63N-3-307(7).
6843 (4) The office shall work with the Utah Business Assistance Advisory Board
6844 established under Section [~~63M-1-2706~~] 63N-3-306, hereafter referred to in this part as "the
6845 board," to provide operational oversight and coordination of the business resource centers
6846 established under this part.
6847 (5) (a) A business resource center shall work with state agencies in creating methods to
6848 coordinate functions and measure the impact of the efforts provided by the state agencies and
6849 the center.
6850 (b) The host institution, state, local and federal governmental entities,
6851 quasi-governmental entities, and private entities may:
6852 (i) participate in the activities offered by or through a business resource center; and
6853 (ii) provide personnel or other appropriate links to the center.
6854 (c) (i) Other entities that are not initially involved in the establishment of a business
6855 resource center and that are capable of providing supportive services to Utah businesses may
6856 apply to the center to become a provider of services at the center.
6857 (ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a
6858 service plan, to include funding, which would be made available or supplied to cover the
6859 expenses of their services offered at a business resource center.
6860 (iii) The board shall review each application made under Subsection (5)(c)(i) and make
6861 a recommendation for approval by the office as a precondition for providing the service being
6862 offered.
6863 (6) A business resource center may:
6864 (a) partner with the office, other host institutions, and other entities to develop and
6865 establish web-based access to virtual business resource center services over the Internet to
6866 assist in establishing and growing businesses in the state, particularly in those situations where
6867 traveling to a business resource center site is not practical;
6868 (b) develop a data base and software for:
6869 (i) tracking clients and their progress; and
6870 (ii) tracking responses and services provided by state agencies and evaluating their

6871 effectiveness; and
6872 (c) develop outreach programs and services targeted to business clients in rural areas of
6873 the state.
6874 (7) The office shall include in the annual written report described in Section
6875 [~~63M-1-206~~] 63N-1-301, a report on measured performance of economic development
6876 programs offered by or through established business resource centers.
6877 Section 167. Section **63N-3-305**, which is renumbered from Section 63M-1-2705 is
6878 renumbered and amended to read:
6879 **[~~63M-1-2705~~]. 63N-3-305. Duties and responsibilities.**
6880 (1) A business resource center shall:
6881 (a) have a director;
6882 (b) be the organization responsible for identifying, tracking, coordinating, and
6883 measuring output of assisted business clients in its region;
6884 (c) develop programs to aid business clients in finding the resources they need;
6885 (d) recruit state funded agencies to locate and establish their programs in the business
6886 center's region;
6887 (e) initiate and encourage business education programs, including programs in
6888 collaboration with public, private, and governmental and educational institutions; and
6889 (f) work with the host institution in providing academic resources, including faculty
6890 and student assistance.
6891 (2) A business resource center shall collaborate with the host institution and state
6892 agencies to:
6893 (a) provide research, development, or training programs for new or existing businesses,
6894 industries, or high technology business located in its region;
6895 (b) assist in providing needs assessment relating to new or existing businesses,
6896 industries, or high technology business in conjunction with other public or private economic
6897 development programs or initiatives;
6898 (c) assist in providing business incubator space or services, or both, if considered
6899 feasible and practical, to clients based on criteria established by the office in consultation with
6900 the board;
6901 (d) work with local business leaders and government officials to help them formulate

6902 and implement sound, coordinated, and measurable economic development programs for their
6903 communities; and
6904 (e) work with local government and other entities in its region in developing and
6905 certifying non-state funded satellite business resource centers.
6906 Section 168. Section **63N-3-306**, which is renumbered from Section 63M-1-2706 is
6907 renumbered and amended to read:
6908 **[~~63M-1-2706~~]. 63N-3-306. Utah Business Assistance Advisory Board --**
6909 **Creation -- Membership -- Vacancies -- Chairs.**
6910 (1) There is created the Utah Business Assistance Advisory Board, composed of at
6911 least 13 members appointed by the executive director of the [~~Governor's Office of Economic~~
6912 ~~Development~~] office.
6913 (2) (a) The executive director shall appoint:
6914 (i) one member from three host institutions of business resource centers on a rotating
6915 basis;
6916 (ii) three members from urban areas in the state;
6917 (iii) two members from rural areas in the state; and
6918 (iv) one member from each host institution of a statewide business service provider.
6919 (b) The executive director may appoint ex officio board members who are sponsors of
6920 or partners with statewide business server providers.
6921 (3) Each board member shall have a background or expertise in any one or all of the
6922 following:
6923 (a) state or local economic development;
6924 (b) business networking, growth, or development;
6925 (c) entrepreneurship;
6926 (d) business management or administration; or
6927 (e) the establishment of partnerships or collaborative efforts with state, local, and
6928 federal agencies and institutions, as well as private entities.
6929 (4) (a) The executive director shall appoint board members for four-year terms.
6930 (b) The board shall, at the time of appointment or reappointment, adjust the length of
6931 terms to ensure that the terms of these members are staggered so that approximately half of the
6932 members are appointed every two years.

6933 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
6934 appointed by the executive director for the unexpired term in the same manner as the vacated
6935 member was chosen.
6936 (5) The board shall elect one of its members as a chair of the board for a two-year term.
6937 (6) The board shall meet at the call of the chair, but at least quarterly.
6938 (7) (a) A majority of the members of the board constitute a quorum.
6939 (b) The action of a majority of a quorum constitutes the action of the board.
6940 (8) A member may not receive compensation or benefits for the member's service, but
6941 may receive per diem and travel expenses in accordance with:
6942 (a) Section 63A-3-106;
6943 (b) Section 63A-3-107; and
6944 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
6945 63A-3-107.
6946 Section 169. Section **63N-3-307**, which is renumbered from Section 63M-1-2707 is
6947 renumbered and amended to read:
6948 **[~~63M-1-2707~~]. 63N-3-307. Duties.**
6949 The board shall:
6950 (1) assist the office in providing operational oversight, coordination, and performance
6951 review and provide advice and improve the effectiveness of state-funded business assistance
6952 programs throughout the state as designated by the executive director;
6953 (2) make recommendations to the office on requirements for the requisite certification
6954 of each business resource center and staff at each center by the executive director;
6955 (3) make recommendations to the office for certification of the business plans the
6956 board is required to review under Subsection [~~63M-1-2704~~] 63N-3-304(5)(c)(iii);
6957 (4) at the direction of the executive director:
6958 (a) assist the office in providing operational oversight to and coordination of the
6959 business resource centers established under this part; and
6960 (b) work closely with the Governor's Office of Economic Development's Board of
6961 Business and Economic Development;
6962 (5) identify issues and make recommendations to the office regarding programs,
6963 policies, and procedures that could be implemented by:

6964 (a) business resource centers in fulfilling their duties and responsibilities under Section
6965 [~~63M-1-2705~~] 63N-3-305; and
6966 (b) state-funded business service providers;
6967 (6) make budget recommendations to the office regarding the operation and staffing of
6968 business resource centers established under this part;
6969 (7) recommend matching fund exceptions under Subsection [~~63M-1-2704~~]
6970 63N-3-304(3);
6971 (8) recommend certification of all non-state funded satellite business resource centers;
6972 and
6973 (9) establish metrics to report the performance of economic development output in
6974 each region serviced by a business resource center.
6975 Section 170. Section **63N-3-401**, which is renumbered from Section 63M-1-2201 is
6976 renumbered and amended to read:
6977 **Part 4. Transient Room Tax Fund Act**
6978 **[~~63M-1-2201~~]. 63N-3-401. Title.**
6979 This part is known as the "Transient Room Tax Fund Act."
6980 Section 171. Section **63N-3-402**, which is renumbered from Section 63M-1-2202 is
6981 renumbered and amended to read:
6982 **[~~63M-1-2202~~]. 63N-3-402. Definitions.**
6983 As used in this part, "fund" means the Transient Room Tax Fund created by Section
6984 [~~63M-1-2203~~] 63N-3-403.
6985 Section 172. Section **63N-3-403**, which is renumbered from Section 63M-1-2203 is
6986 renumbered and amended to read:
6987 **[~~63M-1-2203~~]. 63N-3-403. Transient Room Tax Fund -- Source of revenues**
6988 **-- Interest -- Expenditure or pledge of revenues.**
6989 (1) There is created an expendable special revenue fund known as the Transient Room
6990 Tax Fund.
6991 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
6992 Subsection 59-12-301(2).
6993 (b) (i) The fund shall earn interest.
6994 (ii) Any interest earned on fund money shall be deposited into the fund.

6995 (3) (a) Subject to Subsection (3)(b), the executive director shall expend or pledge the
6996 money deposited into the fund:
6997 (i) to mitigate the impacts of traffic and parking relating to a convention facility within
6998 a county of the first class;
6999 (ii) for a purpose listed in Section 17-31-2, except that any requirements in Section
7000 17-31-2 for the expenditure of money do not apply; or
7001 (iii) for a combination of Subsections (3)(a)(i) and (ii).
7002 (b) The executive director may not expend more than $20,000,000 in total to mitigate
7003 the impacts of traffic and parking relating to a convention facility within a county of the first
7004 class.
7005 Section 173. Section **63N-4-101**, which is renumbered from Section 63M-1-1601 is
7006 renumbered and amended to read:
7007 **CHAPTER 4. RURAL DEVELOPMENT ACT**
7008 **Part 1. Office of Rural Development**
7009 **[~~63M-1-1601~~]. 63N-4-101. Title -- Definitions.**
7010 (1) This [~~part~~] chapter is known as the "Rural Development Act."
7011 (2) This part is known as the "Office of Rural Development."
7012 [~~(2)~~] (3) As used in this part:
7013 (a) "Office" or "GOED" means the Governor's Office of Economic Development.
7014 (b) "Program" means the Rural Development Program.
7015 Section 174. Section **63N-4-102**, which is renumbered from Section 63M-1-1602 is
7016 renumbered and amended to read:
7017 **[~~63M-1-1602~~]. 63N-4-102. Rural Development Program -- Supervision by**
7018 **office.**
7019 (1) There is created within the Governor's Office of Economic Development the Office
7020 of Rural Development.
7021 (2) The Office of Rural Development is under the administration and general
7022 supervision of the Governor's Office of Economic Development.
7023 Section 175. Section **63N-4-103**, which is renumbered from Section 63M-1-1603 is
7024 renumbered and amended to read:
7025 **[~~63M-1-1603~~]. 63N-4-103. Purpose of the Office of Rural Development.**

7026 The Office of Rural Development is established to:
7027 (1) foster and support economic development programs and activities for the benefit of
7028 rural counties and communities;
7029 (2) foster and support community, county, and resource management planning
7030 programs and activities for the benefit of rural counties and communities;
7031 (3) foster and support leadership training programs and activities for the benefit of:
7032 (a) rural leaders in both the public and private sectors;
7033 (b) economic development and planning personnel; and
7034 (c) rural government officials;
7035 (4) foster and support efforts to coordinate and focus the technical and other resources
7036 of appropriate institutions of higher education, local governments, private sector interests,
7037 associations, nonprofit organizations, federal agencies, and others, in ways that address the
7038 economic development, planning, and leadership challenges and priorities of rural Utah as
7039 identified in the strategic plan required under Subsection 63C-10-103(1)(b);
7040 (5) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]
7041 GOED to address rural economic development, planning, and leadership training challenges
7042 and opportunities by establishing partnerships and positive working relationships with
7043 appropriate public and private sector entities, individuals, and institutions; and
7044 (6) foster government-to-government collaboration and good working relations
7045 between state and rural government regarding economic development and planning issues.
7046 Section 176. Section **63N-4-104**, which is renumbered from Section 63M-1-1604 is
7047 renumbered and amended to read:
7048 **[~~63M-1-1604~~]. 63N-4-104. Duties.**
7049 (1) The Office of Rural Development shall:
7050 (a) provide staff support to the Governor's Rural Partnership Board in accordance with
7051 Subsection 63C-10-102(6);
7052 (b) facilitate within [~~the Governor's Office of Economic Development~~] GOED the
7053 implementation of the strategic plan prepared under Subsection 63C-10-103(1)(b);
7054 (c) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]
7055 GOED to address rural economic development, planning, and leadership training challenges
7056 and opportunities by establishing partnerships and positive working relationships with

7057 appropriate public and private sector entities, individuals, and institutions;
7058 (d) work with the Governor's Rural Partnership Board to coordinate and focus
7059 available resources in ways that address the economic development, planning, and leadership
7060 training challenges and priorities in rural Utah; and
7061 (e) in accordance with economic development and planning policies set by state
7062 government, coordinate relations between:
7063 (i) the state;
7064 (ii) rural governments;
7065 (iii) other public and private groups engaged in rural economic planning and
7066 development; and
7067 (iv) federal agencies.
7068 (2) (a) The Office of Rural Development may:
7069 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7070 make rules necessary to carry out its duties;
7071 (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural
7072 Utah citizens; and
7073 (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii)
7074 for the use and benefit of rural citizens within the state.
7075 (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General
7076 Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).
7077 Section 177. Section **63N-4-105**, which is renumbered from Section 63M-1-1605 is
7078 renumbered and amended to read:
7079 **[~~63M-1-1605~~]. 63N-4-105. Program manager.**
7080 (1) The executive director of [~~the Governor's Office of Economic Development~~]
7081 GOED shall appoint a director for the Office of Rural Development with the approval of the
7082 governor.
7083 (2) The director of the Office of Rural Development shall be a person knowledgeable
7084 in the field of rural economic development and planning and experienced in administration.
7085 (3) Upon change of the executive director of [~~the Governor's Office of Economic~~
7086 ~~Development~~] GOED, the director of the Office of Rural Development may not be dismissed
7087 without cause for at least 180 days.

7088 (4) The director of the Office of Rural Development shall serve as staff to the
7089 Governor's Rural Partnership Board and to the executive committee of the Governor's Rural
7090 Partnership Board in accordance with Subsection 63C-10-102(6).
7091 Section 178. Section **63N-4-106**, which is renumbered from Section 63M-1-1606 is
7092 renumbered and amended to read:
7093 **[~~63M-1-1606~~]. 63N-4-106. Annual report.**
7094 [~~The office~~] GOED shall include in the annual written report described in Section
7095 [~~63M-1-206~~] 63N-1-301, a report of the program's operations and recommendations.
7096 Section 179. Section **63N-4-201**, which is renumbered from Section 63M-1-2001 is
7097 renumbered and amended to read:
7098 **Part 2. Business Development for Disadvantaged Rural Communities Act**
7099 **[~~63M-1-2001~~]. 63N-4-201. Title.**
7100 This part is known as the "Business Development for Disadvantaged Rural
7101 Communities Act."
7102 Section 180. Section **63N-4-202**, which is renumbered from Section 63M-1-2002 is
7103 renumbered and amended to read:
7104 **[~~63M-1-2002~~]. 63N-4-202. Definitions.**
7105 As used in this part:
7106 [~~(1) "Board" means the Board of Business and Economic Development created by~~
7107 ~~Section 63M-1-301.~~]
7108 [~~(2)~~] (1) "Business incubator expense" means an expense relating to funding a program
7109 that is:
7110 (a) designed to provide business support services and resources to one or more
7111 business entities within a project area during the business entities' early stages of development;
7112 and
7113 (b) determined to be a business incubator by the board.
7114 [~~(3)~~] (2) "Business rehabilitation expense" means an expense relating to the renovation
7115 or rehabilitation of an existing building within a project area as determined by the board.
7116 [~~(4)~~] (3) "Debt service" means the payment of debt service on a bond issued to pay a:
7117 (a) business rehabilitation expense relating to a project; or
7118 (b) public infrastructure expense relating to a project.

7119 [~~(5)~~] (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.
7120 [~~(6)~~] (5) "Eligible expense" means an expense:
7121 (a) incurred by an eligible county;
7122 (b) relating to a project; and
7123 (c) that is:
7124 (i) a business incubator expense;
7125 (ii) debt service; or
7126 (iii) a public infrastructure expense.
7127 [~~(7)~~] (6) "Project" means an economic development project:
7128 (a) as determined by the board; and
7129 (b) for which an eligible county applies to the board in accordance with this part for a
7130 loan or grant to assist the eligible county in paying an eligible expense.
7131 [~~(8)~~] (7) "Project area" means the geographic area within which a project is
7132 implemented by an eligible county.
7133 [~~(9)~~] (8) "Public infrastructure expense" means an expense relating to a publicly owned
7134 improvement located within a project area if:
7135 (a) the expense is:
7136 (i) incurred for:
7137 (A) construction;
7138 (B) demolition;
7139 (C) design;
7140 (D) engineering;
7141 (E) an environmental impact study;
7142 (F) environmental remediation; or
7143 (G) rehabilitation; or
7144 (ii) similar to an expense described in Subsection [~~(9)~~] (8)(a)(i) as determined by the
7145 board; and
7146 (b) the publicly owned improvement is:
7147 (i) not a building as determined by the board; and
7148 (ii) necessary to support a project as determined by the board.
7149 [~~(10)~~] (9) "Publicly owned improvement" means an improvement to real property if:

7150 (a) the real property is owned by:
7151 (i) the United States;
7152 (ii) the state; or
7153 (iii) a political subdivision:
7154 (A) as defined in Section 17B-1-102; and
7155 (B) of the state; and
7156 (b) the improvement relates to:
7157 (i) a sewage system including a system for collection, transport, storage, treatment,
7158 dispersal, effluent use, or discharge;
7159 (ii) a drainage or flood control system, including a system for collection, transport,
7160 diversion, storage, detention, retention, dispersal, use, or discharge;
7161 (iii) a water system including a system for production, collection, storage, treatment,
7162 transport, delivery, connection, or dispersal;
7163 (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
7164 (v) a rail transportation system;
7165 (vi) a system for pedestrian use for travel, ingress, or egress;
7166 (vii) a public utility system including a system for electricity, gas, or
7167 telecommunications; or
7168 (viii) a system or device that is similar to a system or device described in Subsections
7169 [~~(10)~~] (9)(b)(i) through (vii) as determined by the board.
7170 Section 181. Section **63N-4-203**, which is renumbered from Section 63M-1-2004 is
7171 renumbered and amended to read:
7172 **[~~63M-1-2004~~]. 63N-4-203. Board authority to award a grant or loan to an**
7173 **eligible county -- Interest on a loan -- Eligible county proposal process -- Process for**
7174 **awarding a grant or loan.**
7175 (1) (a) Subject to the provisions of, and funds made available for, this section,
7176 beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible
7177 county of one or more grants or loans to assist in paying an eligible expense relating to a
7178 project.
7179 (b) The total amount of grants and loans that the board may award in accordance with
7180 this section relating to one project is $75,000.

7181 (c) If the board awards a loan to an eligible county in accordance with this section, the
7182 loan shall be subject to interest as provided by the procedures and methods referred to in
7183 Subsection (6).
7184 (2) (a) Before the board may award an eligible county a grant or loan in accordance
7185 with this section, the eligible county shall submit a written proposal to the board in accordance
7186 with Subsection (2)(b).
7187 (b) The proposal described in Subsection (2)(a) shall:
7188 (i) describe the project area;
7189 (ii) describe the characteristics of the project including a description of how the project
7190 will be implemented;
7191 (iii) provide an economic development plan for the project including a description of
7192 any eligible expenses that will be incurred as part of implementing the project;
7193 (iv) describe the characteristics of the community within which the project area is
7194 located;
7195 (v) establish that the community within which the project area is located is a
7196 disadvantaged community on the basis of one or more of the following factors:
7197 (A) median income per capita within the community;
7198 (B) median property tax revenues generated within the community;
7199 (C) median sales and use tax revenues generated within the community; or
7200 (D) unemployment rates within the community;
7201 (vi) demonstrate that there is a need for the project in the community within which the
7202 project area is located;
7203 (vii) describe the short-term and long-term benefits of the project to the community
7204 within which the project area is located;
7205 (viii) demonstrate that there is a need for assistance in paying eligible expenses relating
7206 to the project;
7207 (ix) indicate the amount of any revenues that will be pledged to match any funds the
7208 board may award as a loan or grant under this section; and
7209 (x) indicate whether there is support for the implementation of the project from:
7210 (A) the community within which the project area is located; and
7211 (B) any cities or towns within which the project area is located.

7212 (3) At the request of the board, representatives from an eligible county shall appear
7213 before the board to:
7214 (a) present a proposal submitted to the board in accordance with Subsection (2)(b); and
7215 (b) respond to any questions or issues raised by the board relating to eligibility to
7216 receive a grant or loan under this section.
7217 (4) The board shall:
7218 (a) consider a proposal submitted to the board in accordance with Subsection (2);
7219 (b) make written findings as to whether the proposal described in Subsection (4)(a)
7220 meets the requirements of Subsection (2)(b);
7221 (c) make written findings as to whether to award the eligible county that submitted the
7222 proposal described in Subsection (4)(a) one or more grants or loans:
7223 (i) on the basis of the factors established in Subsection (5);
7224 (ii) in consultation with the director; and
7225 (iii) in accordance with the procedures established for prioritizing which projects may
7226 be awarded a grant or loan by the board under this section;
7227 (d) if the board determines to award an eligible county a grant or loan in accordance
7228 with this section, make written findings in consultation with the director specifying the:
7229 (i) amount of the grant or loan;
7230 (ii) time period for distributing the grant or loan;
7231 (iii) terms and conditions that the eligible county shall meet to receive the grant or
7232 loan;
7233 (iv) structure of the grant or loan; and
7234 (v) eligible expenses for which the eligible county may expend the grant or loan;
7235 (e) if the board determines to award an eligible county a loan in accordance with this
7236 section, make written findings stating:
7237 (i) the method of calculating interest applicable to the loan; and
7238 (ii) procedures for:
7239 (A) applying interest to the loan; and
7240 (B) paying interest on the loan; and
7241 (f) provide the written findings required by Subsections (4)(b) through (e) to the
7242 eligible county.

7243 (5) For purposes of Subsection (4)(c), the board shall consider the following factors in
7244 determining whether to award an eligible county one or more grants or loans authorized by this
7245 part:
7246 (a) whether the project is likely to result in economic development in the community
7247 within which the project area is located;
7248 (b) whether the community within which the project area is located is a disadvantaged
7249 community on the basis of one or more of the following factors:
7250 (i) median income per capita within the community;
7251 (ii) median property tax revenues generated within the community;
7252 (iii) median sales and use tax revenues generated within the community; or
7253 (iv) unemployment rates within the community;
7254 (c) whether there is a need for the project in the community within which the project
7255 area is located;
7256 (d) whether the project is likely to produce short-term and long-term benefits to the
7257 community within which the project area is located;
7258 (e) whether the project would be successfully implemented without the board awarding
7259 a grant or a loan to the eligible county;
7260 (f) whether any revenues will be pledged to match any funds the board may award as a
7261 grant or loan under this section;
7262 (g) whether there is support for the implementation of the project from:
7263 (i) the community within which the project area is located; and
7264 (ii) any cities or towns within which the project area is located; and
7265 (h) any other factor as determined by the board.
7266 (6) The office shall establish procedures:
7267 (a) for prioritizing which projects may be awarded a grant or loan by the board under
7268 this section; and
7269 (b) for loans awarded in accordance with this section:
7270 (i) the methods of calculating interest applicable to the loans; and
7271 (ii) procedures for:
7272 (A) applying interest to the loans; and
7273 (B) paying interest on the loans.

7274 Section 182. Section **63N-4-204**, which is renumbered from Section 63M-1-2005 is
7275 renumbered and amended to read:
7276 **[~~63M-1-2005~~]. 63N-4-204. Agreement between the executive director and an**
7277 **eligible county -- Failure to meet or violation of a term or condition of an agreement.**
7278 (1) Before an eligible county that has been awarded a grant or loan in accordance with
7279 Section [~~63M-1-2004~~] 63N-4-203 may receive the grant or loan, the eligible county shall enter
7280 into a written agreement with the executive director.
7281 (2) The written agreement described in Subsection (1):
7282 (a) shall:
7283 (i) specify the amount of the grant or loan;
7284 (ii) specify the time period for distributing the grant or loan;
7285 (iii) specify the terms and conditions that the eligible county shall meet to receive the
7286 grant or loan;
7287 (iv) specify the structure of the grant or loan;
7288 (v) specify the eligible expenses for which the eligible county may expend the grant or
7289 loan;
7290 (vi) if the eligible county has been awarded a loan:
7291 (A) specify the repayment schedule for the loan;
7292 (B) specify the method of calculating interest applicable to the loan; and
7293 (C) specify procedures for:
7294 (I) applying interest to the loan; and
7295 (II) paying interest on the loan; and
7296 (vii) subject to Subsection (3), contain provisions governing the failure to meet or the
7297 violation of a term or condition of the agreement; and
7298 (b) may contain any other provision as determined by the director.
7299 (3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an
7300 eligible county fails to meet or violates any provision of the agreement described in Subsection
7301 (2), the board shall impose one or more of the following penalties:
7302 (i) require the eligible county to repay all or a portion of the amount of any grant or
7303 loan the eligible county received in an amount determined by the board;
7304 (ii) provide that an eligible county may not receive any amounts of a grant or loan that

7305 the eligible county has been awarded in accordance with Section [~~63M-1-2004~~] 63N-4-203 but
7306 has not received; or
7307 (iii) provide that an eligible county may not be awarded a grant or loan under this part
7308 for a time period determined by the board.
7309 (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a
7310 penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause
7311 exists for the eligible county failing to meet or violating a provision of the agreement described
7312 in Subsection (2).
7313 (c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible
7314 county, the board shall provide written notice of the penalty to the eligible county within 10
7315 calendar days after the day on which the board determines to impose the penalty.
7316 Section 183. Section **63N-4-205**, which is renumbered from Section 63M-1-2006 is
7317 renumbered and amended to read:
7318 **[~~63M-1-2006~~]. 63N-4-205. Report on amount of grants and loans, projects,**
7319 **and outstanding debt.**
7320 The board shall annually provide the following information to the office for inclusion in
7321 the office's annual written report described in Section [~~63M-1-206~~] 63N-1-301:
7322 (1) the total amount of grants and loans the board awarded to eligible counties under
7323 this part during the fiscal year that ended on the June 30 immediately preceding the November
7324 interim meeting;
7325 (2) a description of the projects with respect to which the board awarded a grant or loan
7326 under this part;
7327 (3) the total amount of outstanding debt service that is being repaid by a grant or loan
7328 awarded under this part;
7329 (4) whether the grants and loans awarded under this part have resulted in economic
7330 development within project areas; and
7331 (5) whether the board recommends:
7332 (a) that the grants and loans authorized by this part should be continued; or
7333 (b) any modifications to this part.
7334 Section 184. Section **63N-5-101**, which is renumbered from Section 63M-1-3001 is
7335 renumbered and amended to read:

7336 **CHAPTER 5. PRIVATE ACTIVITY BONDS**

7337 **Part 1. Private Activity Bonds**

7338 **[~~63M-1-3001~~]. 63N-5-101. Title -- Purpose.**

7339 (1) This chapter is known as "Private Activity Bonds."

7340 (2) It is the intent of the Legislature to establish procedures to most effectively and
7341 equitably allocate this state's private activity bond volume cap authorized by the Internal
7342 Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

7343 Section 185. Section **63N-5-102**, which is renumbered from Section 63M-1-3002 is
7344 renumbered and amended to read:

7345 **[~~63M-1-3002~~]. 63N-5-102. Definitions.**

7346 As used in this part:

7347 (1) "Allocated volume cap" means a volume cap for which a certificate of allocation is
7348 in effect or for which bonds have been issued.

7349 (2) "Allotment accounts" means the various accounts created in Section [~~63M-1-3006~~]
7350 63N-5-106.

7351 (3) "Board of review" means the Private Activity Bond Review Board created in
7352 Section [~~63M-1-3003~~] 63N-5-103.

7353 (4) "Bond" means any obligation for which an allocation of volume cap is required by
7354 the code.

7355 (5) "Code" means the Internal Revenue Code of 1986, as amended, and any related
7356 Internal Revenue Service regulations.

7357 (6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No.
7358 1545-0720) or any other federal tax form or other method of reporting required by the
7359 Department of the Treasury under Section 149(e) of the code.

7360 (7) "Issuing authority" means:

7361 (a) any county, city, or town in the state;

7362 (b) any not-for-profit corporation or joint agency, or other entity acting on behalf of
7363 one or more counties, cities, towns, or any combination of these;

7364 (c) the state; or

7365 (d) any other entity authorized to issue bonds under state law.

7366 (8) "State" means the state of Utah and any of its agencies, institutions, and divisions

7367 authorized to issue bonds or certificates under state law.
7368 (9) "Volume cap" means the private activity bond volume cap for the state as computed
7369 under Section 146 of the code.
7370 (10) "Year" means each calendar year.
7371 Section 186. Section **63N-5-103**, which is renumbered from Section 63M-1-3003 is
7372 renumbered and amended to read:
7373 **[~~63M-1-3003~~]. 63N-5-103. Private Activity Bond Review Board.**
7374 (1) There is created within the office the Private Activity Bond Review Board,
7375 composed of the following 11 members [~~as follows~~]:
7376 [~~(a) five ex officio members who are:~~]
7377 (a) (i) the executive director of the office or the executive director's designee;
7378 [~~(ii) the director of the Division of Business and Economic Development or the~~
7379 ~~director's designee;~~]
7380 (ii) an employee of the office designated by the executive director;
7381 (iii) the state treasurer or the treasurer's designee;
7382 (iv) the chair of the Board of Regents or the chair's designee; and
7383 (v) the chair of the Utah Housing Corporation or the chair's designee; and
7384 (b) six local government members who are:
7385 (i) three elected or appointed county officials, nominated by the Utah Association of
7386 Counties and appointed by the governor with the consent of the Senate; and
7387 (ii) three elected or appointed municipal officials, nominated by the Utah League of
7388 Cities and Towns and appointed by the governor with the consent of the Senate.
7389 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local
7390 government members of the board of review shall be four-year terms.
7391 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
7392 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
7393 board members are staggered so that approximately half of the board is appointed every two
7394 years.
7395 (c) Members may be reappointed only once.
7396 (3) (a) If a local government member ceases to be an elected or appointed official of
7397 the city or county the member is appointed to represent, that membership on the board of

7398 review terminates immediately and there shall be a vacancy in the membership.
7399 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
7400 appointed within 30 days in the manner of the regular appointment for the unexpired term, and
7401 until his successor is appointed and qualified.
7402 (4) (a) The chair of the board of review is the executive director of the office or the
7403 executive director's designee.
7404 (b) The chair is nonvoting except in the case of a tie vote.
7405 (5) Six members of the board of review constitute a quorum.
7406 (6) Formal action by the board of review requires a majority vote of a quorum.
7407 (7) A member may not receive compensation or benefits for the member's service, but
7408 may receive per diem and travel expenses in accordance with:
7409 (a) Section 63A-3-106;
7410 (b) Section 63A-3-107; and
7411 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
7412 63A-3-107.
7413 (8) The chair of the board of review serves as the state official designated under state
7414 law to make certifications required to be made under Section 146 of the code including the
7415 certification required by Section 149(e)(2)(F) of the code.
7416 Section 187. Section **63N-5-104**, which is renumbered from Section 63M-1-3004 is
7417 renumbered and amended to read:
7418 **[~~63M-1-3004~~]. 63N-5-104. Powers, functions, and duties of board of review.**
7419 The board of review shall:
7420 (1) make, subject to the limitations of the code, allocations of volume cap to issuing
7421 authorities;
7422 (2) determine the amount of volume cap to be allocated with respect to approved
7423 applications;
7424 (3) maintain a record of all applications filed by issuing authorities under Section
7425 [~~63M-1-3005~~] 63N-5-105 and all certificates of allocation issued under Section [~~63M-1-3007~~]
7426 63N-5-107;
7427 (4) maintain a record of all bonds issued by issuing authorities during each year;
7428 (5) determine the amount of volume cap to be treated as a carryforward under Section

7429 146(f) of the code and allocate this carryforward to one or more qualified carryforward
7430 purposes;
7431 (6) make available upon reasonable request a certified copy of all or any part of the
7432 records maintained by the board of review under this part or a summary of them, including
7433 information relating to the volume cap for each year and any amounts available for allocation
7434 under this part;
7435 (7) promulgate rules for the allocation of volume cap under this part; and
7436 (8) charge reasonable fees for the performance of duties prescribed by this part,
7437 including application, filing, and processing fees.
7438 Section 188. Section **63N-5-105**, which is renumbered from Section 63M-1-3005 is
7439 renumbered and amended to read:
7440 **[~~63M-1-3005~~]. 63N-5-105. Allocation of volume cap.**
7441 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed
7442 by the board of review to the various allotment accounts as set forth in Section [~~63M-1-3006~~]
7443 63N-5-106.
7444 (b) The board of review may distribute up to 50% of each increase in the volume cap
7445 [~~that occurs after March 11, 1999,~~] for use in development that occurs in quality growth areas,
7446 depending upon the board's analysis of the relative need for additional volume cap between
7447 development in quality growth areas and the allotment accounts under Section [~~63M-1-3006~~]
7448 63N-5-106.
7449 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the
7450 board of review an application containing information required by the procedures and
7451 processes of the board of review.
7452 (3) (a) The board of review shall establish criteria for making allocations of volume
7453 cap that are consistent with the purposes of the code and this part.
7454 (b) In making an allocation of volume cap the board of review shall consider the
7455 following:
7456 (i) the principal amount of the bonds proposed to be issued;
7457 (ii) the nature and the location of the project or the type of program;
7458 (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;
7459 (iv) whether the project or program could obtain adequate financing without an

7460 allocation of volume cap;
7461 (v) the degree to which an allocation of volume cap is required for the project or
7462 program to proceed or continue;
7463 (vi) the social, health, economic, and educational effects of the project or program on
7464 the local community and state as a whole;
7465 (vii) the anticipated economic development created or retained within the local
7466 community and the state as a whole;
7467 (viii) the anticipated number of jobs, both temporary and permanent, created or
7468 retained within the local community and the state as a whole;
7469 (ix) if the project is a residential rental project, the degree to which the residential
7470 rental project:
7471 (A) targets lower income populations; and
7472 (B) is accessible housing; and
7473 (x) whether the project meets the principles of quality growth recommended by the
7474 Quality Growth Commission created under Section 11-38-201.
7475 (4) The board of review shall evidence an allocation of volume cap by issuing a
7476 certificate in accordance with Section [~~63M-1-3007~~] 63N-5-107.
7477 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small
7478 Issue Bond Account that may be allocated only to manufacturing projects.
7479 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool
7480 Account that may be allocated only to manufacturing projects.
7481 Section 189. Section **63N-5-106**, which is renumbered from Section 63M-1-3006 is
7482 renumbered and amended to read:
7483 **[~~63M-1-3006~~]. 63N-5-106. Allotment accounts.**
7484 (1) There are created the following allotment accounts:
7485 (a) the Single Family Housing Account, for which eligible issuing authorities are those
7486 authorized under the code and state statute to issue qualified mortgage bonds under Section 143
7487 of the code;
7488 (b) the Student Loan Account, for which eligible issuing authorities are those
7489 authorized under the code and state statute to issue qualified student loan bonds under Section
7490 144(b) of the code;

7491 (c) the Small Issue Bond Account, for which eligible issuing authorities are those
7492 authorized under the code and state statute to issue:
7493 (i) qualified small issue bonds under Section 144(a) of the code;
7494 (ii) qualified exempt facility bonds for qualified residential rental projects under
7495 Section 142(d) of the code; or
7496 (iii) qualified redevelopment bonds under Section 144(c) of the code;
7497 (d) the Exempt Facilities Account, for which eligible issuing authorities are those
7498 authorized under the code and state statute to issue any bonds requiring an allocation of volume
7499 cap other than for purposes described in Subsections (1)(a), (b), or (c);
7500 (e) the Pool Account, for which eligible issuing authorities are those authorized under
7501 the code and state statute to issue any bonds requiring an allocation of volume cap; and
7502 (f) the Carryforward Account, for which eligible issuing authorities are those with
7503 projects or programs qualifying under Section 146(f) of the code.
7504 (2) (a) The volume cap shall be distributed to the various allotment accounts on
7505 January 1 of each year on the following basis:
7506 (i) 42% to the Single Family Housing Account;
7507 (ii) 33% to the Student Loan Account;
7508 (iii) 1% to the Exempt Facilities Account; and
7509 (iv) 24% to the Small Issue Bond Account.
7510 (b) From July 1 to September 30 of each year, the board of review may transfer any
7511 unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account
7512 to the Pool Account.
7513 (c) The board of review, upon written notification by the issuing authorities eligible for
7514 volume cap allocation from the Single Family Housing Account or the Student Loan Account
7515 that all or a portion of volume cap distributed into that allotment account will not be used, may
7516 transfer the unused volume cap between the Single Family Housing Account and the Student
7517 Loan Account.
7518 (d) From October 1 to the third Friday of December of each year, the board of review
7519 shall transfer all unallocated volume cap into the Pool Account.
7520 (e) On the third Saturday of December, the board of review shall transfer uncollected
7521 volume cap or allocated volume cap for which bonds have not been issued prior to the third

7522 Saturday of December into the Carryforward Account.

7523 (f) If the authority to issue bonds designated in any allotment account is rescinded by
7524 amendment to the code, the board of review may transfer any unallocated volume cap from that
7525 allotment account to any other allotment account.

7526 Section 190. Section **63N-5-107**, which is renumbered from Section 63M-1-3007 is
7527 renumbered and amended to read:

7528 **[~~63M-1-3007~~]. 63N-5-107. Certificates of allocation.**

7529 (1) (a) After an allocation of volume cap for a project or program is approved by the
7530 board of review, the board shall issue a numbered certificate of allocation stating the amount of
7531 the allocation, the allotment account for which the allocation is being made, and the expiration
7532 date of the allocation.

7533 (b) The certificates of allocation shall be mailed to the issuing authority within 10
7534 working days of the date of approval.

7535 (c) No bonds are entitled to any allocation of the volume cap unless the issuing
7536 authority received a certificate of allocation with respect to the bonds.

7537 (d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the
7538 date of approval.

7539 (ii) If bonds for which a certificate has been approved are not issued within the 90-day
7540 period, the certificate of allocation is void and volume cap shall be returned to the applicable
7541 allotment account for reallocation by the board of review.

7542 (2) (a) An issuing authority receiving an allocation of volume cap from the
7543 Carryforward Account shall receive a certificate of allocation similar to the certificates of
7544 allocation described in Subsection (1) from the board of review stating the amount of allocation
7545 from the Carryforward Account that has been allocated to the issuing authority and the
7546 expiration of the allocation.

7547 (b) If in the judgment of the board of review an issuing authority or a person or entity
7548 responsible for a project or program receiving an allocation from the Carryforward Account
7549 does not proceed with diligence in providing for the issuance of the bonds with respect to the
7550 project or program, and because of the lack of diligence the volume cap cannot be used, the
7551 board of review may exclude from its consideration for a given period of time, determined by
7552 the board of review, an application of the issuing authority, person, or entity. The board of

7553 review may, at any time, review and modify its decisions relating to this exclusion.
7554 Section 191. Section **63N-5-108**, which is renumbered from Section 63M-1-3008 is
7555 renumbered and amended to read:
7556 **[~~63M-1-3008~~]. 63N-5-108. Issuing authorities -- Limitations -- Duties.**
7557 (1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds
7558 without a certificate of allocation issued under Section [~~63M-1-3007~~] 63N-5-107, or an issuing
7559 authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an
7560 allocation of the volume cap for those bonds.
7561 (b) An issuing authority issuing bonds in excess of the amount set forth in the related
7562 certificate of allocation is not entitled to an allocation of the volume cap for the excess.
7563 (2) Each issuing authority shall:
7564 (a) advise the board of review, within 15 days after the issuance of bonds, of the
7565 principal amount of bonds issued under each certificate of allocation by delivering to the board
7566 of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal
7567 Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered
7568 to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of
7569 review with respect to the bonds; and
7570 (b) if all or a stated portion of the bonds for which a certificate of allocation was
7571 received will not be issued, advise the board of review in writing, within 15 days of the earlier
7572 of:
7573 (i) the final decision not to issue all or a stated portion of the bonds; or
7574 (ii) the expiration of the certificate of allocation.
7575 (3) Failure by an issuing authority to notify the board of review under Subsection (2),
7576 including failure to timely deliver a Form 8038, may, in the sole discretion of the board of
7577 review, result in the issuing authority being denied further consideration of applications.
7578 Section 192. Section **63N-5-109**, which is renumbered from Section 63M-1-3009 is
7579 renumbered and amended to read:
7580 **[~~63M-1-3009~~]. 63N-5-109. Procedures -- Adjudicative proceedings.**
7581 The board of review shall comply with the procedures and requirements of Title 63G,
7582 Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
7583 Section 193. Section **63N-5-110** is enacted to read:

7584 **63N-5-110. Duties of Office.**

7585 (1) The office is recognized as an issuing authority as defined in Section 63N-5-102,
7586 entitled to issue bonds from the Small Issue Bond Account created in Subsection
7587 63N-5-106(1)(c) as a part of the state's private activity bond volume cap authorized by the
7588 Internal Revenue Code of 1986 and computed under Section 146 of the code.

7589 (2) To promote and encourage the issuance of bonds from the Small Issue Bond
7590 Account for manufacturing projects, the office may:

7591 (a) develop campaigns and materials that inform qualified small manufacturing
7592 businesses about the existence of the program and the application process;

7593 (b) assist small businesses in applying for and qualifying for these bonds; and

7594 (c) develop strategies to lower the cost to small businesses of applying for and
7595 qualifying for these bonds, including making arrangements with financial advisors,
7596 underwriters, bond counsel, and other professionals involved in the issuance process to provide
7597 their services at a reduced rate when the division can provide them with a high volume of
7598 applicants or issues.

7599 Section 194. Section **63N-6-101**, which is renumbered from Section 63M-1-1201 is
7600 renumbered and amended to read:

7601 **CHAPTER 6. UTAH VENTURE CAPITAL ENHANCEMENT ACT**

7602 **Part 1. General Provisions**

7603 **[~~63M-1-1201~~]. 63N-6-101. Title.**

7604 This [~~part~~] chapter is known as the "Utah Venture Capital Enhancement Act."

7605 Section 195. Section **63N-6-102**, which is renumbered from Section 63M-1-1202 is
7606 renumbered and amended to read:

7607 **[~~63M-1-1202~~]. 63N-6-102. Findings -- Purpose.**

7608 (1) The Legislature finds that:

7609 (a) fundamental changes have occurred in national and international financial markets
7610 and in the state's financial markets;

7611 (b) a critical shortage of seed and venture capital resources exists in the state, and that
7612 shortage is impairing the growth of commerce in the state;

7613 (c) a need exists to increase the availability of venture equity capital for emerging,
7614 expanding, and restructuring enterprises in Utah, including enterprises in the life sciences,

7615 advanced manufacturing, and information technology;
7616 (d) increased venture equity capital investments in emerging, expanding, and
7617 restructuring enterprises in Utah will:
7618 (i) create new jobs in the state; and
7619 (ii) help to diversify the state's economic base; and
7620 (e) a well-trained work force is critical for the maintenance and development of Utah's
7621 economy.
7622 (2) This part is enacted to:
7623 (a) mobilize private investment in a broad variety of venture capital partnerships in
7624 diversified industries and locales;
7625 (b) retain the private-sector culture of focusing on rate of return in the investing
7626 process;
7627 (c) secure the services of the best managers in the venture capital industry, regardless
7628 of location;
7629 (d) facilitate the organization of the Utah fund of funds to seek private investments and
7630 to serve as a catalyst in those investments by offering state incentives for private persons to
7631 make investments in the Utah fund of funds;
7632 (e) enhance the venture capital culture and infrastructure in the state so as to increase
7633 venture capital investment within the state and to promote venture capital investing within the
7634 state;
7635 (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner
7636 that would maximize the direct economic impact for the state; and
7637 (g) authorize the issuance and use of contingent tax credits to accomplish the purposes
7638 referred to in Subsections (2)(a) through (e) while protecting the interests of the state by
7639 limiting the manner in which contingent tax credits are issued, registered, transferred, claimed
7640 as an offset to the payment of state income tax, and redeemed.
7641 Section 196. Section **63N-6-103**, which is renumbered from Section 63M-1-1203 is
7642 renumbered and amended to read:
7643 **[~~63M-1-1203~~]. 63N-6-103. Definitions.**
7644 As used in this part:
7645 (1) "Board" means the Utah Capital Investment Board.

7646 (2) "Certificate" means a contract between the board and a designated investor under
7647 which a contingent tax credit is available and issued to the designated investor.
7648 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
7649 nonresident person.
7650 (b) "Claimant" does not include an estate or trust.
7651 (4) "Commitment" means a written commitment by a designated purchaser to purchase
7652 from the board certificates presented to the board for redemption by a designated investor.
7653 Each commitment shall state the dollar amount of contingent tax credits that the designated
7654 purchaser has committed to purchase from the board.
7655 (5) "Contingent tax credit" means a contingent tax credit issued under this part that is
7656 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
7657 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient
7658 funds in the redemption reserve and the board has not exercised other options for redemption
7659 under Subsection [~~63M-1-1220~~] 63N-6-408(3)(b).
7660 (6) "Corporation" means the Utah Capital Investment Corporation created under
7661 Section [~~63M-1-1207~~] 63N-6-301.
7662 (7) "Designated investor" means:
7663 (a) a person who makes a private investment; or
7664 (b) a transferee of a certificate or contingent tax credit.
7665 (8) "Designated purchaser" means:
7666 (a) a person who enters into a written undertaking with the board to purchase a
7667 commitment; or
7668 (b) a transferee who assumes the obligations to make the purchase described in the
7669 commitment.
7670 (9) "Estate" means a nonresident estate or a resident estate.
7671 (10) "Person" means an individual, partnership, limited liability company, corporation,
7672 association, organization, business trust, estate, trust, or any other legal or commercial entity.
7673 (11) "Private investment" means:
7674 (a) an equity interest in the Utah fund of funds; or
7675 (b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan
7676 refinanced on or after July 1, 2014, that was originated before July 1, 2014.

7677 (12) "Redemption reserve" means the reserve established by the corporation to
7678 facilitate the cash redemption of certificates.
7679 (13) "Taxpayer" means a taxpayer:
7680 (a) of an investor; and
7681 (b) if that taxpayer is a:
7682 (i) claimant;
7683 (ii) estate; or
7684 (iii) trust.
7685 (14) "Trust" means a nonresident trust or a resident trust.
7686 (15) "Utah fund of funds" means a limited partnership or limited liability company
7687 established under Section [~~63M-1-1213~~] 63N-6-401 in which a designated investor purchases
7688 an equity interest.
7689 Section 197. Section **63N-6-201**, which is renumbered from Section 63M-1-1204 is
7690 renumbered and amended to read:
7691 **Part 2. Utah Capital Investment Board**
7692 **[~~63M-1-1204~~]. 63N-6-201. Utah Capital Investment Board.**
7693 (1) There is created within the office the Utah Capital Investment Board to exercise the
7694 powers conferred by this part.
7695 (2) The purpose of the board is to mobilize venture equity capital for investment in a
7696 manner that will result in a significant potential to create jobs and to diversify and stabilize the
7697 economy of the state.
7698 (3) In the exercise of its powers and duties, the board is considered to be performing an
7699 essential public purpose.
7700 Section 198. Section **63N-6-202**, which is renumbered from Section 63M-1-1205 is
7701 renumbered and amended to read:
7702 **[~~63M-1-1205~~]. 63N-6-202. Board members -- Meetings -- Expenses.**
7703 (1) (a) The board shall consist of the following five members:
7704 (i) the state treasurer;
7705 (ii) the director or the director's designee; and
7706 (iii) three members appointed by the governor and confirmed by the Senate.
7707 (b) The three members appointed by the governor shall serve four-year staggered terms

7708 with the initial terms of the first three members to be four years for one member, three years for
7709 one member, and two years for one member.
7710 (c) The governor shall appoint members of the board based on demonstrated expertise
7711 and competence in:
7712 (i) the supervision of investment managers;
7713 (ii) the fiduciary management of investment funds; or
7714 (iii) the management and administration of tax credit allocation programs.
7715 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
7716 shall be:
7717 (a) filled in the same manner as the appointment of the original member; and
7718 (b) for the unexpired term of the board member being replaced.
7719 (3) Appointed members of the board may not serve more than two full consecutive
7720 terms except when the governor determines that an additional term is in the best interest of the
7721 state.
7722 (4) (a) Four members of the board constitute a quorum for conducting business and
7723 exercising board power.
7724 (b) If a quorum is present, the action of a majority of members present is the action of
7725 the board.
7726 (5) A member may not receive compensation or benefits for the member's service, but
7727 may receive per diem and travel expenses in accordance with:
7728 (a) Section 63A-3-106;
7729 (b) Section 63A-3-107; and
7730 (c) rules made by the Division of Finance [~~according to~~] under Sections 63A-3-106 and
7731 63A-3-107.
7732 (6) The board and its members are considered to be a governmental entity with all of
7733 the rights, privileges, and immunities of a governmental entity of the state, including all of the
7734 rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
7735 (7) Meetings of the board, except to the extent necessary to protect the information
7736 identified in Subsection [~~63M-1-1224~~] 63N-6-412(3), are subject to Title 52, Chapter 4, Open
7737 and Public Meetings Act.
7738 Section 199. Section **63N-6-203**, which is renumbered from Section 63M-1-1206 is

7739 renumbered and amended to read:

7740 **[~~63M-1-1206~~]. 63N-6-203. Board duties and powers.**

7741 (1) The board shall:

7742 (a) establish criteria and procedures for the allocation and issuance of contingent tax
7743 credits to designated investors by means of certificates issued by the board, provided that a
7744 contingent tax credit may not be issued unless the Utah fund of funds:

7745 (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from
7746 the state to the Utah fund of funds; and

7747 (ii) agrees to repay the loan upon terms and conditions established by the board;

7748 (b) establish criteria and procedures for assessing the likelihood of future certificate
7749 redemptions by designated investors, including:

7750 (i) criteria and procedures for evaluating the value of investments made by the Utah
7751 fund of funds; and

7752 (ii) the returns from the Utah fund of funds;

7753 (c) establish criteria and procedures for registering and redeeming contingent tax
7754 credits by designated investors holding certificates issued by the board;

7755 (d) establish a target rate of return or range of returns for the investment portfolio of
7756 the Utah fund of funds;

7757 (e) establish criteria and procedures governing commitments obtained by the board
7758 from designated purchasers including:

7759 (i) entering into commitments with designated purchasers; and

7760 (ii) drawing on commitments to redeem certificates from designated investors;

7761 (f) have power to:

7762 (i) expend funds;

7763 (ii) invest funds;

7764 (iii) issue debt and borrow funds;

7765 (iv) enter into contracts;

7766 (v) insure against loss; and

7767 (vi) perform any other act necessary to carry out its purpose; and

7768 (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part
7769 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7770 (2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the
7771 Legislative Management Committee:
7772 (i) whenever made, modified, or repealed; and
7773 (ii) in each even-numbered year.
7774 (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review
7775 Committee from reviewing and taking appropriate action on any rule made, amended, or
7776 repealed by the board.
7777 (3) (a) The criteria and procedures established by the board for the allocation and
7778 issuance of contingent tax credits shall:
7779 (i) include the contingencies that must be met for a certificate and its related tax credits
7780 to be:
7781 (A) issued by the board;
7782 (B) transferred by a designated investor; and
7783 (C) redeemed by a designated investor in order to receive a contingent tax credit; and
7784 (ii) tie the contingencies for redemption of certificates to:
7785 (A) the targeted rates of return and scheduled redemptions of equity interests purchased
7786 by designated investors in the Utah fund of funds; and
7787 (B) the scheduled principal and interest payments payable to designated investors that
7788 have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1,
7789 2014, that was originated before July 1, 2014, to the Utah fund of funds.
7790 (b) The board may not issue contingent tax credits under this part before July 1, 2004.
7791 (4) (a) The board may charge a placement fee to the Utah fund of funds for the
7792 issuance of a certificate and related contingent tax credit to a designated investor.
7793 (b) The fee shall:
7794 (i) be charged only to pay for reasonable and necessary costs of the board; and
7795 (ii) not exceed .5% of the private investment of the designated investor.
7796 (5) The board's criteria and procedures for redeeming certificates:
7797 (a) shall give priority to the redemption amount from the available funds in the
7798 redemption reserve; and
7799 (b) to the extent there are insufficient funds in the redemption reserve to redeem
7800 certificates, shall grant the board the option to redeem certificates:

7801 (i) by certifying a contingent tax credit to the designated investor; or
7802 (ii) by making demand on designated purchasers consistent with the requirements of
7803 Section [~~63M-1-1221~~] 63N-6-409.
7804 (6) (a) The board shall, in consultation with the corporation, publish on or before
7805 September 1 an annual report of the activities conducted by the Utah fund of funds, and submit
7806 the report to the governor; the Business, Economic Development, and Labor Appropriations
7807 Subcommittee; the Business and Labor Interim Committee; and the Retirement and
7808 Independent Entities Committee.
7809 (b) The annual report shall:
7810 (i) be designed to provide clear, accurate, and accessible information to the public, the
7811 governor, and the Legislature;
7812 (ii) include a copy of the audit of the Utah fund of funds described in Section
7813 [~~63M-1-1217~~] 63N-6-405;
7814 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
7815 statement;
7816 (iv) include detailed information regarding new fund commitments made during the
7817 year, including the amount of money committed;
7818 (v) include the net annual rate of return of the Utah fund of funds for the reported year,
7819 and the net rate of return from the inception of the Utah fund of funds, after accounting for all
7820 expenses, including administrative and financing costs;
7821 (vi) include detailed information regarding:
7822 (A) realized gains from investments and any realized losses; and
7823 (B) unrealized gains and any unrealized losses based on the net present value of
7824 ongoing investments;
7825 (vii) include detailed information regarding all yearly expenditures, including:
7826 (A) administrative, operating, and financing costs;
7827 (B) aggregate compensation information separated by full- and part-time employees,
7828 including benefit and travel expenses; and
7829 (C) expenses related to the allocation manager;
7830 (viii) include detailed information regarding all funding sources for administrative,
7831 operations, and financing expenses, including expenses charged by or to the Utah fund of

7832 funds, including management and placement fees;
7833 (ix) review the progress of the investment fund allocation manager in implementing its
7834 investment plan and provide a general description of the investment plan;
7835 (x) for each individual fund that the Utah fund of funds is invested in that represents at
7836 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total
7837 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and
7838 the percentage of the total value of the fund held by the Utah fund of funds;
7839 (xi) include the number of companies in Utah where an investment was made from a
7840 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time
7841 employees in the state added by all companies where investments were made by funds that the
7842 Utah fund of funds is invested in;
7843 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,
7844 and an aggregate total amount of money invested in the state by the funds the Utah fund of
7845 funds is invested in;
7846 (xiii) describe any redemption or transfer of a certificate issued under this part;
7847 (xiv) include actual and estimated potential appropriations the Legislature will be
7848 required to provide as a result of redeemed certificates or tax credits during the following five
7849 years;
7850 (xv) include an evaluation of the state's progress in accomplishing the purposes stated
7851 in Section [~~63M-1-1202~~] 63N-6-102; and
7852 (xvi) be directly accessible to the public via a link from the main page of the Utah fund
7853 of fund's website.
7854 (c) The annual report may not identify a specific designated investor who has redeemed
7855 or transferred a certificate.
7856 Section 200. Section **63N-6-301**, which is renumbered from Section 63M-1-1207 is
7857 renumbered and amended to read:
7858 **Part 3. Utah Capital Investment Corporation**
7859 **[~~63M-1-1207~~]. 63N-6-301. Utah Capital Investment Corporation -- Powers**
7860 **and purposes.**
7861 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
7862 Utah Capital Investment Corporation.

7863 (b) The corporation:
7864 (i) may exercise all powers conferred on independent corporations under Section
7865 63E-2-106;
7866 (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and
7867 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
7868 Corporations Act, except as otherwise provided in this part.
7869 (c) The corporation shall file with the Division of Corporations and Commercial Code:
7870 (i) articles of incorporation; and
7871 (ii) any amendment to its articles of incorporation.
7872 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
7873 operational policies that are consistent with this chapter.
7874 (e) Except as otherwise provided in this part, this part does not exempt the corporation
7875 from the requirements under state law which apply to other corporations organized under Title
7876 63E, Chapter 2, Independent Corporations Act.
7877 (2) The purposes of the corporation are to:
7878 (a) organize the Utah fund of funds;
7879 (b) select a venture capital investment fund allocation manager to make venture capital
7880 fund investments by the Utah fund of funds;
7881 (c) negotiate the terms of a contract with the venture capital investment fund allocation
7882 manager;
7883 (d) execute the contract with the selected venture capital investment fund manager on
7884 behalf of the Utah fund of funds;
7885 (e) receive funds paid by designated investors for the issuance of certificates by the
7886 board for private investment in the Utah fund of funds;
7887 (f) receive investment returns from the Utah fund of funds; and
7888 (g) establish the redemption reserve to be used by the corporation to redeem
7889 certificates.
7890 (3) The corporation may not:
7891 (a) exercise governmental functions;
7892 (b) have members;
7893 (c) pledge the credit or taxing power of the state or any political subdivision of the

7894 state; or
7895 (d) make its debts payable out of any money except money of the corporation.
7896 (4) The obligations of the corporation are not obligations of the state or any political
7897 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
7898 but are obligations of the corporation payable solely and only from the corporation's funds.
7899 (5) The corporation may:
7900 (a) engage consultants and legal counsel;
7901 (b) expend funds;
7902 (c) invest funds;
7903 (d) issue debt and borrow funds;
7904 (e) enter into contracts;
7905 (f) insure against loss;
7906 (g) hire employees; and
7907 (h) perform any other act necessary to carry out its purposes.
7908 Section 201. Section **63N-6-302**, which is renumbered from Section 63M-1-1208 is
7909 renumbered and amended to read:
7910 **[~~63M-1-1208~~]. 63N-6-302. Incorporator -- Appointment committee.**
7911 (1) To facilitate the organization of the corporation, the executive director or the
7912 executive director's designee shall serve as the incorporator as provided in Section 16-6a-201.
7913 (2) To assist in the organization of the corporation, the Utah Board of Business and
7914 Economic Development shall appoint three individuals to serve on an appointment committee.
7915 (3) The appointment committee shall:
7916 (a) elect the initial board of directors of the corporation;
7917 (b) exercise due care to assure that persons elected to the initial board of directors have
7918 the requisite financial experience necessary in order to carry out the duties of the corporation as
7919 established in this part, including in areas related to:
7920 (i) venture capital investment;
7921 (ii) investment management; and
7922 (iii) supervision of investment managers and investment funds; and
7923 (c) terminate its existence upon the election of the initial board of directors of the
7924 corporation.

7925 (4) The office shall assist the incorporator and the appointment committee in any
7926 manner determined necessary and appropriate by the incorporator and appointment committee
7927 in order to administer this section.
7928 Section 202. Section **63N-6-303**, which is renumbered from Section 63M-1-1209 is
7929 renumbered and amended to read:
7930 **[~~63M-1-1209~~]. 63N-6-303. Board of directors.**
7931 (1) The initial board of directors of the corporation shall consist of five members.
7932 (2) The persons elected to the initial board of directors by the appointment committee
7933 shall include persons who have an expertise, as considered appropriate by the appointment
7934 committee, in the areas of:
7935 (a) the selection and supervision of investment managers;
7936 (b) fiduciary management of investment funds; and
7937 (c) other areas of expertise as considered appropriate by the appointment committee.
7938 (3) After the election of the initial board of directors, vacancies in the board of
7939 directors of the corporation shall be filled by election by the remaining directors of the
7940 corporation.
7941 (4) (a) Board members shall serve four-year terms, except that of the five initial
7942 members:
7943 (i) two shall serve four-year terms;
7944 (ii) two shall serve three-year terms; and
7945 (iii) one shall serve a two-year term.
7946 (b) Board members shall serve until their successors are elected and qualified and may
7947 serve successive terms.
7948 (c) A majority of the board members may remove a board member for cause.
7949 (d) (i) The board shall select a chair by majority vote.
7950 (ii) The chair's term is for one year.
7951 (5) Three members of the board are a quorum for the transaction of business.
7952 (6) Members of the board of directors:
7953 (a) are subject to any restrictions on conflicts of interest specified in the organizational
7954 documents of the corporation; and
7955 (b) may have no interest in any:

7956 (i) venture capital investment fund allocation manager selected by the corporation
7957 under this part; or
7958 (ii) investments made by the Utah fund of funds.
7959 (7) Directors of the corporation:
7960 (a) shall be compensated for direct expenses and mileage; and
7961 (b) may not receive a director's fee or salary for service as directors.
7962 Section 203. Section **63N-6-304**, which is renumbered from Section 63M-1-1210 is
7963 renumbered and amended to read:
7964 **[~~63M-1-1210~~]. 63N-6-304. Investment manager.**
7965 (1) After incorporation, the corporation shall conduct a national solicitation for
7966 investment plan proposals from qualified venture capital investment fund allocation managers
7967 for the raising and investing of capital by the Utah fund of funds in accordance with the
7968 requirements of this part.
7969 (2) Any proposed investment plan shall address the applicant's:
7970 (a) level of:
7971 (i) experience; and
7972 (ii) quality of management;
7973 (b) investment philosophy and process;
7974 (c) probability of success in fund-raising;
7975 (d) prior investment fund results; and
7976 (e) plan for achieving the purposes of this part.
7977 (3) The selected venture capital investment fund allocation manager shall have
7978 substantial, successful experience in the design, implementation, and management of seed and
7979 venture capital investment programs and in capital formation.
7980 (4) The corporation shall only select a venture capital investment fund allocation
7981 manager:
7982 (a) with demonstrated expertise in the management and fund allocation of investments
7983 in venture capital funds; and
7984 (b) considered best qualified to:
7985 (i) invest the capital of the Utah fund of funds; and
7986 (ii) generate the amount of capital required by this part.

7987 Section 204. Section **63N-6-305**, which is renumbered from Section 63M-1-1211 is
7988 renumbered and amended to read:
7989 **[~~63M-1-1211~~]. 63N-6-305. Management fee -- Additional financial**
7990 **assistance.**
7991 (1) The corporation may charge a management fee on assets under management in the
7992 Utah fund of funds.
7993 (2) The fee shall:
7994 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
7995 investment fund allocation manager selected by the corporation; and
7996 (b) be charged only to pay for reasonable and necessary costs of the corporation.
7997 (3) The corporation may apply for and, when qualified, receive financial assistance
7998 from the Industrial Assistance Account under [~~Title 63M,~~] Chapter [~~1~~] 3, Part [~~9~~] 1, Industrial
7999 Assistance Account, and under rules made by the Board of Business and Economic
8000 Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
8001 to help establish the program authorized under this part.
8002 Section 205. Section **63N-6-306**, which is renumbered from Section 63M-1-1212 is
8003 renumbered and amended to read:
8004 **[~~63M-1-1212~~]. 63N-6-306. Dissolution.**
8005 (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated
8006 and dissolved.
8007 (2) Upon dissolution or privatization of the corporation, any assets owned by the
8008 corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
8009 designated by the Legislature for the purposes listed in Section [~~63M-1-1202~~] 63N-6-102 as
8010 provided in Title 63E, Chapter 1, Independent Entities Act.
8011 Section 206. Section **63N-6-401**, which is renumbered from Section 63M-1-1213 is
8012 renumbered and amended to read:
8013 **Part 4. Utah Fund of Funds**
8014 **[~~63M-1-1213~~]. 63N-6-401. Organization of Utah fund of funds.**
8015 (1) The corporation shall organize the Utah fund of funds.
8016 (2) The Utah fund of funds shall make investments in private seed and venture capital
8017 partnerships or entities in a manner and for the following purposes:

8018 (a) to encourage the availability of a wide variety of venture capital in the state;
8019 (b) to strengthen the economy of the state;
8020 (c) to help business in the state gain access to sources of capital;
8021 (d) to help build a significant, permanent source of capital available to serve the needs
8022 of businesses in the state; and
8023 (e) to accomplish all these benefits in a way that minimizes the use of contingent tax
8024 credits.
8025 (3) The Utah fund of funds shall be organized:
8026 (a) as a limited partnership or limited liability company under Utah law having the
8027 corporation as the general partner or manager;
8028 (b) to provide for equity interests for designated investors which provide for a
8029 designated scheduled rate of return and a scheduled redemption in accordance with rules made
8030 by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
8031 (c) to provide for loans by or the issuance of debt obligations to designated investors
8032 which provide for designated payments of principal, interest, or interest equivalent in
8033 accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah
8034 Administrative Rulemaking Act.
8035 (4) Public money may not be invested in the Utah fund of funds.
8036 Section 207. Section **63N-6-402**, which is renumbered from Section 63M-1-1214 is
8037 renumbered and amended to read:
8038 **[~~63M-1-1214~~]. 63N-6-402. Compensation from the Utah fund of funds to**
8039 **the corporation -- Redemption reserve.**
8040 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
8041 through the payment of the management fee described in Section [~~63M-1-1211~~] 63N-6-305.
8042 (2) Before any returns may be reinvested in the Utah fund of funds:
8043 (a) any returns shall be paid to designated investors, including the repayment by the
8044 Utah fund of funds of any outstanding loans;
8045 (b) any returns in excess of those payable to designated investors shall be deposited in
8046 the redemption reserve and held by the corporation as a first priority reserve for the redemption
8047 of certificates;
8048 (c) any returns received by the corporation from investment of amounts held in the

8049 redemption reserve shall be added to the redemption reserve until it has reached a total of
8050 $250,000,000; and
8051 (d) if at the end of a calendar year the redemption reserve exceeds the $250,000,000
8052 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah
8053 fund of funds.
8054 (3) Funds held by the corporation in the redemption reserve shall be invested in
8055 accordance with Title 51, Chapter 7, State Money Management Act.
8056 Section 208. Section **63N-6-403**, which is renumbered from Section 63M-1-1215 is
8057 renumbered and amended to read:
8058 **[~~63M-1-1215~~]. 63N-6-403. Investments by Utah fund of funds.**
8059 (1) The Utah fund of funds shall invest funds:
8060 (a) principally in high-quality venture capital funds managed by investment managers
8061 who have:
8062 (i) made a commitment to equity investments in businesses located within the state;
8063 and
8064 (ii) have committed to maintain a physical presence within the state;
8065 (b) in private venture capital funds and not in direct investments in individual
8066 businesses; and
8067 (c) in venture capital funds with experienced managers or management teams with
8068 demonstrated expertise and a successful history in the investment of venture capital funds.
8069 (2) (a) The Utah fund of funds shall give priority to investments in private seed and
8070 venture capital partnerships and entities that have demonstrated a commitment to the state as
8071 evidenced by:
8072 (i) the investments they have made in Utah-based entities;
8073 (ii) the correspondent relationships they have established with Utah-based venture
8074 capital funds; or
8075 (iii) the commitment they have made to expand the reach of expertise within the state
8076 by adding additional investment areas of expertise.
8077 (b) The manager of the Utah fund of funds may waive the priorities under Subsection
8078 (2)(a) only if necessary to achieve the targeted investment returns required to attract designated
8079 investors.

8080 (3) The Utah fund of funds may invest funds in a newly created venture capital fund
8081 only if the managers or management team of the fund have the experience, expertise, and a
8082 successful history in the investment of venture capital funds as described in Subsection (1)(c).
8083 (4) (a) An investment or investments by the Utah fund of funds in any venture capital
8084 fund may comprise no more than 20% of the total committed capital in the venture capital
8085 fund.
8086 (b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made
8087 with venture capital entities with offices in the state established prior to July 1, 2002.
8088 (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three
8089 additional venture capital entities open new offices in the state.
8090 Section 209. Section **63N-6-404**, which is renumbered from Section 63M-1-1216 is
8091 renumbered and amended to read:
8092 **[~~63M-1-1216~~]. 63N-6-404. Powers of Utah fund of funds.**
8093 (1) The Utah fund of funds may:
8094 (a) engage consultants and legal counsel;
8095 (b) expend funds;
8096 (c) invest funds;
8097 (d) issue debt and borrow funds;
8098 (e) enter into contracts;
8099 (f) insure against loss;
8100 (g) hire employees;
8101 (h) issue equity interests to designated investors that have purchased equity interest
8102 certificates from the board; and
8103 (i) perform any other act necessary to carry out its purposes.
8104 (2) (a) The Utah fund of funds shall engage a venture capital investment fund
8105 allocation manager.
8106 (b) The compensation paid to the fund manager shall be in addition to the management
8107 fee paid to the corporation under Section [~~63M-1-1211~~] 63N-6-305.
8108 (3) The Utah fund of funds may:
8109 (a) open and manage bank and short-term investment accounts as considered necessary
8110 by the venture capital investment fund allocation manager; and

8111 (b) expend money to secure investment ratings for investments by designated investors
8112 in the Utah fund of funds.
8113 Section 210. Section **63N-6-405**, which is renumbered from Section 63M-1-1217 is
8114 renumbered and amended to read:
8115 **[~~63M-1-1217~~]. 63N-6-405. Annual audits.**
8116 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be
8117 made as described in this section.
8118 (2) (a) The audit shall be conducted by:
8119 (i) the state auditor; or
8120 (ii) an independent auditor engaged by the state auditor.
8121 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
8122 contractual, or other connection to:
8123 (i) the corporation; or
8124 (ii) the Utah fund of funds.
8125 (3) The corporation shall pay the costs associated with the annual audit.
8126 (4) The annual audit report shall:
8127 (a) be delivered to:
8128 (i) the corporation; and
8129 (ii) the board;
8130 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
8131 the reporting year;
8132 (c) include an opinion regarding the accuracy of the information provided in the annual
8133 report described in Subsection [~~63M-1-1206~~] 63N-6-203(6); and
8134 (d) be completed on or before September 1 for the previous calendar year so that it may
8135 be included in the annual report described in Section [~~63M-1-1206~~] 63N-6-203.
8136 Section 211. Section **63N-6-406**, which is renumbered from Section 63M-1-1218 is
8137 renumbered and amended to read:
8138 **[~~63M-1-1218~~]. 63N-6-406. Certificates and contingent tax credits.**
8139 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
8140 board, in consultation with the State Tax Commission, shall make rules governing the form,
8141 issuance, transfer, and redemption of certificates.

8142 (2) The board's issuance of certificates and related contingent tax credits to designated
8143 investors is subject to the following:
8144 (a) the aggregate outstanding certificates may not exceed a total of:
8145 (i) $150,000,000 of contingent tax credits used as collateral or a guarantee on loans for
8146 the debt-based financing of investments in the Utah fund of funds, including a loan refinanced
8147 using debt- or equity-based financing as described in Subsection (2)(e); and
8148 (ii) $75,000,000 used as a guarantee on equity investments in the Utah fund of funds;
8149 (b) the board shall issue a certificate contemporaneously with an investment in the
8150 Utah fund of funds by a designated investor;
8151 (c) the board shall issue contingent tax credits in a manner that not more than
8152 $20,000,000 of contingent tax credits for each $100,000,000 increment of contingent tax
8153 credits may be redeemable in a fiscal year;
8154 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
8155 make a cash redemption and the board does not exercise its other options under Subsection
8156 [~~63M-1-1220~~] 63N-6-408(3)(b);
8157 (e) the board may not issue additional certificates as collateral or a guarantee on a loan
8158 for the debt-based financing of investments in the Utah fund of funds that is initiated after July
8159 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1,
8160 2014, that was originated before July 1, 2014;
8161 (f) after July 1, 2014, and on or before December 31, 2017, the board may issue
8162 certificates that represent a guarantee of no more than 100% of the principal of each equity
8163 investment in the Utah fund of funds; and
8164 (g) the board may not issue certificates after December 31, 2017.
8165 (3) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the
8166 $20,000,000 limitation for each $100,000,000 increment of contingent tax credits in Subsection
8167 (2)(c):
8168 (a) the board shall use the cumulative amount of scheduled aggregate returns on
8169 certificates issued by the board to designated investors;
8170 (b) certificates and related contingent tax credits that have expired may not be
8171 included; and
8172 (c) certificates and related contingent tax credits that have been redeemed shall be

8173 included only to the extent of tax credits actually allowed.
8174 (4) Contingent tax credits are subject to the following:
8175 (a) a contingent tax credit may not be redeemed except by a designated investor in
8176 accordance with the terms of a certificate from the board;
8177 (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
8178 funds receives full payment from the designated investor for the certificate;
8179 (c) a contingent tax credit shall be claimed for a tax year that begins during the
8180 calendar year maturity date stated on the certificate;
8181 (d) an investor who redeems a certificate and the related contingent tax credit shall
8182 allocate the amount of the contingent tax credit to the taxpayers of the investor based on the
8183 taxpayer's pro rata share of the investor's earnings; and
8184 (e) a contingent tax credit shall be claimed as a refundable credit.
8185 (5) In calculating the amount of a contingent tax credit:
8186 (a) the board shall certify a contingent tax credit only if the actual return, or payment of
8187 principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or
8188 after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less
8189 than that targeted at the issuance of the certificate;
8190 (b) the amount of the contingent tax credit for a designated investor with an equity
8191 interest may not exceed the difference between the actual principal investment of the
8192 designated investor in the Utah fund of funds and the aggregate actual return received by the
8193 designated investor and any predecessor in interest of the initial equity investment and interest
8194 on the initial equity investment;
8195 (c) the rates, whether fixed rates or variable rates, shall be determined by a formula
8196 stipulated in the certificate; and
8197 (d) the amount of the contingent tax credit for a designated investor with an
8198 outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan
8199 refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to
8200 the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan
8201 or other obligation, as stipulated in the certificate.
8202 (6) The board shall clearly indicate on the certificate:
8203 (a) the targeted return on the invested capital, if the private investment is an equity

8204 interest;
8205 (b) the payment schedule of principal, interest, or interest equivalent, if the private
8206 investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1,
8207 2014, that was originated before July 1, 2014;
8208 (c) the amount of the initial private investment;
8209 (d) the calculation formula for determining the scheduled aggregate return on the initial
8210 equity investment, if applicable; and
8211 (e) the calculation formula for determining the amount of the contingent tax credit that
8212 may be claimed.
8213 (7) Once money is invested by a designated investor, a certificate:
8214 (a) is binding on the board; and
8215 (b) may not be modified, terminated, or rescinded.
8216 (8) Funds invested by a designated investor for a certificate shall be paid to the
8217 corporation for placement in the Utah fund of funds.
8218 (9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah
8219 Administrative Rulemaking Act, and in consultation with the board, make rules to help
8220 implement this section.
8221 Section 212. Section **63N-6-407**, which is renumbered from Section 63M-1-1219 is
8222 renumbered and amended to read:
8223 **[~~63M-1-1219~~]. 63N-6-407. Transfer and registration of certificates.**
8224 (1) A certificate and the related contingent tax credit may be transferred by the
8225 designated investor.
8226 (2) The board, in conjunction with the State Tax Commission, shall develop:
8227 (a) a system for registration of any certificate and related contingent tax credit issued or
8228 transferred under this part; and
8229 (b) a system that permits verification that:
8230 (i) any contingent tax credit claimed is valid; and
8231 (ii) any transfers of the certificate and related contingent tax credit are made in
8232 accordance with the requirements of this part.
8233 (3) A certificate or contingent tax credit issued or transferred under this part may not be
8234 considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

8235 Section 213. Section **63N-6-408**, which is renumbered from Section 63M-1-1220 is
8236 renumbered and amended to read:
8237 **[~~63M-1-1220~~]. 63N-6-408. Redemption of certificates.**
8238 (1) If a designated investor elects to redeem a certificate, the certificate shall be
8239 presented to the board for redemption no later than June 30 of the calendar year maturity date
8240 stated on the certificate.
8241 (2) Upon presentment to the board, it shall determine and certify the amount of the
8242 contingent tax credit that may be claimed by the designated investor based on:
8243 (a) the limitations in Section [~~63M-1-1218~~] 63N-6-406; and
8244 (b) rules made by the board in accordance with Title 63G, Chapter 3, Utah
8245 Administrative Rulemaking Act.
8246 (3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the
8247 corporation to make a cash redemption of the certificate.
8248 (b) If there are insufficient funds in the redemption reserve, the board may elect to
8249 redeem the certificate:
8250 (i) by certifying a contingent tax credit to the designated investor; or
8251 (ii) by making demand on designated purchasers to purchase certificates in accordance
8252 with Section [~~63M-1-1221~~] 63N-6-409.
8253 (4) The board shall certify to the State Tax Commission the contingent tax credit which
8254 can be claimed by the designated investor with respect to the redemption of the certificate.
8255 (5) The board shall cancel all redeemed certificates.
8256 Section 214. Section **63N-6-409**, which is renumbered from Section 63M-1-1221 is
8257 renumbered and amended to read:
8258 **[~~63M-1-1221~~]. 63N-6-409. Use of commitments to redeem certificates.**
8259 (1) The board may elect to draw on a commitment to redeem a certificate from a
8260 designated investor.
8261 (2) If the board makes an election under Subsection (1), it shall:
8262 (a) inform the designated purchaser of the amount of the contingent tax credit that must
8263 be purchased from the board;
8264 (b) specify the date on which the purchase must be consummated; and
8265 (c) use the funds delivered to the board by the designated purchaser to redeem the

8266 certificate from the designated investor.
8267 (3) The board has discretion in determining which commitment or commitments and
8268 what portion of those commitments to use to redeem certificates.
8269 (4) The contingent tax credits acquired by a designated purchaser under this section are
8270 subject to Section [~~63M-1-1218~~] 63N-6-406.
8271 Section 215. Section **63N-6-410**, which is renumbered from Section 63M-1-1222 is
8272 renumbered and amended to read:
8273 **[~~63M-1-1222~~]. 63N-6-410. Powers and effectiveness.**
8274 (1) This [~~part~~] chapter may not be construed as a restriction or limitation upon any
8275 power which the board might otherwise have under any other law of this state and the
8276 provisions of this [~~part~~] chapter are cumulative to those powers.
8277 (2) This [~~part~~] chapter shall be construed to provide a complete, additional, and
8278 alternative method for performing the duties authorized and shall be regarded as supplemental
8279 and additional powers to those conferred by any other laws.
8280 (3) The provisions of any contract entered into by the board or the Utah fund of funds
8281 may not be compromised, diminished, invalidated, or affected by the:
8282 (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
8283 in which the Utah fund of funds invests; or
8284 (b) extent to which the investment funds are:
8285 (i) invested in Utah venture capital projects; or
8286 (ii) successful in accomplishing any economic development objectives.
8287 Section 216. Section **63N-6-411**, which is renumbered from Section 63M-1-1223 is
8288 renumbered and amended to read:
8289 **[~~63M-1-1223~~]. 63N-6-411. Permissible investments.**
8290 Investments by designated investors in the Utah fund of funds are permissible
8291 investments under applicable laws of the state for:
8292 (1) state-chartered banks;
8293 (2) state-chartered credit unions;
8294 (3) state-chartered industrial banks; and
8295 (4) domestic insurance companies.
8296 Section 217. Section **63N-6-412**, which is renumbered from Section 63M-1-1224 is

8297 renumbered and amended to read:

8298 **[~~63M-1-1224~~]. 63N-6-412. Exemption from certain statutes.**

8299 (1) Except as otherwise provided in this part, the corporation is exempt from statutes
8300 governing state agencies, as provided in Section 63E-2-109.

8301 (2) The corporation is exempt from:

8302 (a) Title 52, Chapter 4, Open and Public Meetings Act; and

8303 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

8304 (3) The board is exempt from the requirement to report fund performance of venture
8305 firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access
8306 and Management Act.

8307 Section 218. Section **63N-7-101**, which is renumbered from Section 63M-1-1401 is
8308 renumbered and amended to read:

8309 **CHAPTER 7. TOURISM DEVELOPMENT**

8310 **Part 1. Board of Tourism Development**

8311 **[~~63M-1-1401~~]. 63N-7-101. Board of Tourism Development.**

8312 (1) This chapter is known as "Tourism Development."

8313 [~~(1)~~] (2) There is created within the office the Board of Tourism Development.

8314 [~~(2)~~] (3) The board shall advise the office on the office's planning, policies, and
8315 strategies and on trends and opportunities for tourism development that may exist in the
8316 various areas of the state.

8317 [~~(3)~~] (4) The board shall perform other duties as required by Section [~~63M-1-1403~~]
8318 63N-7-103.

8319 Section 219. Section **63N-7-102**, which is renumbered from Section 63M-1-1402 is
8320 renumbered and amended to read:

8321 **[~~63M-1-1402~~]. 63N-7-102. Members -- Meetings -- Expenses.**

8322 (1) (a) The board shall consist of 13 members appointed by the governor to four-year
8323 terms [~~of office~~] with the consent of the Senate.

8324 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
8325 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
8326 board members are staggered so that approximately half of the board is appointed every two
8327 years.

8328 (2) The members may not serve more than two full consecutive terms unless the
8329 governor determines that an additional term is in the best interest of the state.
8330 (3) Not more than seven members of the board may be of the same political party.
8331 (4) (a) The members shall be representative of:
8332 (i) all areas of the state with six being appointed from separate geographical areas as
8333 provided in Subsection (4)(b); and
8334 (ii) a diverse mix of business ownership or executive management of tourism related
8335 industries.
8336 (b) The geographical representatives shall be appointed as follows:
8337 (i) one member from Salt Lake, Tooele, or Morgan County;
8338 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;
8339 (iii) one member from Utah, Summit, Juab, or Wasatch County;
8340 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
8341 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
8342 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.
8343 (c) The tourism industry representatives of ownership or executive management shall
8344 be appointed as follows:
8345 (i) one member from ownership or executive management of the lodging industry, as
8346 recommended by the lodging industry for the governor's consideration;
8347 (ii) one member from ownership or executive management of the restaurant industry,
8348 as recommended by the restaurant industry for the governor's consideration;
8349 (iii) one member from ownership or executive management of the ski industry, as
8350 recommended by the ski industry for the governor's consideration; and
8351 (iv) one member from ownership or executive management of the motor vehicle rental
8352 industry, as recommended by the motor vehicle rental industry for the governor's consideration.
8353 (d) One member shall be appointed at large from ownership or executive management
8354 of business, finance, economic policy, or the academic media marketing community.
8355 (e) One member shall be appointed from the Utah Tourism Industry Coalition as
8356 recommended by the coalition for the governor's consideration.
8357 (f) One member shall be appointed to represent the state's counties as recommended by
8358 the Utah Association of Counties for the governor's consideration.

8359 (g) (i) The governor may choose to disregard a recommendation made for a board
8360 member under Subsections (4)(c), (e), and (f).
8361 (ii) The governor shall request additional recommendations if recommendations are
8362 disregarded under Subsection (4)(g)(i).
8363 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
8364 appointed for the unexpired term from the same geographic area or industry representation as
8365 the member whose office was vacated.
8366 (6) Seven members of the board constitute a quorum for conducting board business and
8367 exercising board powers.
8368 (7) The governor shall select one of the board members as chair and one of the board
8369 members as vice chair, each for a four-year term as recommended by the board for the
8370 governor's consideration.
8371 (8) A member may not receive compensation or benefits for the member's service, but
8372 may receive per diem and travel expenses in accordance with:
8373 (a) Section 63A-3-106;
8374 (b) Section 63A-3-107; and
8375 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
8376 63A-3-107.
8377 (9) The board shall meet monthly or as often as the board determines to be necessary at
8378 various locations throughout the state.
8379 (10) Members who may have a potential conflict of interest in consideration of fund
8380 allocation decisions shall identify the potential conflict prior to voting on the issue.
8381 (11) (a) The board shall determine attendance requirements for maintaining a
8382 designated board seat.
8383 (b) If a board member fails to attend according to the requirements established
8384 pursuant to Subsection (11)(a), the board member shall be replaced upon written certification
8385 from the board chair or vice chair to the governor.
8386 (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for
8387 the remainder of the board member's unexpired term.
8388 (12) The board's office shall be in Salt Lake City.
8389 Section 220. Section **63N-7-103**, which is renumbered from Section 63M-1-1403 is

8390 renumbered and amended to read:

8391 **[~~63M-1-1403~~]. 63N-7-103. Board duties.**

8392 (1) The board shall:

8393 (a) have authority to approve a tourism program of out-of-state advertising, marketing,
8394 and branding, taking into account the long-term strategic plan, economic trends, and
8395 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8396 funds to the office from the Tourism Marketing Performance Account under Section
8397 [~~63M-1-1406~~] 63N-7-301;

8398 (b) have authority to approve a tourism program of advertising, marketing, and
8399 branding of the state, taking into account the long-term strategic plan, economic trends, and
8400 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8401 money to the office from the Stay Another Day and Bounce Back Account, created in Section
8402 [~~63M-1-3411~~] 63N-2-511;

8403 (c) review the office programs for coordination and integration of advertising and
8404 branding themes to be used whenever possible in all office programs, including recreational,
8405 scenic, historic, and tourist attractions of the state at large;

8406 (d) encourage and assist in coordination of the activities of persons, firms, associations,
8407 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and
8408 promoting the scenic attractions and tourist advantages of the state; and

8409 (e) (i) advise the office in establishing a Cooperative Program from the money in the
8410 Tourism Marketing Performance Account under Section [~~63M-1-1406~~] 63N-7-301 for use by
8411 cities, counties, nonprofit destination marketing organizations, and similar public entities for
8412 the purpose of supplementing money committed by these entities for advertising and promotion
8413 to and for out-of-state residents to attract them to visit sites advertised by and attend events
8414 sponsored by these entities;

8415 (ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the
8416 office from the Tourism Marketing Performance Account;

8417 (iii) the office, with approval from the board, shall establish eligibility, advertising, and
8418 timing requirements and criteria and provide for an approval process for applications;

8419 (iv) an application from an eligible applicant to receive money from the Cooperative
8420 Program must be submitted on or before the appropriate date established by the office; and

8421 (v) Cooperative Program money not used in each fiscal year shall be returned to the
8422 Tourism Marketing Performance Account.
8423 (2) The board may:
8424 (a) solicit and accept contributions of money, services, and facilities from any other
8425 sources, public or private and shall use these funds for promoting the general interest of the
8426 state in tourism; and
8427 (b) establish subcommittees for the purpose of assisting the board in an advisory role
8428 only.
8429 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy
8430 related to the management or operation of the office.
8431 Section 221. Section **63N-7-201**, which is renumbered from Section 63M-1-1404 is
8432 renumbered and amended to read:
8433 **Part 2. Powers and Duties of Office**
8434 **[~~63M-1-1404~~]. 63N-7-201. Powers and duties of office related to tourism**
8435 **development plan -- Annual report and survey.**
8436 (1) The office shall:
8437 (a) be the tourism development authority of the state;
8438 (b) develop a tourism advertising, marketing, and branding program for the state;
8439 (c) receive approval from the Board of Tourism Development under Subsection
8440 [~~63M-1-1403~~] 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing,
8441 and branding campaign;
8442 (d) develop a plan to increase the economic contribution by tourists visiting the state;
8443 (e) plan and conduct a program of information, advertising, and publicity relating to the
8444 recreational, scenic, historic, and tourist advantages and attractions of the state at large; and
8445 (f) encourage and assist in the coordination of the activities of persons, firms,
8446 associations, corporations, travel regions, counties, and governmental agencies engaged in
8447 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
8448 state.
8449 (2) Any plan provided for under Subsection (1) shall address, but not be limited to,
8450 enhancing the state's image, promoting Utah as a year-round destination, encouraging
8451 expenditures by visitors to the state, and expanding the markets where the state is promoted.

8452 (3) The office shall:
8453 (a) conduct a regular and ongoing research program to identify statewide economic
8454 trends and conditions in the tourism sector of the economy; and
8455 (b) include in the annual written report described in Section [~~63M-1-206~~] 63N-1-301, a
8456 report on the economic efficiency of the advertising and branding campaigns conducted under
8457 this part.
8458 Section 222. Section **63N-7-202**, which is renumbered from Section 63M-1-1405 is
8459 renumbered and amended to read:
8460 **[~~63M-1-1405~~]. 63N-7-202. Agreements with other governmental entities.**
8461 The office may enter into agreements with state or federal agencies to accept services,
8462 quarters, or facilities as a contribution in carrying out the duties and functions of the office.
8463 Section 223. Section **63N-7-301**, which is renumbered from Section 63M-1-1406 is
8464 renumbered and amended to read:
8465 **Part 3. Tourism Marketing Performance Account**
8466 **[~~63M-1-1406~~]. 63N-7-301. Tourism Marketing Performance Account.**
8467 (1) There is created within the General Fund a restricted account known as the Tourism
8468 Marketing Performance Account.
8469 (2) The account shall be administered by the office for the purposes listed in
8470 Subsection (5).
8471 (3) (a) The account shall earn interest.
8472 (b) All interest earned on account money shall be deposited into the account.
8473 (4) The account shall be funded by appropriations made to the account by the
8474 Legislature in accordance with this section.
8475 (5) The director shall use account money appropriated to the office to pay for the
8476 statewide advertising, marketing, and branding campaign for promotion of the state as
8477 conducted by the office.
8478 (6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually
8479 allocate 10% of the account money appropriated to the office to a sports organization for
8480 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
8481 state.
8482 (b) The sports organization shall:

8483 (i) provide an annual written report to the office that gives a complete accounting of
8484 the use of money the sports organization receives under this Subsection (6); and
8485 (ii) partner with the office to promote the state and to encourage economic growth in
8486 the state.
8487 (c) For purposes of this Subsection (6), "sports organization" means an organization
8488 that is:
8489 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
8490 Revenue Code; and
8491 (ii) created to foster national and international sports competitions in the state,
8492 including competitions related to Olympic sports, and to promote and encourage sports tourism
8493 throughout the state, including advertising, marketing, branding, and promoting Utah for the
8494 purpose of attracting sporting events into the state.
8495 (7) Money deposited into the account shall consist of a legislative appropriation from
8496 the cumulative sales and use tax revenue increases identified in Subsection (8), plus any
8497 appropriation made by the Legislature.
8498 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
8499 revenues determined under this Subsection (8) shall be certified as a set-aside for the account
8500 by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.
8501 (b) The State Tax Commission shall determine the set-aside under this Subsection (8)
8502 in each fiscal year by applying the following formula: if the increase in the state sales and use
8503 tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal
8504 year two years prior to the fiscal year in which the set-aside is to be made for the account, is at
8505 least 3% over the state sales and use tax revenues derived from the retail sales of
8506 tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
8507 year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
8508 revenues generated above the 3% increase shall be calculated by the commission and set aside
8509 by the state treasurer for appropriation to the account.
8510 (c) The total money appropriated to the account in any fiscal year under Subsections
8511 (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year
8512 immediately preceding the current fiscal year by more than $3,000,000.
8513 (d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are

8514 those sales by businesses registered with the State Tax Commission under the following codes
8515 of the 1997 North American Industry Classification System of the federal Executive Office of
8516 the President, Office of Management and Budget:
8517 (i) NAICS Code 453 Miscellaneous Store Retailers;
8518 (ii) NAICS Code 481 Passenger Air Transportation;
8519 (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
8520 (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
8521 (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
8522 (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
8523 (vii) NAICS Code 721 Accommodations;
8524 (viii) NAICS Code 722 Food Services and Drinking Places;
8525 (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
8526 (x) NAICS Code 4853 Taxi and Limousine Service;
8527 (xi) NAICS Code 4855 Charter Bus;
8528 (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
8529 (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
8530 (xiv) NAICS Code 45111 Sporting Goods Stores;
8531 (xv) NAICS Code 45112 Hobby Toy and Game Stores;
8532 (xvi) NAICS Code 45121 Book Stores and News Dealers;
8533 (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
8534 (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
8535 (xix) NAICS Code 447190 Other Gasoline Stations;
8536 (xx) NAICS Code 532111 Passenger Car Rental; and
8537 (xxi) NAICS Code 532292 Recreational Goods Rental.
8538 (e) The Division of Finance shall for each fiscal year transfer the first $6,000,000 of
8539 ongoing money in the account to the General Fund.
8540 [~~(9) By October 1, 2014, the office shall provide a written report to the Economic~~
8541 ~~Development and Workforce Services Interim Committee containing:~~]
8542 [~~(a) a recommendation, based on economic modeling, for an updated definition of~~
8543 ~~"sales of tourist-oriented goods and services" to replace the definition in Subsection (8)(d);~~
8544 ~~and~~]

8545 [~~(b) information describing the extent to which the state benefits annually from~~
8546 ~~activities funded by the Tourism Marketing Performance Account.~~]
8547 Section 224. Section **63N-8-101**, which is renumbered from Section 63M-1-1801 is
8548 renumbered and amended to read:
8549 **CHAPTER 8. MOTION PICTURE INCENTIVES**
8550 **[~~63M-1-1801~~]. 63N-8-101. Purpose.**
8551 (1) This chapter is known as "Motion Picture Incentives."
8552 [~~(1)~~] (2) The Legislature finds that:
8553 (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety
8554 of magnificent settings from which the motion picture industry can choose to film part or all of
8555 major or independent motion pictures, made-for-television movies, and television series;
8556 (b) the state has an abundance of resources, including a skilled and able workforce, the
8557 required infrastructure, and a friendly and hospitable populace that have been instrumental in
8558 the filming of hundreds of successful motion pictures and several television series; and
8559 (c) further development of the motion picture industry in Utah is a state public purpose
8560 that will significantly impact growth in the state's economy and contribute to the fiscal well
8561 being of the state and its people.
8562 [~~(2)~~] (3) The purpose of this [~~part~~] chapter is to:
8563 (a) encourage the use of Utah as a site for the production of motion pictures, television
8564 series, and made-for-television movies;
8565 (b) provide financial incentives to the film industry so that Utah might compete
8566 successfully with other states and countries for filming locations; and
8567 (c) help develop a strong motion picture industry presence in the state that will
8568 contribute substantially to improving the state's economy.
8569 Section 225. Section **63N-8-102**, which is renumbered from Section 63M-1-1802 is
8570 renumbered and amended to read:
8571 **[~~63M-1-1802~~]. 63N-8-102. Definitions.**
8572 As used in this part:
8573 [~~(1) "Board" means the Governor's Office of Economic Development Board.~~]
8574 [~~(2)~~] (1) "Digital media company" means a company engaged in the production of a
8575 digital media project.

8576 [~~(3)~~] (2) "Digital media project" means all or part of a production of interactive
8577 entertainment or animated production that is produced for distribution in commercial or
8578 educational markets, which shall include projects intended for Internet or wireless distribution.
8579 [~~(4)~~] (3) "Dollars left in the state" means expenditures made in the state for a
8580 state-approved production, including:
8581 (a) an expenditure that is subject to:
8582 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise
8583 and Income Taxes;
8584 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;
8585 and
8586 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
8587 notwithstanding any sales and use tax exemption allowed by law; or
8588 (iv) a combination of Subsections [~~(4)~~] (3)(a)(i), (ii), and (iii);
8589 (b) payments made to a nonresident only to the extent of the income tax paid to the
8590 state on the payments, the amount of per diems paid in the state, and other direct
8591 reimbursements transacted in the state; and
8592 (c) payments made to a payroll company or loan-out corporation that is registered to do
8593 business in the state, only to the extent of the amount of withholding under Section 59-10-402.
8594 [~~(5)~~] (4) "Loan-out corporation" means a corporation owned by one or more artists that
8595 provides services of the artists to a third party production company.
8596 [~~(6)~~] (5) "Motion picture company" means a company engaged in the production of:
8597 (a) motion pictures;
8598 (b) television series; or
8599 (c) made-for-television movies.
8600 [~~(7)~~] (6) "Motion picture incentive" means either a cash rebate from the Motion Picture
8601 Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.
8602 [~~(8)~~] (7) "New state revenues" means:
8603 (a) incremental new state sales and use tax revenues generated as a result of a digital
8604 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax
8605 Act;
8606 (b) incremental new state tax revenues that a digital media company pays as a result of

8607 a digital media project under:
8608 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
8609 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
8610 Information;
8611 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;
8612 (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or
8613 (v) a combination of Subsections [~~(8)~~] (7)(b)(i), (ii), (iii), and (iv);
8614 (c) incremental new state revenues generated as individual income taxes under Title
8615 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by
8616 employees of the new digital media project as evidenced by payroll records from the digital
8617 media company; or
8618 (d) a combination of Subsections [~~(8)~~] (7)(a), (b), and (c).
8619 [~~(9) "Office" means the Governor's Office of Economic Development.~~]
8620 [~~(10)~~] (8) "Payroll company" means a business entity that handles the payroll and
8621 becomes the employer of record for the staff, cast, and crew of a motion picture production.
8622 [~~(11)~~] (9) "Refundable tax credit" means a refundable motion picture tax credit
8623 authorized under Section [~~63M-1-1803~~] 63N-8-103 and claimed under Section 59-7-614.5 or
8624 59-10-1108.
8625 [~~(12)~~] (10) "Restricted account" means the Motion Picture Incentive Account created in
8626 Section [~~63M-1-1803~~] 63N-8-103.
8627 [~~(13)~~] (11) "State-approved production" means a production under Subsections [~~(3)~~]
8628 (2) and [~~(6)~~] (5) that is:
8629 (a) approved by the office and ratified by the board; and
8630 (b) produced in the state by a motion picture company.
8631 [~~(14)~~] (12) "Tax credit amount" means the amount the office lists as a tax credit on a
8632 tax credit certificate for a taxable year.
8633 [~~(15)~~] (13) "Tax credit certificate" means a certificate issued by the office that:
8634 (a) lists the name of the applicant;
8635 (b) lists the applicant's taxpayer identification number;
8636 (c) lists the amount of tax credit that the office awards the applicant for the taxable
8637 year; and

8638 (d) may include other information as determined by the office.
8639 Section 226. Section **63N-8-103**, which is renumbered from Section 63M-1-1803 is
8640 renumbered and amended to read:
8641 **[~~63M-1-1803~~]. 63N-8-103. Motion Picture Incentive Account created --**
8642 **Cash rebate incentives -- Refundable tax credit incentives.**
8643 (1) (a) There is created within the General Fund a restricted account known as the
8644 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
8645 for state-approved productions by a motion picture company.
8646 (b) All interest generated from investment of money in the restricted account shall be
8647 deposited in the restricted account.
8648 (c) The restricted account shall consist of an annual appropriation by the Legislature.
8649 (d) The office shall:
8650 (i) with the advice of the board, administer the restricted account; and
8651 (ii) make payments from the restricted account as required under this section.
8652 (e) The cost of administering the restricted account shall be paid from money in the
8653 restricted account.
8654 (2) (a) A motion picture company or digital media company seeking disbursement of
8655 an incentive allowed under an agreement with the office shall follow the procedures and
8656 requirements of this Subsection (2).
8657 (b) The motion picture company or digital media company shall provide the office with
8658 a report identifying and documenting the dollars left in the state or new state revenues
8659 generated by the motion picture company or digital media company for its state-approved
8660 production, including any related tax returns by the motion picture company, payroll company,
8661 digital media company, or loan-out corporation under Subsection (2)(d).
8662 (c) For a motion picture company, an independent certified public accountant shall:
8663 (i) review the report submitted by the motion picture company; and
8664 (ii) attest to the accuracy and validity of the report, including the amount of dollars left
8665 in the state.
8666 (d) The motion picture company, digital media company, payroll company, or loan-out
8667 corporation shall provide the office with a document that expressly directs and authorizes the
8668 State Tax Commission to disclose the entity's tax returns and other information concerning the

8669 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
8670 6103, Internal Revenue Code, to the office.
8671 (e) The office shall submit the document described in Subsection (2)(d) to the State
8672 Tax Commission.
8673 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
8674 Commission shall provide the office with the information requested by the office that the
8675 motion picture company, digital media company, payroll company, or loan-out corporation
8676 directed or authorized the State Tax Commission to provide to the office in the document
8677 described in Subsection (2)(d).
8678 (g) Subject to Subsection (3), for a motion picture company the office shall:
8679 (i) review the report from the motion picture company described in Subsection (2)(b)
8680 and verify that it was reviewed by an independent certified public accountant as described in
8681 Subsection (2)(c); and
8682 (ii) based upon the certified public accountant's attestation under Subsection (2)(c),
8683 determine the amount of the incentive that the motion picture company is entitled to under its
8684 agreement with the office.
8685 (h) Subject to Subsection (3), for a digital media company, the office shall:
8686 (i) ensure the digital media project results in new state revenue; and
8687 (ii) based upon review of new state revenue, determine the amount of the incentive that
8688 a digital media company is entitled to under its agreement with the office.
8689 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
8690 shall pay the incentive from the restricted account to the motion picture company,
8691 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).
8692 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
8693 59-10-1108, the office shall:
8694 (i) issue a tax credit certificate to the motion picture company or digital media
8695 company; and
8696 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
8697 (k) A motion picture company or digital media company may not claim a motion
8698 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
8699 or digital media company has received a tax credit certificate for the claim issued by the office

8700 under Subsection (2)(j)(i).
8701 (l) A motion picture company or digital media company may claim a motion picture
8702 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.
8703 (m) A motion picture company or digital media company that claims a tax credit under
8704 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
8705 accordance with Subsection [~~63M-1-1804~~] 63N-8-104(6).
8706 (3) (a) Subject to Subsection (3)(b), the office may issue $6,793,700 in tax credit
8707 certificates under this part in a fiscal year.
8708 (b) If the office does not issue tax credit certificates in a fiscal year totaling the amount
8709 authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent
8710 fiscal years.
8711 Section 227. Section **63N-8-104**, which is renumbered from Section 63M-1-1804 is
8712 renumbered and amended to read:
8713 **[~~63M-1-1804~~]. 63N-8-104. Motion picture incentives -- Standards to qualify**
8714 **for an incentive -- Limitations -- Content of agreement between office and motion picture**
8715 **company or digital media company.**
8716 (1) In addition to the requirements for receiving a motion picture incentive as set forth
8717 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative
8718 Rulemaking Act, shall make rules establishing:
8719 (a) the standards that a motion picture company or digital media company must meet to
8720 qualify for the motion picture incentive; and
8721 (b) criteria for determining the amount of the incentive.
8722 (2) The office shall ensure that those standards include the following:
8723 (a) an incentive may only be issued for a state approved production by a motion picture
8724 company or digital media company;
8725 (b) financing has been obtained and is in place for the production; and
8726 (c) the economic impact of the production on the state represents new incremental
8727 economic activity in the state as opposed to existing economic activity.
8728 (3) With respect to a digital media project, the office shall consider economic
8729 modeling, including the costs and benefits of the digital media project to state and local
8730 governments in determining the motion picture incentive amount.

8731 (4) The office may also consider giving preference to a production that stimulates
8732 economic activity in rural areas of the state or that has Utah content, such as recognizing that
8733 the production was made in the state or uses Utah as Utah in the production.
8734 (5) (a) The office, with advice from the board, may enter into an agreement with a
8735 motion picture company or digital media company that meets the standards established under
8736 this section and satisfies the other qualification requirements under this part.
8737 (b) Subject to Subsection [~~63M-1-1803~~] 63N-8-103(3), the office may commit or
8738 authorize a motion picture incentive:
8739 (i) to a motion picture company of up to 20% of the dollars left in the state by the
8740 motion picture company, and a motion picture company can receive an additional 5%, not to
8741 exceed 25% of the dollars left in the state by the motion picture company if the company
8742 fulfills certain requirements determined by the office including:
8743 (A) employing a significant percentage of cast and crew from Utah;
8744 (B) highlighting the state of Utah and the Utah Film Commission in the motion picture
8745 credits; or
8746 (C) other promotion opportunities as agreed upon by the office and the motion picture
8747 company; and
8748 (ii) to a digital media company, if the incentive does not exceed 100% of the new state
8749 revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left
8750 in the state by the digital media company.
8751 (c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may
8752 not exceed $500,000 per state approved production for a motion picture project.
8753 (d) The office may not give a cash rebate incentive from the Motion Picture Incentive
8754 Restricted Account for a digital media project.
8755 (6) The office shall ensure that the agreement entered into with a motion picture
8756 company or digital media company under Subsection (5)(a):
8757 (a) details the requirements that the motion picture company or digital media company
8758 must meet to qualify for an incentive under this part;
8759 (b) specifies:
8760 (i) the nature of the incentive; and
8761 (ii) the maximum amount of the motion picture incentive that the motion picture

8762 company or digital media company may earn for a taxable year and over the life of the
8763 production;
8764 (c) establishes the length of time over which the motion picture company or digital
8765 media company may claim the motion picture incentive;
8766 (d) requires the motion picture company or digital media company to retain records
8767 supporting its claim for a motion picture incentive for at least four years after the motion
8768 picture company or digital media company claims the incentive under this part; and
8769 (e) requires the motion picture company or digital media company to submit to audits
8770 for verification of the claimed motion picture incentive.
8771 Section 228. Section **63N-8-105**, which is renumbered from Section 63M-1-1805 is
8772 renumbered and amended to read:
8773 **[~~63M-1-1805~~]. 63N-8-105. Annual report.**
8774 The office shall include the following information in the annual written report described
8775 in Section [~~63M-1-206~~] 63N-1-301:
8776 (1) the office's success in attracting within-the-state production of television series,
8777 made-for-television movies, and motion pictures, including feature films and independent
8778 films;
8779 (2) the amount of incentive commitments made by the office under this part and the
8780 period of time over which the incentives will be paid; and
8781 (3) the economic impact on the state related to:
8782 (a) dollars left in the state; and
8783 (b) providing motion picture incentives under this part.
8784 Section 229. Section **63N-9-101**, which is renumbered from Section 63M-1-3301 is
8785 renumbered and amended to read:
8786 **CHAPTER 9. UTAH OFFICE OF OUTDOOR RECREATION**
8787 **[~~63M-1-3301~~]. 63N-9-101. Title.**
8788 This [~~part~~] chapter is known as the "Utah Office of Outdoor Recreation [~~Office Act~~]."
8789 Section 230. Section **63N-9-102**, which is renumbered from Section 63M-1-3302 is
8790 renumbered and amended to read:
8791 **[~~63M-1-3302~~]. 63N-9-102. Definitions.**
8792 As used in this [~~part~~] chapter:

8793 (1) "Director" means the director of the outdoor recreation office.
8794 (2) "Executive director" means the executive director of [~~the Governor's Office of~~
8795 ~~Economic Development created in Section 63M-1-201~~] GOED.
8796 (3) [~~"Office"~~] "Outdoor recreation office" means the Utah Office of Outdoor
8797 Recreation [~~Office~~] created in Section [~~63M-1-3304~~] 63N-9-104.
8798 Section 231. Section **63N-9-103**, which is renumbered from Section 63M-1-3303 is
8799 renumbered and amended to read:
8800 **[~~63M-1-3303~~]. 63N-9-103. Policy.**
8801 It is the declared policy of the state that outdoor recreation is vital to a diverse economy
8802 and a healthy community.
8803 Section 232. Section **63N-9-104**, which is renumbered from Section 63M-1-3304 is
8804 renumbered and amended to read:
8805 **[~~63M-1-3304~~]. 63N-9-104. Creation of office and appointment of director --**
8806 **Purposes of office.**
8807 (1) There is created within the Governor's Office of Economic Development [~~an~~] the
8808 Utah Office of Outdoor Recreation [~~Office~~].
8809 (2) (a) The executive director shall appoint a director of the outdoor recreation office.
8810 (b) The director shall report to the executive director and may appoint staff.
8811 (3) The purposes of the office are to:
8812 (a) coordinate outdoor recreation policy, management, and promotion:
8813 (i) among state and federal agencies and local government entities in the state; and
8814 (ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if
8815 public land is involved;
8816 (b) promote economic development by:
8817 (i) coordinating with outdoor recreation stakeholders;
8818 (ii) improving recreational opportunities; and
8819 (iii) recruiting outdoor recreation business;
8820 (c) recommend to the governor and Legislature policies and initiatives to enhance
8821 recreational amenities and experiences in the state and help implement those policies and
8822 initiatives;
8823 (d) develop data regarding the impacts of outdoor recreation in the state; and

8824 (e) promote the health and social benefits of outdoor recreation, especially to young
8825 people.
8826 Section 233. Section **63N-9-105**, which is renumbered from Section 63M-1-3305 is
8827 renumbered and amended to read:
8828 **[~~63M-1-3305~~]. 63N-9-105. Duties of director.**
8829 (1) The director shall:
8830 (a) assure that the purposes outlined in Subsection [~~63M-1-3304~~] 63N-9-104(3) are
8831 fulfilled; and
8832 (b) organize and provide administrative oversight to the outdoor recreation office staff.
8833 (2) By following the procedures and requirements of Title 63J, Chapter 5, Federal
8834 Funds Procedures Act, the outdoor recreation office may:
8835 (a) seek federal grants or loans;
8836 (b) seek to participate in federal programs; and
8837 (c) in accordance with applicable federal program guidelines, administer federally
8838 funded outdoor recreation programs.
8839 (3) For purposes of administering this part, the outdoor recreation office may make
8840 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
8841 Section 234. Section **63N-9-106**, which is renumbered from Section 63M-1-3306 is
8842 renumbered and amended to read:
8843 **[~~63M-1-3306~~]. 63N-9-106. Annual report.**
8844 The executive director shall include in the annual written report described in Section
8845 [~~63M-1-206~~] 63N-1-301, a report from the director on the activities of the outdoor recreation
8846 office.
8847 Section 235. Section **63N-10-101**, which is renumbered from Section 63C-11-101 is
8848 renumbered and amended to read:
8849 **CHAPTER 10. PETE SUAZO UTAH ATHLETIC COMMISSION ACT**
8850 **Part 1. General Provisions**
8851 **[~~63C-11-101~~]. 63N-10-101. Title.**
8852 This chapter is known as the "Pete Suazo Utah Athletic Commission Act."
8853 Section 236. Section **63N-10-102**, which is renumbered from Section 63C-11-102 is
8854 renumbered and amended to read:

8855 **[~~63C-11-102~~]. 63N-10-102. Definitions.**
8856 As used in this chapter:
8857 (1) "Bodily injury" [~~is~~] has the same meaning as defined in Section 76-1-601.
8858 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by
8859 an approved boxing glove.
8860 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is
8861 charged or not, where:
8862 (i) the rules of the contest are not approved by the commission;
8863 (ii) a licensed physician or osteopath approved by the commission is not in attendance;
8864 (iii) a correct HIV negative test regarding each contestant has not been provided to the
8865 commission;
8866 (iv) the contest is not conducted in accordance with commission rules; or
8867 (v) the contestants are not matched by the weight standards established in accordance
8868 with Section 63C-11-316.
8869 (b) "Club fighting" does not include sparring if:
8870 (i) it is conducted for training purposes;
8871 (ii) no tickets are sold to spectators;
8872 (iii) no concessions are available for spectators;
8873 (iv) protective clothing, including protective headgear, a mouthguard, and a protective
8874 cup, is worn; and
8875 (v) for boxing, 16 ounce boxing gloves are worn.
8876 (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this
8877 chapter.
8878 (5) "Contest" means a live match, performance, or exhibition involving two or more
8879 persons engaged in unarmed combat.
8880 (6) "Contestant" means an individual who participates in a contest.
8881 (7) "Designated commission member" means a member of the commission designated
8882 to:
8883 (a) attend and supervise a particular contest; and
8884 (b) act on the behalf of the commission at a contest venue.
8885 (8) "Director" means the director appointed by the commission.

8886 (9) "Elimination unarmed combat contest" means a contest where:
8887 (a) a number of contestants participate in a tournament;
8888 (b) the duration is not more than 48 hours; and
8889 (c) the loser of each contest is eliminated from further competition.
8890 (10) "Exhibition" means an engagement in which the participants show or display their
8891 skills without necessarily striving to win.
8892 (11) "Judge" means an individual qualified by training or experience to:
8893 (a) rate the performance of contestants;
8894 (b) score a contest; and
8895 (c) determine with other judges whether there is a winner of the contest or whether the
8896 contestants performed equally, resulting in a draw.
8897 (12) "Licensee" means an individual licensed by the commission to act as a:
8898 (a) contestant;
8899 (b) judge;
8900 (c) manager;
8901 (d) promoter;
8902 (e) referee;
8903 (f) second; or
8904 (g) other official established by the commission by rule.
8905 (13) "Manager" means an individual who represents a contestant for the purpose of:
8906 (a) obtaining a contest for a contestant;
8907 (b) negotiating terms and conditions of the contract under which the contestant will
8908 engage in a contest; or
8909 (c) arranging for a second for the contestant at a contest.
8910 (14) "Promoter" means a person who engages in producing or staging contests and
8911 promotions.
8912 (15) "Promotion" means a single contest or a combination of contests that:
8913 (a) occur during the same time and at the same location; and
8914 (b) is produced or staged by a promoter.
8915 (16) "Purse" means any money, prize, remuneration, or any other valuable
8916 consideration a contestant receives or may receive for participation in a contest.

8917 (17) "Referee" means an individual qualified by training or experience to act as the
8918 official attending a contest at the point of contact between contestants for the purpose of:
8919 (a) enforcing the rules relating to the contest;
8920 (b) stopping the contest in the event the health, safety, and welfare of a contestant or
8921 any other person in attendance at the contest is in jeopardy; and
8922 (c) acting as a judge if so designated by the commission.
8923 (18) "Round" means one of a number of individual time periods that, taken together,
8924 constitute a contest during which contestants are engaged in a form of unarmed combat.
8925 (19) "Second" means an individual who attends a contestant at the site of the contest
8926 before, during, and after the contest in accordance with contest rules.
8927 (20) "Serious bodily injury" [~~is~~] has the same meaning as defined in Section 76-1-601.
8928 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a
8929 particular contest plus any sums received as consideration for holding the contest at a particular
8930 location.
8931 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is
8932 charged, in which:
8933 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,
8934 hitting, punching, or other combative contact techniques;
8935 (b) contest rules incorporate a formalized system of combative techniques against
8936 which a contestant's performance is judged to determine the prevailing contestant;
8937 (c) contest rules divide nonchampionship contests into three equal and specified rounds
8938 of no more than five minutes per round with a rest period of one minute between each round;
8939 (d) contest rules divide championship contests into five equal and specified rounds of
8940 no more than five minutes per round with a rest period of one minute between each round; and
8941 (e) contest rules prohibit contestants from:
8942 (i) using anything that is not part of the human body, except for boxing gloves, to
8943 intentionally inflict serious bodily injury upon an opponent through direct contact or the
8944 expulsion of a projectile;
8945 (ii) striking a person who demonstrates an inability to protect himself from the
8946 advances of an opponent;
8947 (iii) biting; or

8948 (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of
8949 the neck, and the rear area of the head and neck.
8950 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a
8951 blow is usually struck which may reasonably be expected to inflict bodily injury.
8952 (b) "Unarmed combat" does not include a competition or exhibition between
8953 participants in which the participants engage in simulated combat for entertainment purposes.
8954 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest
8955 which involves contestants that are not licensed under this chapter.
8956 (25) "Unprofessional conduct" means:
8957 (a) entering into a contract for a contest in bad faith;
8958 (b) participating in any sham or fake contest;
8959 (c) participating in a contest pursuant to a collusive understanding or agreement in
8960 which the contestant competes in or terminates the contest in a manner that is not based upon
8961 honest competition or the honest exhibition of the skill of the contestant;
8962 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or
8963 unsportsmanlike conduct in connection with a contest;
8964 (e) failing to comply with any limitation, restriction, or condition placed on a license;
8965 (f) striking of a downed opponent by a contestant while the contestant remains on the
8966 contestant's feet, unless the designated commission member or director has exempted the
8967 contest and each contestant from the prohibition on striking a downed opponent before the start
8968 of the contest;
8969 (g) after entering the ring or contest area, penetrating an area within four feet of an
8970 opponent by a contestant, manager, or second before the commencement of the contest; or
8971 (h) as further defined by rules made by the commission under Title 63G, Chapter 3,
8972 Utah Administrative Rulemaking Act.
8973 (26) "White-collar contest" means a contest conducted at a training facility where no
8974 alcohol is served in which:
8975 (a) for boxing:
8976 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8977 registered with USA Boxing, Inc.;
8978 (ii) no cash prize, or other prize valued at greater than $35, is awarded;

8979 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
8980 and for a female contestant a chestguard, is worn;
8981 (iv) 16 ounce boxing gloves are worn;
8982 (v) the contest is no longer than three rounds of no longer than three minutes each;
8983 (vi) no winner or loser is declared or recorded; and
8984 (vii) the contestants do not compete in a cage; and
8985 (b) for ultimate fighting:
8986 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8987 registered with USA Boxing, Inc.;
8988 (ii) no cash prize, or other prize valued at greater than $35, is awarded;
8989 (iii) protective clothing, including a protective mouthguard and a protective cup, is
8990 worn;
8991 (iv) downward elbow strikes are not allowed;
8992 (v) a contestant is not allowed to stand and strike a downed opponent;
8993 (vi) a closed-hand blow to the head is not allowed while either contestant is on the
8994 ground;
8995 (vii) the contest is no longer than three rounds of no longer than three minutes each;
8996 and
8997 (viii) no winner or loser is declared or recorded.
8998 Section 237. Section **63N-10-201**, which is renumbered from Section 63C-11-201 is
8999 renumbered and amended to read:
9000 **Part 2. Pete Suazo Utah Athletic Commission**
9001 **[~~63C-11-201~~]. 63N-10-201. Commission -- Creation -- Appointments --**
9002 **Terms -- Expenses -- Quorum.**
9003 (1) There is created within the [~~Governor's Office of Economic Development~~] office
9004 the Pete Suazo Utah Athletic Commission consisting of five members.
9005 (2) (a) The governor shall appoint three commission members.
9006 (b) The president of the Senate and the speaker of the House of Representatives shall
9007 each appoint one commission member.
9008 (c) The commission members may not be licensees under this chapter.
9009 (d) A member of the commission serving on June 30, 2009, shall continue as a member

9010 of the commission until the expiration of the member's term then existing, or until the
9011 expiration of any subsequent term to which the member is appointed.
9012 (3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the
9013 governor, president, or speaker, respectively, shall appoint each new member or reappointed
9014 member to a four-year term.
9015 (b) The governor shall, at the time of appointment or reappointment, adjust the length
9016 of the governor's appointees' terms to ensure that the terms of members are staggered so that
9017 approximately half of the commission is appointed every two years.
9018 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
9019 appointed for the unexpired term.
9020 (d) If a commission member fails or refuses to fulfill the responsibilities and duties of a
9021 commission member, including the attendance at commission meetings, the governor,
9022 president, or speaker, respectively, with the approval of the commission, may remove the
9023 commission member and replace the member in accordance with this section.
9024 (4) (a) A majority of the commission members constitutes a quorum.
9025 (b) A majority of a quorum is sufficient authority for the commission to act.
9026 (5) A member may not receive compensation or benefits for the member's service, but
9027 may receive per diem and travel expenses in accordance with:
9028 (a) Section 63A-3-106;
9029 (b) Section 63A-3-107; and
9030 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
9031 63A-3-107.
9032 (6) The commission shall annually designate one of its members to serve as chair for a
9033 one-year period.
9034 Section 238. Section **63N-10-202**, which is renumbered from Section 63C-11-202 is
9035 renumbered and amended to read:
9036 **[~~63C-11-202~~]. 63N-10-202. Commission powers and duties.**
9037 (1) The commission shall:
9038 (a) purchase and use a seal;
9039 (b) adopt rules for the administration of this chapter in accordance with Title 63G,
9040 Chapter 3, Utah Administrative Rulemaking Act;

9041 (c) prepare all forms of contracts between sponsors, licensees, promoters, and
9042 contestants; and
9043 (d) hold hearings relating to matters under its jurisdiction, including violations of this
9044 chapter or rules made under this chapter.
9045 (2) The commission may subpoena witnesses, take evidence, and require the
9046 production of books, papers, documents, records, contracts, recordings, tapes, correspondence,
9047 or other information relevant to an investigation if the commission or its designee considers it
9048 necessary.
9049 Section 239. Section **63N-10-203**, which is renumbered from Section 63C-11-203 is
9050 renumbered and amended to read:
9051 **[~~63C-11-203~~]. 63N-10-203. Commission director.**
9052 (1) The commission shall employ a director, who may not be a member of the
9053 commission, to conduct the commission's business.
9054 (2) The director serves at the pleasure of the commission.
9055 Section 240. Section **63N-10-204**, which is renumbered from Section 63C-11-204 is
9056 renumbered and amended to read:
9057 **[~~63C-11-204~~]. 63N-10-204. Inspectors.**
9058 (1) The commission may appoint one or more official representatives to be designated
9059 as inspectors, who shall serve at the pleasure of the commission.
9060 (2) Each inspector must receive from the commission a card authorizing that inspector
9061 to act as an inspector for the commission.
9062 (3) An inspector may not promote or sponsor any contest.
9063 (4) Each inspector may receive a fee approved by the commission for the performance
9064 of duties under this chapter.
9065 Section 241. Section **63N-10-205**, which is renumbered from Section 63C-11-205 is
9066 renumbered and amended to read:
9067 **[~~63C-11-205~~]. 63N-10-205. Affiliation with other commissions.**
9068 The commission may affiliate with any other state, tribal, or national boxing
9069 commission or athletic authority.
9070 Section 242. Section **63N-10-301**, which is renumbered from Section 63C-11-301 is

9071 renumbered and amended to read:

9072 **Part 3. Licensing**

9073 **[~~63C-11-301~~]. 63N-10-301. Licensing.**

9074 (1) A license is required for a person to act as or to represent that the person is:

9075 (a) a promoter;

9076 (b) a manager;

9077 (c) a contestant;

9078 (d) a second;

9079 (e) a referee;

9080 (f) a judge; or

9081 (g) another official established by the commission by rule.

9082 (2) The commission shall issue to a person who qualifies under this chapter a license in

9083 the classifications of:

9084 (a) promoter;

9085 (b) manager;

9086 (c) contestant;

9087 (d) second;

9088 (e) referee;

9089 (f) judge; or

9090 (g) another official who meets the requirements established by rule under Subsection

9091 (1)(g).

9092 (3) [~~(a)~~] All money collected [~~pursuant to~~] under this section and Sections

9093 [~~63C-11-304, 63C-11-307, 63C-11-310, and 63C-11-313~~] 63N-10-304, 63N-10-307,

9094 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission

9095 expenses.

9096 [~~(b) All money available to the commission under Subsection (3)(a) to pay for~~

9097 ~~commission expenses is nonlapsing for fiscal year 2009-10 only.~~]

9098 (4) Each applicant for licensure as a promoter shall:

9099 (a) submit an application in a form prescribed by the commission;

9100 (b) pay the fee determined by the commission under Section 63J-1-504;

9101 (c) provide to the commission evidence of financial responsibility, which shall include

9102 financial statements and other information that the commission may reasonably require to
9103 determine that the applicant or licensee is able to competently perform as and meet the
9104 obligations of a promoter in this state;
9105 (d) make assurances that the applicant:
9106 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9107 respect to the promotions the applicant is promoting;
9108 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9109 attempted to engage in any fraud or misrepresentation in connection with a contest or any other
9110 sporting event; and
9111 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9112 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9113 to the regulation of contests in this state or any other jurisdiction;
9114 (e) acknowledge in writing to the commission receipt, understanding, and intent to
9115 comply with this chapter and the rules made under this chapter; and
9116 (f) if requested by the commission or the director, meet with the commission or the
9117 director to examine the applicant's qualifications for licensure.
9118 (5) Each applicant for licensure as a contestant shall:
9119 (a) be not less than 18 years of age at the time the application is submitted to the
9120 commission;
9121 (b) submit an application in a form prescribed by the commission;
9122 (c) pay the fee established by the commission under Section 63J-1-504;
9123 (d) provide a certificate of physical examination, dated not more than 60 days prior to
9124 the date of application for licensure, in a form provided by the commission, completed by a
9125 licensed physician and surgeon certifying that the applicant is free from any physical or mental
9126 condition that indicates the applicant should not engage in activity as a contestant;
9127 (e) make assurances that the applicant:
9128 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9129 respect to a contest in which the applicant will participate;
9130 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9131 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9132 any other sporting event; and

9133 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9134 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
9135 to the regulation of contests in this state or any other jurisdiction;
9136 (f) acknowledge in writing to the commission receipt, understanding, and intent to
9137 comply with this chapter and the rules made under this chapter; and
9138 (g) if requested by the commission or the director, meet with the commission or the
9139 director to examine the applicant's qualifications for licensure.
9140 (6) Each applicant for licensure as a manager or second shall:
9141 (a) submit an application in a form prescribed by the commission;
9142 (b) pay a fee determined by the commission under Section 63J-1-504;
9143 (c) make assurances that the applicant:
9144 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9145 respect to a contest in which the applicant is participating;
9146 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9147 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9148 any other sporting event; and
9149 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9150 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9151 to the regulation of contests in this state or any other jurisdiction;
9152 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9153 comply with this chapter and the rules made under this chapter; and
9154 (e) if requested by the commission or director, meet with the commission or the
9155 director to examine the applicant's qualifications for licensure.
9156 (7) Each applicant for licensure as a referee or judge shall:
9157 (a) submit an application in a form prescribed by the commission;
9158 (b) pay a fee determined by the commission under Section 63J-1-504;
9159 (c) make assurances that the applicant:
9160 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9161 respect to a contest in which the applicant is participating;
9162 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9163 attempted to have engaged in any fraud or misrepresentation in connection with a contest or

9164 any other sporting event; and
9165 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9166 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
9167 to the regulation of contests in this state or any other jurisdiction;
9168 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9169 comply with this chapter and the rules made under this chapter;
9170 (e) provide evidence satisfactory to the commission that the applicant is qualified by
9171 training and experience to competently act as a referee or judge in a contest; and
9172 (f) if requested by the commission or the director, meet with the commission or the
9173 director to examine the applicant's qualifications for licensure.
9174 (8) The commission may make rules concerning the requirements for a license under
9175 this chapter, that deny a license to an applicant for the violation of a crime that, in the
9176 commission's determination, would have a material affect on the integrity of a contest held
9177 under this chapter.
9178 (9) (a) A licensee serves at the pleasure, and under the direction, of the commission
9179 while participating in any way at a contest.
9180 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not
9181 follow the commission's direction at an event or contest.
9182 Section 243. Section **63N-10-302**, which is renumbered from Section 63C-11-302 is
9183 renumbered and amended to read:
9184 **[~~63C-11-302~~]. 63N-10-302. Term of license -- Expiration -- Renewal.**
9185 (1) The commission shall issue each license under this chapter in accordance with a
9186 renewal cycle established by rule.
9187 (2) At the time of renewal, the licensee shall show satisfactory evidence of compliance
9188 with renewal requirements established by rule by the commission.
9189 (3) Each license automatically expires on the expiration date shown on the license
9190 unless the licensee renews it in accordance with the rules established by the commission.
9191 Section 244. Section **63N-10-303**, which is renumbered from Section 63C-11-303 is
9192 renumbered and amended to read:
9193 **[~~63C-11-303~~]. 63N-10-303. Grounds for denial of license -- Disciplinary**
9194 **proceedings -- Reinstatement.**

9195 (1) The commission shall refuse to issue a license to an applicant and shall refuse to
9196 renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of
9197 a licensee who does not meet the qualifications for licensure under this chapter.
9198 (2) The commission may refuse to issue a license to an applicant and may refuse to
9199 renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand
9200 to, or otherwise act upon the license of any licensee if:
9201 (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as
9202 defined by statute or rule under this chapter;
9203 (b) the applicant or licensee has been determined to be mentally incompetent for any
9204 reason by a court of competent jurisdiction; or
9205 (c) the applicant or licensee is unable to practice the occupation or profession with
9206 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
9207 chemicals, or any other type of material, or as a result of any other mental or physical
9208 condition, when the licensee's condition demonstrates a threat or potential threat to the public
9209 health, safety, or welfare, as determined by a ringside physician or the commission.
9210 (3) Any licensee whose license under this chapter has been suspended, revoked, or
9211 restricted may apply for reinstatement of the license at reasonable intervals and upon
9212 compliance with any conditions imposed upon the licensee by statute, rule, or terms of the
9213 license suspension, revocation, or restriction.
9214 (4) The commission may issue cease and desist orders:
9215 (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and
9216 (b) to any person who otherwise violates this chapter or any rules adopted under this
9217 chapter.
9218 (5) (a) The commission may impose an administrative fine for acts of unprofessional or
9219 unlawful conduct under this chapter.
9220 (b) An administrative fine under this Subsection (5) may not exceed $2,500 for each
9221 separate act of unprofessional or unlawful conduct.
9222 (c) The commission shall comply with Title 63G, Chapter 4, Administrative
9223 Procedures Act, in any action to impose an administrative fine under this chapter.
9224 (d) The imposition of a fine under this Subsection (5) does not affect any other action
9225 the commission or department may take concerning a license issued under this chapter.

9226 (6) (a) The commission may not take disciplinary action against any person for
9227 unlawful or unprofessional conduct under this chapter, unless the commission initiates an
9228 adjudicative proceeding regarding the conduct within four years after the conduct is reported to
9229 the commission, except under Subsection (6)(b).
9230 (b) The commission may not take disciplinary action against any person for unlawful
9231 or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the
9232 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
9233 initiated within one year following the judgment or settlement.
9234 (7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the
9235 following may immediately suspend the license of a licensee at such time and for such period
9236 that the following believes is necessary to protect the health, safety, and welfare of the licensee,
9237 another licensee, or the public:
9238 (i) the commission;
9239 (ii) a designated commission member; or
9240 (iii) if a designated commission member is not present, the director.
9241 (b) The commission shall establish by rule appropriate procedures to invoke the
9242 suspension and to provide a suspended licensee a right to a hearing before the commission with
9243 respect to the suspension within a reasonable time after the suspension.
9244 Section 245. Section **63N-10-304**, which is renumbered from Section 63C-11-304 is
9245 renumbered and amended to read:
9246 **[~~63C-11-304~~]. 63N-10-304. Additional fees for license of promoter --**
9247 **Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.**
9248 (1) In addition to the payment of any other fees and money due under this chapter,
9249 every promoter shall pay a license fee determined by the commission and established in rule.
9250 [~~(a)~~] (2) License fees collected under this Subsection [~~(1)(a)~~] (2) from professional
9251 boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be
9252 used by the commission to award grants to organizations that promote amateur boxing in the
9253 state and cover commission expenses.
9254 [~~(b) Money available to the commission for awarding grants to organizations that~~
9255 ~~promote amateur boxing in the state and covering commission expenses is nonlapsing for fiscal~~
9256 ~~year 2009-10 only.~~]

9257 [~~(2)~~] (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
9258 Act, the commission shall adopt rules:
9259 (a) governing the manner in which applications for grants under Subsection [~~(1)~~] (2)
9260 may be submitted to the commission; and
9261 (b) establishing standards for awarding grants under Subsection [~~(1)~~] (2) to
9262 organizations which promote amateur boxing in the state.
9263 [~~(3)~~] (4) (a) For the purpose of creating a greater interest in contests in the state, the
9264 commission may exempt from the payment of license fees under this section one contest or
9265 exhibition in each calendar year, intended as a showcase event.
9266 (b) The commission shall select the contest or exhibition to be exempted based on
9267 factors which include:
9268 (i) attraction of the optimum number of spectators;
9269 (ii) costs of promoting and producing the contest or exhibition;
9270 (iii) ticket pricing;
9271 (iv) committed promotions and advertising of the contest or exhibition;
9272 (v) rankings and quality of the contestants; and
9273 (vi) committed television and other media coverage of the contest or exhibition.
9274 Section 246. Section **63N-10-305**, which is renumbered from Section 63C-11-305 is
9275 renumbered and amended to read:
9276 **[~~63C-11-305~~]. 63N-10-305. Jurisdiction of commission.**
9277 (1) (a) The commission has the sole authority concerning direction, management,
9278 control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted,
9279 held, or given within this state.
9280 (b) A contest or exhibition may not be conducted, held, or given within this state
9281 except in accordance with this chapter.
9282 (2) Any contest involving a form of unarmed self-defense must be conducted pursuant
9283 to rules for that form which are approved by the commission before the contest is conducted,
9284 held, or given.
9285 (3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for
9286 the use of:
9287 (i) the designated commission member;

9288 (ii) other commission members in attendance;
9289 (iii) the director;
9290 (iv) commission employees;
9291 (v) officials;
9292 (vi) licensees participating or assisting in the contest; and
9293 (vii) others granted credentials by the commission.
9294 (b) The promoter shall provide security at the direction of the commission or
9295 designated commission member to secure the area described in Subsection (3)(a).
9296 (4) The area described in Subsection (3), the area in the dressing rooms, and other
9297 areas considered necessary by the designated commission member for the safety and welfare of
9298 a licensee and the public shall be reserved for the use of:
9299 (a) the designated commission member;
9300 (b) other commission members in attendance;
9301 (c) the director;
9302 (d) commission employees;
9303 (e) officials;
9304 (f) licensees participating or assisting in the contest; and
9305 (g) others granted credentials by the commission.
9306 (5) The promoter shall provide security at the direction of the commission or
9307 designated commission member to secure the areas described in Subsections (3) and (4).
9308 (6) (a) The designated commission member may direct the removal from the contest
9309 venue and premises, of any individual whose actions:
9310 (i) are disruptive to the safe conduct of the contest; or
9311 (ii) pose a danger to the safety and welfare of the licensees, the commission, or the
9312 public, as determined by the designated commission member.
9313 (b) The promoter shall provide security at the direction of the commission or
9314 designated commission member to effectuate a removal under Subsection (6)(a).
9315 Section 247. Section **63N-10-306**, which is renumbered from Section 63C-11-306 is
9316 renumbered and amended to read:
9317 **[~~63C-11-306~~]. 63N-10-306. Club fighting prohibited.**
9318 (1) Club fighting is prohibited.

9319 (2) Any person who publicizes, promotes, conducts, or engages in a club fighting
9320 match is:
9321 (a) guilty of a class A misdemeanor as provided in Section 76-9-705; and
9322 (b) subject to license revocation under this chapter.
9323 Section 248. Section **63N-10-307**, which is renumbered from Section 63C-11-307 is
9324 renumbered and amended to read:
9325 **[~~63C-11-307~~]. 63N-10-307. Approval to hold contest or promotion -- Bond**
9326 **required.**
9327 (1) An application to hold a contest or multiple contests as part of a single promotion
9328 shall be made by a licensed promoter to the commission on forms provided by the commission.
9329 (2) The application shall be accompanied by a contest fee determined by the
9330 commission under Section 63J-1-505.
9331 (3) (a) The commission may approve or deny approval to hold a contest or promotion
9332 permitted under this chapter.
9333 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination
9334 by the commission that:
9335 (i) the promoter of the contest or promotion is properly licensed;
9336 (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter
9337 of the contest or promotion; and
9338 (iii) the contest or promotion will be held in accordance with this chapter and rules
9339 made under this chapter.
9340 (4) (a) Final approval to hold a contest or promotion may not be granted unless the
9341 commission receives, not less than seven days before the day of the contest with 10 or more
9342 rounds:
9343 (i) proof of a negative HIV test performed not more than 180 days before the day of the
9344 contest for each contestant;
9345 (ii) a copy of each contestant's federal identification card;
9346 (iii) a copy of a signed contract between each contestant and the promoter for the
9347 contest;
9348 (iv) a statement specifying the maximum number of rounds of the contest;
9349 (v) a statement specifying the site, date, and time of weigh-in; and

9350 (vi) the name of the physician selected from among a list of registered and
9351 commission-approved ringside physicians who shall act as ringside physician for the contest.
9352 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or
9353 promotion if the requirements under Subsection (4)(a) are not met because of unforeseen
9354 circumstances beyond the promoter's control.
9355 (5) Final approval for a contest under 10 rounds in duration may be granted as
9356 determined by the commission after receiving the materials identified in Subsection (4) at a
9357 time determined by the commission.
9358 (6) An applicant shall post a surety bond or cashier's check with the commission in the
9359 greater of $10,000 or the amount of the purse, providing for forfeiture and disbursement of the
9360 proceeds if the applicant fails to comply with:
9361 (a) the requirements of this chapter; or
9362 (b) rules made under this chapter relating to the promotion or conduct of the contest or
9363 promotion.
9364 Section 249. Section **63N-10-308**, which is renumbered from Section 63C-11-308 is
9365 renumbered and amended to read:
9366 **[~~63C-11-308~~]. 63N-10-308. Rules for the conduct of contests.**
9367 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9368 Administrative Rulemaking Act, for the conduct of contests in the state.
9369 (2) The rules shall include:
9370 (a) authority for:
9371 (i) stopping contests; and
9372 (ii) impounding purses with respect to contests when there is a question with respect to
9373 the contest, contestants, or any other licensee associated with the contest; and
9374 (b) reasonable and necessary provisions to ensure that all obligations of a promoter
9375 with respect to any promotion or contest are paid in accordance with agreements made by the
9376 promoter.
9377 (3) (a) The commission may, in its discretion, exempt a contest and each contestant
9378 from the definition of unprofessional conduct found in Subsection [~~63C-11-102~~]
9379 63N-10-102(25)(f) after:
9380 (i) a promoter requests the exemption; and

9381 (ii) the commission considers relevant factors, including:
9382 (A) the experience of the contestants;
9383 (B) the win and loss records of each contestant;
9384 (C) each contestant's level of training; and
9385 (D) any other evidence relevant to the contestants' professionalism and the ability to
9386 safely conduct the contest.
9387 (b) The commission's hearing of a request for an exemption under this Subsection (3)
9388 is an informal adjudicative proceeding under Section 63G-4-202.
9389 (c) The commission's decision to grant or deny a request for an exemption under this
9390 Subsection (3) is not subject to agency review under Section 63G-4-301.
9391 Section 250. Section **63N-10-309**, which is renumbered from Section 63C-11-309 is
9392 renumbered and amended to read:
9393 **[~~63C-11-309~~]. 63N-10-309. Medical examinations and drug tests.**
9394 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9395 Administrative Rulemaking Act, for medical examinations and drug testing of contestants,
9396 including provisions under which contestants shall:
9397 (a) produce evidence based upon competent laboratory examination that they are HIV
9398 negative as a condition of participating as a contestant in any contest;
9399 (b) be subject to random drug testing before or after participation in a contest, and
9400 sanctions, including barring participation in a contest or withholding a percentage of any purse,
9401 that shall be placed against a contestant testing positive for alcohol or any other drug that in the
9402 opinion of the commission is inconsistent with the safe and competent participation of that
9403 contestant in a contest;
9404 (c) be subject to a medical examination by the ringside physician not more than 30
9405 hours before the contest to identify any physical ailment or communicable disease that, in the
9406 opinion of the commission or designated commission member, are inconsistent with the safe
9407 and competent participation of that contestant in the contest; and
9408 (d) be subject to medical testing for communicable diseases as considered necessary by
9409 the commission to protect the health, safety, and welfare of the licensees and the public.
9410 (2) (a) Medical information concerning a contestant shall be provided by the contestant
9411 or medical professional or laboratory.

9412 (b) A promoter or manager may not provide to or receive from the commission medical
9413 information concerning a contestant.
9414 Section 251. Section **63N-10-310**, which is renumbered from Section 63C-11-310 is
9415 renumbered and amended to read:
9416 **[~~63C-11-310~~]. 63N-10-310. Contests.**
9417 (1) Except as provided in Section 63C-11-317, a licensee may not participate in an
9418 unarmed combat contest within a predetermined time after another unarmed combat contest, as
9419 prescribed in rules made by the commission.
9420 (2) During the period of time beginning 60 minutes before the beginning of a contest,
9421 the promoter shall demonstrate the promoter's compliance with the commission's security
9422 requirements to all commission members present at the contest.
9423 (3) The commission shall establish fees in accordance with Section 63J-1-504 to be
9424 paid by a promoter for the conduct of each contest or event composed of multiple contests
9425 conducted under this chapter.
9426 Section 252. Section **63N-10-311**, which is renumbered from Section 63C-11-311 is
9427 renumbered and amended to read:
9428 **[~~63C-11-311~~]. 63N-10-311. Ringside physician.**
9429 (1) The commission shall maintain a list of ringside physicians who hold a Doctor of
9430 Medicine (MD) degree and are registered with the commission as approved to act as a ringside
9431 physician and meet the requirements of Subsection (2).
9432 (2) (a) The commission shall appoint a registered ringside physician to perform the
9433 duties of a ringside physician at each contest held [~~pursuant to~~] under this chapter.
9434 (b) The promoter of a contest shall pay a fee determined by the commission by rule to
9435 the commission for a ringside physician.
9436 (3) An applicant for registration as a ringside physician shall:
9437 (a) submit an application for registration;
9438 (b) provide the commission with evidence of the applicant's licensure to practice
9439 medicine in the state; and
9440 (c) satisfy minimum qualifications established by the department by rule.
9441 (4) A ringside physician at attendance at a contest:
9442 (a) may stop the contest at any point if the ringside physician determines that a

9443 contestant's physical condition renders the contestant unable to safely continue the contest; and
9444 (b) works under the direction of the commission.
9445 Section 253. Section **63N-10-312**, which is renumbered from Section 63C-11-312 is
9446 renumbered and amended to read:
9447 **[~~63C-11-312~~]. 63N-10-312. Contracts.**
9448 Before a contest is held, a copy of the signed contract or agreement between the
9449 promoter of the contest and each contestant shall be filed with the commission. Approval of
9450 the contract's terms and conditions shall be obtained from the commission as a condition
9451 precedent to the contest.
9452 Section 254. Section **63N-10-313**, which is renumbered from Section 63C-11-313 is
9453 renumbered and amended to read:
9454 **[~~63C-11-313~~]. 63N-10-313. Withholding of purse.**
9455 (1) The commission, the director, or any other agent authorized by the commission
9456 may order a promoter to withhold any part of a purse or other money belonging or payable to
9457 any contestant, manager, or second if, in the judgment of the commission, director, or other
9458 agent:
9459 (a) the contestant is not competing honestly or to the best of the contestant's skill and
9460 ability or the contestant otherwise violates any rules adopted by the commission or any of the
9461 provisions of this chapter; or
9462 (b) the manager or second violates any rules adopted by the commission or any of the
9463 provisions of this chapter.
9464 (2) This section does not apply to any contestant in a wrestling exhibition who appears
9465 not to be competing honestly or to the best of the contestant's skill and ability.
9466 (3) Upon the withholding of any part of a purse or other money pursuant to this section,
9467 the commission shall immediately schedule a hearing on the matter, provide adequate notice to
9468 all interested parties, and dispose of the matter as promptly as possible.
9469 (4) If it is determined that a contestant, manager, or second is not entitled to any part of
9470 that person's share of the purse or other money, the promoter shall pay the money over to the
9471 commission.
9472 Section 255. Section **63N-10-314**, which is renumbered from Section 63C-11-314 is
9473 renumbered and amended to read:

9474 **[~~63C-11-314~~]. 63N-10-314. Penalty for unlawful conduct.**
9475 A person who engages in any act of unlawful conduct, as defined in Section
9476 [~~63C-11-102~~] 63N-10-102, is guilty of a class A misdemeanor.
9477 Section 256. Section **63N-10-315**, which is renumbered from Section 63C-11-315 is
9478 renumbered and amended to read:
9479 **[~~63C-11-315~~]. 63N-10-315. Exemptions.**
9480 This chapter does not apply to:
9481 (1) any amateur contest or exhibition of unarmed combat conducted by or participated
9482 in exclusively by:
9483 (a) a school accredited by the Utah Board of Education;
9484 (b) a college or university accredited by the United States Department of Education; or
9485 (c) any association or organization of a school, college, or university described in
9486 Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide
9487 student in the school, college, or university;
9488 (2) any contest or exhibition of unarmed combat conducted in accordance with the
9489 standards and regulations of USA Boxing, Inc.; or
9490 (3) a white-collar contest.
9491 Section 257. Section **63N-10-316**, which is renumbered from Section 63C-11-316 is
9492 renumbered and amended to read:
9493 **[~~63C-11-316~~]. 63N-10-316. Contest weights and classes -- Matching**
9494 **contestants.**
9495 (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9496 Administrative Rulemaking Act, establishing boxing contest weights and classes consistent
9497 with those adopted by the Association of Boxing Commissions.
9498 (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9499 Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat
9500 that is not boxing.
9501 (3) (a) As to any unarmed combat contest, a contestant may not fight another contestant
9502 who is outside of the contestant's weight classification.
9503 (b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to
9504 fight another contestant who is outside of the contestant's weight classification.

9505 (4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:
9506 (a) a contestant who has contracted to participate in a given weight class may not be
9507 permitted to compete if the contestant is not within that weight class at the weigh-in; and
9508 (b) a contestant may have two hours to attempt to gain or lose not more than three
9509 pounds in order to be reweighed.
9510 (5) (a) As to any unarmed combat contest, the commission may not allow a contest in
9511 which the contestants are not fairly matched.
9512 (b) Factors in determining if contestants are fairly matched include:
9513 (i) the win-loss record of the contestants;
9514 (ii) the weight differential between the contestants;
9515 (iii) the caliber of opponents for each contestant;
9516 (iv) each contestant's number of fights; and
9517 (v) previous suspensions or disciplinary actions of the contestants.
9518 Section 258. Section **63N-10-317**, which is renumbered from Section 63C-11-317 is
9519 renumbered and amended to read:
9520 **[~~63C-11-317~~]. 63N-10-317. Elimination contests -- Conduct of contests --**
9521 **Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment**
9522 **-- Limitations on contests.**
9523 (1) An elimination unarmed combat contest shall be conducted under the supervision
9524 and authority of the commission.
9525 (2) Except as otherwise provided in this section and except as otherwise provided by
9526 specific statute, the provisions of this chapter pertaining to boxing apply to an elimination
9527 unarmed combat contest.
9528 (3) (a) All contests in an elimination unarmed combat contest shall be no more than
9529 three rounds in duration.
9530 (b) A round of unarmed combat in an elimination unarmed combat contest shall:
9531 (i) be no more than one minute in duration; or
9532 (ii) be up to three minutes in duration if there is only a single round.
9533 (c) A period of rest following a round shall be no more than one minute in duration.
9534 (4) A contestant:
9535 (a) shall wear gloves approved by the commission; and

9536 (b) shall wear headgear approved by the commission, the designated commission
9537 member, or the director if a designated commission member is not present.
9538 (5) A contestant may participate in more than one contest, but may not participate in
9539 more than a total of seven rounds in the entire tournament.
9540 Section 259. Section **63N-10-318**, which is renumbered from Section 63C-11-318 is
9541 renumbered and amended to read:
9542 **[~~63C-11-318~~]. 63N-10-318. Commission rulemaking.**
9543 The commission may make rules governing the conduct of a contest held under this
9544 chapter to protect the health and safety of licensees and members of the public.
9545 Section 260. Section **63N-11-101**, which is renumbered from Section 63M-1-2501 is
9546 renumbered and amended to read:
9547 **CHAPTER 11. HEALTH SYSTEM REFORM ACT**
9548 **[~~63M-1-2501~~]. 63N-11-101. Title.**
9549 This [~~part~~] chapter is known as the "Health System Reform Act."
9550 Section 261. Section **63N-11-102**, which is renumbered from Section 63M-1-2502 is
9551 renumbered and amended to read:
9552 **[~~63M-1-2502~~]. 63N-11-102. Definitions.**
9553 As used in this part, [~~"office"~~] "consumer health office" means the Office of Consumer
9554 Health Services created in Section [~~63M-1-2504~~] 63N-11-104.
9555 Section 262. Section **63N-11-103**, which is renumbered from Section 63M-1-2503 is
9556 renumbered and amended to read:
9557 **[~~63M-1-2503~~]. 63N-11-103. Duties related to health system reform.**
9558 The Governor's Office of Economic Development shall coordinate the efforts of the
9559 Office of Consumer Health Services, the Department of Health, the Insurance Department, and
9560 the Department of Workforce Services to assist the Legislature with developing the state's
9561 strategic plan for health system reform described in Section [~~63M-1-2505~~] 63N-11-105.
9562 Section 263. Section **63N-11-104**, which is renumbered from Section 63M-1-2504 is
9563 renumbered and amended to read:
9564 **[~~63M-1-2504~~]. 63N-11-104. Creation of Office of Consumer Health Services**
9565 **-- Duties.**

9566 (1) There is created within the Governor's Office of Economic Development the Office
9567 of Consumer Health Services.
9568 (2) The consumer health office shall:
9569 (a) in cooperation with the Insurance Department, the Department of Health, and the
9570 Department of Workforce Services, and in accordance with the electronic standards developed
9571 under Sections 31A-22-635 and [~~63M-1-2506~~] 63N-11-107, create a Health Insurance
9572 Exchange that:
9573 (i) provides information to consumers about private and public health programs for
9574 which the consumer may qualify;
9575 (ii) provides a consumer comparison of and enrollment in a health benefit plan posted
9576 on the Health Insurance Exchange; and
9577 (iii) includes information and a link to enrollment in premium assistance programs and
9578 other government assistance programs;
9579 (b) contract with one or more private vendors for:
9580 (i) administration of the enrollment process on the Health Insurance Exchange,
9581 including establishing a mechanism for consumers to compare health benefit plan features on
9582 the exchange and filter the plans based on consumer preferences;
9583 (ii) the collection of health insurance premium payments made for a single policy by
9584 multiple payers, including the policyholder, one or more employers of one or more individuals
9585 covered by the policy, government programs, and others; and
9586 (iii) establishing a call center in accordance with Subsection (4);
9587 (c) assist employers with a free or low cost method for establishing mechanisms for the
9588 purchase of health insurance by employees using pre-tax dollars;
9589 (d) establish a list on the Health Insurance Exchange of insurance producers who, in
9590 accordance with Section 31A-30-209, are appointed producers for the Health Insurance
9591 Exchange;
9592 (e) include in the annual written report described in Section [~~63M-1-206~~] 63N-1-301, a
9593 report on the operations of the Health Insurance Exchange required by this chapter; and
9594 (f) in accordance with Subsection (3), provide a form to a small employer that certifies:
9595 (i) that the small employer offered a qualified health plan to the small employer's
9596 employees; and

9597 (ii) the period of time within the taxable year in which the small employer maintained
9598 the qualified health plan coverage.
9599 (3) The form required by Subsection (2)(f) shall be provided to a small employer if:
9600 (a) the small employer selected a qualified health plan on the small employer health
9601 exchange created by this section; or
9602 (b) (i) the small employer selected a health plan in the small employer market that is
9603 not offered through the exchange created by this section; and
9604 (ii) the issuer of the health plan selected by the small employer submits to the office, in
9605 a form and manner required by the office:
9606 (A) an affidavit from a member of the American Academy of Actuaries stating that
9607 based on generally accepted actuarial principles and methodologies the issuer's health plan
9608 meets the benefit and actuarial requirements for a qualified health plan under PPACA as
9609 defined in Section 31A-1-301; and
9610 (B) an affidavit from the issuer that includes the dates of coverage for the small
9611 employer during the taxable year.
9612 (4) A call center established by the consumer health office:
9613 (a) shall provide unbiased answers to questions concerning exchange operations, and
9614 plan information, to the extent the plan information is posted on the exchange by the insurer;
9615 and
9616 (b) may not:
9617 (i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;
9618 (ii) receive producer compensation through the Health Insurance Exchange; and
9619 (iii) be designated as the default producer for an employer group that enters the Health
9620 Insurance Exchange without a producer.
9621 (5) The consumer health office:
9622 (a) may not:
9623 (i) regulate health insurers, health insurance plans, health insurance producers, or
9624 health insurance premiums charged in the exchange;
9625 (ii) adopt administrative rules, except as provided in Section [~~63M-1-2506~~]
9626 63N-11-107; or
9627 (iii) act as an appeals entity for resolving disputes between a health insurer and an

9628 insured;
9629 (b) may establish and collect a fee for the cost of the exchange transaction in
9630 accordance with Section 63J-1-504 for:
9631 (i) processing an application for a health benefit plan;
9632 (ii) accepting, processing, and submitting multiple premium payment sources;
9633 (iii) providing a mechanism for consumers to filter and compare health benefit plans in
9634 the exchange based on consumer preferences; and
9635 (iv) funding the call center; and
9636 (c) shall separately itemize the fee established under Subsection (5)(b) as part of the
9637 cost displayed for the employer selecting coverage on the exchange.
9638 Section 264. Section **63N-11-105**, which is renumbered from Section 63M-1-2505 is
9639 renumbered and amended to read:
9640 **[~~63M-1-2505~~]. 63N-11-105. Strategic plan for health system reform.**
9641 The state's strategic plan for health system reform shall include consideration of the
9642 following:
9643 (1) legislation necessary to allow a health insurer in the state to offer one or more
9644 health benefit plans that:
9645 (a) allow an individual to purchase a policy for individual or family coverage, with or
9646 without employer contributions, and keep the policy even if the individual changes
9647 employment;
9648 (b) incorporate rating practices and issue practices that will sustain a viable insurance
9649 market and provide affordable health insurance products for the most purchasers;
9650 (c) are based on minimum required coverages that result in a lower premium than most
9651 current health insurance products;
9652 (d) include coverage for immunizations, screenings, and other preventive health
9653 services;
9654 (e) encourage cost-effective use of health care systems;
9655 (f) minimize risk-skimming insurance benefit designs;
9656 (g) maximize the use of federal and state income tax policies to allow for payment of
9657 health insurance products with tax-exempt funds;
9658 (h) may include other innovative provisions that may lower the costs of health

9659 insurance products;
9660 (i) may incorporate innovative consumer-driven provisions, including:
9661 (i) an exemption from selected state health insurance laws and regulations;
9662 (ii) a range of benefit and cost sharing provisions tailored to the health status, financial
9663 capacity, and preferences of individual consumers; and
9664 (iii) varying the amount of cost sharing for a service based on where the service falls
9665 along a continuum of care ranging from preventive care to purely elective care; and
9666 (j) encourage employers to allow their employees greater control of the employee's
9667 health care benefits by providing tax-exempt defined contributions for the purchase of health
9668 insurance by either the employer or the employee;
9669 (2) current rating and issue practices by health insurers and changes that may be
9670 necessary to achieve the goals of Subsection (1)(b);
9671 (3) methods to decrease cost shifting from the uninsured and under-insured to the
9672 insured, health care providers and taxpayers, including:
9673 (a) eligibility and benefit levels for entitlement programs;
9674 (b) reimbursement rates for entitlement programs; and
9675 (c) the Utah Premium Partnership for Health Insurance Program and the Children's
9676 Health Insurance Program's enrollment and benefit policies, and whether those policies provide
9677 appropriate and effective coverage for children;
9678 (4) providing public employees an option that gives them greater control of their health
9679 care benefits through a system of defined contributions for insurance policies;
9680 (5) giving public employees access to an option that provides individually selected and
9681 owned policies;
9682 (6) encouraging the use of health care quality measures and the adoption of best
9683 practice protocols by health care providers for the benefit of consumers, health care providers,
9684 and third party payers;
9685 (7) providing some protection from liability for health care providers who follow best
9686 practice protocols;
9687 (8) promoting personal responsibility through:
9688 (a) obtaining health insurance;
9689 (b) achieving self reliance;

9690 (c) making healthy choices; and
9691 (d) encouraging healthy behaviors and lifestyles to the full extent allowed by the
9692 Health Insurance Portability and Accountability Act;
9693 (9) studying the costs and benefits associated with:
9694 (a) different forms of mandates for individual responsibility; and
9695 (b) potential enforcement mechanisms for individual responsibility;
9696 (10) (a) increasing the number of affordable health insurance policies available to a
9697 person responsible for obtaining health insurance under Subsection (8)(a) by creating a system
9698 of subsidies and Medicaid waivers that bring more people into the private insurance market;
9699 and
9700 (b) funding subsidies to support bringing more people into the private insurance
9701 market, which may include:
9702 (i) imposing assessments on:
9703 (A) health care facilities;
9704 (B) health care providers;
9705 (C) health care services; and
9706 (D) health insurance products; or
9707 (ii) relying on other funding sources;
9708 (11) investigating and applying for Medicaid waivers that will promote the use of
9709 private sector health insurance;
9710 (12) identifying federal barriers to state health system reform and seeking collaborative
9711 solutions to those barriers;
9712 (13) maximizing the use of pre-tax dollars for health insurance premium payments;
9713 (14) requiring employers in the state to adopt mechanisms that allow an employee to
9714 use tax-exempt earnings, other than pre-tax contributions by the employer, to purchase a health
9715 insurance product;
9716 (15) extending a preference under the state procurement code for bidders who offer
9717 goods or services to the state if the bidder provides health insurance benefits or a defined
9718 contribution for health insurance to the bidder's employees; and
9719 (16) requiring insurers to accept premium payments from multiple sources, including
9720 state-funded subsidies.

9721 Section 265. Section **63N-11-106**, which is renumbered from Section 63M-1-2505.5 is
9722 renumbered and amended to read:
9723 **[~~63M-1-2505.5~~]. 63N-11-106. Reporting on federal health reform --**
9724 **Prohibition of individual mandate.**
9725 (1) The Legislature finds that:
9726 (a) the state has embarked on a rigorous process of implementing a strategic plan for
9727 health system reform [~~pursuant to~~] under Section [~~63M-1-2505~~] 63N-11-105;
9728 (b) the health system reform efforts for the state were developed to address the unique
9729 circumstances within Utah and to provide solutions that work for Utah;
9730 (c) Utah is a leader in the nation for health system reform which includes:
9731 (i) developing and using health data to control costs and quality; and
9732 (ii) creating a defined contribution insurance market to increase options for employers
9733 and employees; and
9734 (d) the federal government proposals for health system reform:
9735 (i) infringe on state powers;
9736 (ii) impose a uniform solution to a problem that requires different responses in
9737 different states;
9738 (iii) threaten the progress Utah has made towards health system reform; and
9739 (iv) infringe on the rights of citizens of this state to provide for their own health care
9740 by:
9741 (A) requiring a person to enroll in a third party payment system;
9742 (B) imposing fines, penalties, and taxes on a person who chooses to pay directly for
9743 health care rather than use a third party payer;
9744 (C) imposing fines, penalties, and taxes on an employer that does not meet federal
9745 standards for providing health care benefits for employees; and
9746 (D) threatening private health care systems with competing government supported
9747 health care systems.
9748 (2) (a) For purposes of this section:
9749 (i) "Implementation" includes adopting or changing an administrative rule, applying for
9750 or spending federal grant money, issuing a request for proposal to carry out a requirement of
9751 PPACA, entering into a memorandum of understanding with the federal government regarding

9752 a provision of PPACA, or amending the state Medicaid plan.
9753 (ii) "PPACA" [~~is~~] has the same meaning as defined in Section 31A-1-301.
9754 (b) A department or agency of the state may not implement any part of PPACA unless,
9755 prior to implementation, the department or agency reports in writing, and, if practicable, in
9756 person if requested, to the Legislature's Business and Labor Interim Committee, the Health
9757 Reform Task Force, or the legislative Executive Appropriations Committee in accordance with
9758 Subsection (2)(d).
9759 (c) The Legislature may pass legislation specifically authorizing or prohibiting the
9760 state's compliance with, or participation in provisions of PPACA.
9761 (d) The report required under Subsection (2)(b) shall include:
9762 (i) the specific federal statute or regulation that requires the state to implement a
9763 provision of PPACA;
9764 (ii) whether PPACA has any state waiver or options;
9765 (iii) exactly what PPACA requires the state to do, and how it would be implemented;
9766 (iv) who in the state will be impacted by adopting the federal reform provision, or not
9767 adopting the federal reform provision;
9768 (v) what is the cost to the state or citizens of the state to implement the federal reform
9769 provision;
9770 (vi) the consequences to the state if the state does not comply with PPACA;
9771 (vii) the impact, if any, of the PPACA requirements regarding:
9772 (A) the state's protection of a health care provider's refusal to perform an abortion on
9773 religious or moral grounds as provided in Section 76-7-306; and
9774 (B) abortion insurance coverage restrictions provided in Section 31A-22-726.
9775 (3) (a) The state shall not require an individual in the state to obtain or maintain health
9776 insurance as defined in PPACA, regardless of whether the individual has or is eligible for
9777 health insurance coverage under any policy or program provided by or through the individual's
9778 employer or a plan sponsored by the state or federal government.
9779 (b) The provisions of this title may not be used to facilitate the federal PPACA
9780 individual mandate or to hold an individual in this state liable for any penalty, assessment, fee,
9781 or fine as a result of the individual's failure to procure or obtain health insurance coverage.
9782 (c) This section does not apply to an individual who voluntarily applies for coverage

9783 under a state administered program pursuant to Title XIX or Title XXI of the Social Security
9784 Act.
9785 Section 266. Section **63N-11-107**, which is renumbered from Section 63M-1-2506 is
9786 renumbered and amended to read:
9787 **[~~63M-1-2506~~]. 63N-11-107. Health benefit plan information on Health**
9788 **Insurance Exchange -- Insurer transparency.**
9789 (1) (a) The consumer health office shall adopt administrative rules in accordance with
9790 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish uniform electronic
9791 standards for insurers, employers, brokers, consumers, and vendors to use when transmitting or
9792 receiving information, uniform applications, waivers of coverage, or payments to, or from, the
9793 Health Insurance Exchange.
9794 (b) The administrative rules adopted by the consumer health office shall:
9795 (i) promote an efficient and consumer friendly process for shopping for and enrolling
9796 in a health benefit plan offered on the Health Insurance Exchange; and
9797 (ii) if appropriate, as determined by the consumer health office, comply with standards
9798 adopted at the national level.
9799 (2) The consumer health office shall assist the risk adjuster board created under Title
9800 31A, Chapter 42, Defined Contribution Risk Adjuster Act, and carriers participating in the
9801 defined contribution market on the Health Insurance Exchange with the determination of when
9802 an employer is eligible to participate in the Health Insurance Exchange under Title 31A,
9803 Chapter 30, Part 2, Defined Contribution Arrangements.
9804 (3) (a) The consumer health office shall create an advisory board to advise the
9805 exchange concerning the operation of the exchange, the consumer experience on the exchange,
9806 and transparency issues.
9807 (b) The advisory board shall have the following members:
9808 (i) two health producers who are appointed producers with the Health Insurance
9809 Exchange;
9810 (ii) two representatives from community-based, non-profit organizations;
9811 (iii) one representative from an employer that participates in the defined contribution
9812 market on the Health Insurance Exchange;
9813 (iv) up to four representatives from insurers who participate in the defined contribution

9814 market of the Health Insurance Exchange;
9815 (v) one representative from the Insurance Department; and
9816 (vi) one representative from the Department of Health.
9817 (c) Members of the advisory board shall serve without compensation.
9818 (4) The consumer health office shall post or facilitate the posting, on the Health
9819 Insurance Exchange, of the information required by this section and Section 31A-22-635 and
9820 links to websites that provide cost and quality information from the Department of Health Data
9821 Committee or neutral entities with a broad base of support from the provider and payer
9822 communities.
9823 Section 267. Section **63N-12-101**, which is renumbered from Section 63M-1-601 is
9824 renumbered and amended to read:
9825 **CHAPTER 12. SCIENCE AND EDUCATION PROGRAMS**
9826 **Part 1. State Advisory Council on Science and Technology**
9827 **[~~63M-1-601~~]. 63N-12-101. Purpose.**
9828 (1) This chapter is known as "Science and Education Programs."
9829 (2) This part is known as the "State Advisory Council on Science and Technology."
9830 (3) The purpose of this part is to establish an advisory council on science and
9831 technology to assist in the development of programs, communication, and use of science and
9832 technology in governmental organizations in the state.
9833 Section 268. Section **63N-12-102**, which is renumbered from Section 63M-1-602 is
9834 renumbered and amended to read:
9835 **[~~63M-1-602~~]. 63N-12-102. Definition of terms.**
9836 As used in this part:
9837 (1) "Adviser" means the state science adviser appointed under this part.
9838 (2) "Council" means the State Advisory Council on Science and Technology created
9839 under this part.
9840 [~~(3) "Director" means the governor's director for economic development.~~]
9841 Section 269. Section **63N-12-103**, which is renumbered from Section 63M-1-603 is
9842 renumbered and amended to read:
9843 **[~~63M-1-603~~]. 63N-12-103. Creation.**
9844 There is created the State Advisory Council on Science and Technology within the

9845 Governor's Office of Economic Development, which shall perform the functions and duties
9846 provided in this part.
9847 Section 270. Section **63N-12-104**, which is renumbered from Section 63M-1-604 is
9848 renumbered and amended to read:
9849 **[~~63M-1-604~~]. 63N-12-104. Members -- Appointment -- Terms --**
9850 **Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive**
9851 **committee -- Quorum -- Expenses.**
9852 (1) The council comprises the following nonvoting members or their designees:
9853 (a) the adviser;
9854 (b) the executive director of the Department of Natural Resources;
9855 (c) the executive director of the Department of Heritage and Arts;
9856 (d) the executive director of the Department of Health;
9857 (e) the executive director of the Department of Environmental Quality;
9858 (f) the commissioner of agriculture and food;
9859 (g) the commissioner of higher education;
9860 (h) the state planning coordinator; and
9861 (i) the executive director of the Department of Transportation.
9862 (2) The governor may appoint other voting members, not to exceed 12.
9863 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
9864 expire, the governor shall appoint each new member or reappointed member to a four-year
9865 term.
9866 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
9867 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
9868 council members are staggered so that approximately half of the council is appointed every two
9869 years.
9870 (4) The governor shall consider all institutions of higher education in the state in the
9871 appointment of council members.
9872 (5) The voting members of the council shall be experienced or knowledgeable in the
9873 application of science and technology to business, industry, or public problems and have
9874 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of
9875 this part.

9876 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
9877 appointed for the unexpired term.
9878 (7) (a) Each year the council shall select from its membership a chair and a vice chair.
9879 (b) The chair and vice chair shall hold office for one year or until a successor is
9880 appointed and qualified.
9881 (8) The adviser serves as executive secretary of the council.
9882 (9) An executive committee shall be established consisting of the chair, vice chair, and
9883 the adviser.
9884 (10) (a) In order to conduct business matters of the council at regularly convened
9885 meetings, a quorum consisting of a simple majority of the total voting membership of the
9886 council is required.
9887 (b) All matters of business affecting public policy require not less than a simple
9888 majority of affirmative votes of the total membership.
9889 (11) A member may not receive compensation or benefits for the member's service, but
9890 may receive per diem and travel expenses in accordance with:
9891 (a) Section 63A-3-106;
9892 (b) Section 63A-3-107; and
9893 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
9894 63A-3-107.
9895 Section 271. Section **63N-12-105**, which is renumbered from Section 63M-1-605 is
9896 renumbered and amended to read:
9897 **[~~63M-1-605~~]. 63N-12-105. Duties and powers.**
9898 (1) The council shall:
9899 (a) encourage the use of science and technology in the administration of state and local
9900 government;
9901 (b) develop programs whereby state agencies and the several public and private
9902 institutions of higher education and technical colleges within the state may assist business and
9903 industry in the utilization of science and technology;
9904 (c) further communication between agencies of federal, state, and local government
9905 who wish to utilize science and technology;
9906 (d) develop programs of cooperation on matters of science and technology between:

9907 (i) state and local government agencies;
9908 (ii) the several public and private institutions of higher education and technical
9909 colleges within the state; and
9910 (iii) business and industry within the state; or
9911 (iv) any combination of these;
9912 (e) provide a means whereby government, business, industry, and higher education
9913 may be represented in the formulation and implementation of state policies and programs on
9914 matters of science and technology;
9915 (f) review, catalog, and compile the research and development uses by the state
9916 universities of the revenue derived from mineral lease funds on state and federal lands;
9917 (g) submit an annual report to the office regarding the expenditure and utilization of
9918 these mineral lease funds for inclusion in the office's annual written report described in Section
9919 [~~63M-1-206~~] 63N-1-301;
9920 (h) make recommendations to the Legislature on the further uses of these mineral lease
9921 funds in order to stimulate research and development directed toward the more effective
9922 utilization of the state's natural resources; and
9923 (i) prepare and submit, before November 1, an annual written report to the governor
9924 and the Legislature.
9925 (2) The council may:
9926 (a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for,
9927 receive, and disburse funds, contributions, or grants from whatever source for the purposes set
9928 forth in this part;
9929 (b) employ, compensate, and prescribe the duties and powers of those individuals,
9930 subject to the provisions of this part relating to the adviser, necessary to execute the duties and
9931 powers of the council; and
9932 (c) enter into contracts for the purposes of this part.
9933 Section 272. Section **63N-12-106**, which is renumbered from Section 63M-1-606 is
9934 renumbered and amended to read:
9935 **[~~63M-1-606~~]. 63N-12-106. Adviser -- Duties and powers.**
9936 (1) The adviser shall be appointed by the governor.
9937 (2) The adviser shall be experienced or knowledgeable in the application of science

9938 and technology to business, industry, or public problems and shall have demonstrated interest
9939 in or ability to contribute to the accomplishment of the purposes of this part.
9940 (3) The adviser shall be compensated pursuant to the wage and salary classification
9941 plan for appointed officers of the state currently in effect.
9942 (4) (a) The adviser shall have those duties and powers the council assigns.
9943 (b) The adviser, with the advice of the council, may enter into contracts and
9944 agreements and may incur expenses necessary to fulfill the purposes of this part.
9945 (5) The adviser shall be administratively responsible to the executive director of the
9946 office.
9947 Section 273. Section **63N-12-107**, which is renumbered from Section 63M-1-607 is
9948 renumbered and amended to read:
9949 **[~~63M-1-607~~]. 63N-12-107. Request for information.**
9950 All departments, divisions, boards, commissions, agencies, institutions, and all other
9951 instrumentalities of the state shall, upon request of the council, provide the council with any
9952 information that these instrumentalities have concerning research in science and technology.
9953 Section 274. Section **63N-12-108**, which is renumbered from Section 63M-1-608 is
9954 renumbered and amended to read:
9955 **[~~63M-1-608~~]. 63N-12-108. Science education program.**
9956 (1) (a) There is established an informal science and technology education program
9957 within the [~~Governor's Office of Economic Development~~] office.
9958 (b) The state science advisor shall act as the [~~executive~~] director of the program.
9959 (c) The State Advisory Council on Science and Technology shall advise the program,
9960 including:
9961 (i) approving all money expended by the science and technology education program;
9962 (ii) approving all operations of the program; and
9963 (iii) making policies and procedures to govern the program.
9964 (2) The program may:
9965 (a) provide informal science and technology-based education to elementary and
9966 secondary students;
9967 (b) expose public education students to college level science and technology
9968 disciplines; and

9969 (c) provide other informal promotion of science and technology education in the state.
9970 Section 275. Section **63N-12-201** is enacted to read:
9971 **Part 2. STEM Action Center**
9972 **63N-12-201. Title.**
9973 This part is known as the "STEM Action Center."
9974 Section 276. Section **63N-12-202**, which is renumbered from Section 63M-1-3201 is
9975 renumbered and amended to read:
9976 **[~~63M-1-3201~~]. 63N-12-202. Definitions.**
9977 As used in this part:
9978 (1) "Board" means the STEM Action Center Board created in Section [~~63M-1-3202~~]
9979 63N-12-203.
9980 (2) "Educator" has the same meaning as defined in Section 53A-6-103.
9981 (3) "High quality professional development" means professional development that
9982 meets high quality standards developed by the State Board of Education.
9983 (4) "Office" means the Governor's Office of Economic Development.
9984 (5) "Provider" means a provider, selected by staff of the board and staff of the Utah
9985 State Board of Education, on behalf of the board:
9986 (a) through a request for proposals process; or
9987 (b) through a direct award or sole source procurement process for a pilot described in
9988 Section [~~63M-1-3205~~] 63N-12-206.
9989 (6) "STEM" means science, technology, engineering, and mathematics.
9990 (7) "STEM Action Center" means the center described in Section [~~63M-1-3204~~]
9991 63N-12-205.
9992 Section 277. Section **63N-12-203**, which is renumbered from Section 63M-1-3202 is
9993 renumbered and amended to read:
9994 **[~~63M-1-3202~~]. 63N-12-203. STEM Action Center Board creation --**
9995 **Membership.**
9996 (1) There is created the STEM Action Center Board within the office, composed of the
9997 following members:
9998 (a) six private sector members who represent business, appointed by the governor;
9999 (b) the state superintendent of public instruction or the state superintendent of public

10000 instruction's designee;
10001 (c) the commissioner of higher education or the commissioner of higher education's
10002 designee;
10003 (d) one member appointed by the governor;
10004 (e) a member of the State Board of Education, chosen by the chair of the State Board of
10005 Education;
10006 (f) the executive director of the [~~Governor's Office of Economic Development~~] office
10007 or the executive [~~director of the Governor's Office of Economic Development's~~] director's
10008 designee;
10009 (g) the president of the Utah College of Applied Technology or the president of the
10010 Utah College of Applied Technology's designee; and
10011 (h) one member who has a degree in engineering and experience working in a
10012 government military installation, appointed by the governor.
10013 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall
10014 represent a business or trade association whose primary focus is science, technology, or
10015 engineering.
10016 (b) Except as required by Subsection (2)(c), members appointed by the governor shall
10017 be appointed to four-year terms.
10018 (c) The length of terms of the members shall be staggered so that approximately half of
10019 the committee is appointed every two years.
10020 (d) The members may not serve more than two full consecutive terms except where the
10021 governor determines that an additional term is in the best interest of the state.
10022 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
10023 appointed for the unexpired term.
10024 (3) Attendance of a simple majority of the members constitutes a quorum for the
10025 transaction of official committee business.
10026 (4) Formal action by the committee requires a majority vote of a quorum.
10027 (5) A member may not receive compensation or benefits for the member's service, but
10028 may receive per diem and travel expenses in accordance with:
10029 (a) Section 63A-3-106;
10030 (b) Section 63A-3-107; and

10031 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
10032 63A-3-107.
10033 (6) The governor shall select the chair of the board to serve a one-year term.
10034 (7) The executive director of the [~~Governor's Office of Economic Development~~] office
10035 or the executive [~~director of the Governor's Office of Economic Development's~~] director's
10036 designee shall serve as the vice chair of the board.
10037 Section 278. Section **63N-12-204**, which is renumbered from Section 63M-1-3203 is
10038 renumbered and amended to read:
10039 **[~~63M-1-3203~~]. 63N-12-204. STEM Action Center Board -- Duties.**
10040 (1) The board shall:
10041 (a) establish a STEM Action Center to:
10042 (i) coordinate STEM activities in the state among the following stakeholders:
10043 (A) the State Board of Education;
10044 (B) school districts and charter schools;
10045 (C) the State Board of Regents;
10046 (D) institutions of higher education;
10047 (E) parents of home-schooled students; and
10048 (F) other state agencies;
10049 (ii) align public education STEM activities with higher education STEM activities; and
10050 (iii) create and coordinate best practices among public education and higher education;
10051 (b) with the consent of the Senate, appoint [~~an executive~~] a director to oversee the
10052 administration of the STEM Action Center;
10053 (c) select a physical location for the STEM Action Center;
10054 (d) strategically engage industry and business entities to cooperate with the board:
10055 (i) to support high quality professional development and provide other assistance for
10056 educators and students; and
10057 (ii) to provide private funding and support for the STEM Action Center;
10058 (e) give direction to the STEM Action Center and the providers selected through a
10059 request for proposals process pursuant to this part; and
10060 (f) work to meet the following expectations:
10061 (i) that at least 50 educators are implementing best practice learning tools in

10062 classrooms per each product specialist or manager working with the STEM Action Center;
10063 (ii) performance change in student achievement in each classroom working with a
10064 STEM Action Center product specialist or manager; and
10065 (iii) that students from at least 50 high schools participate in the STEM competitions,
10066 fairs, and camps described in Subsection [~~63M-1-3204~~] 63N-12-205(2)(d).
10067 (2) The board may:
10068 (a) enter into contracts for the purposes of this part;
10069 (b) apply for, receive, and disburse funds, contributions, or grants from any source for
10070 the purposes set forth in this part;
10071 (c) employ, compensate, and prescribe the duties and powers of individuals necessary
10072 to execute the duties and powers of the board;
10073 (d) prescribe the duties and powers of the STEM Action Center providers; and
10074 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
10075 make rules to administer this part.
10076 (3) The board may establish a foundation to assist in:
10077 (a) the development and implementation of the programs authorized under this part to
10078 promote STEM education; and
10079 (b) implementation of other STEM education objectives described in this part.
10080 (4) A foundation established by the board under Subsection (3):
10081 (a) may solicit and receive contributions from a private organization for STEM
10082 education objectives described in this part;
10083 (b) shall comply with Title 51, Chapter 7, State Money Management Act;
10084 (c) does not have power or authority to incur contractual obligations or liabilities that
10085 constitute a claim against public funds;
10086 (d) may not exercise executive or administrative authority over the programs or other
10087 activities described in this part, except to the extent specifically authorized by the board;
10088 (e) shall provide the board with information detailing transactions and balances of
10089 funds managed for the board; and
10090 (f) may not:
10091 (i) engage in lobbying activities;
10092 (ii) attempt to influence legislation; or

10093 (iii) participate in any campaign activity for or against:
10094 (A) a political candidate; or
10095 (B) an initiative, referendum, proposed constitutional amendment, bond, or any other
10096 ballot proposition submitted to the voters.
10097 (5) Money donated to a foundation established under Subsection (3) may be accounted
10098 for in an expendable special revenue fund.
10099 Section 279. Section **63N-12-205**, which is renumbered from Section 63M-1-3204 is
10100 renumbered and amended to read:
10101 **[~~63M-1-3204~~]. 63N-12-205. STEM Action Center.**
10102 (1) As funding allows, the board shall:
10103 (a) establish a STEM Action Center;
10104 (b) ensure that the STEM Action Center:
10105 (i) is accessible by the public; and
10106 (ii) includes the components described in Subsection (2);
10107 (c) work cooperatively with the State Board of Education to:
10108 (i) further STEM education; and
10109 (ii) ensure best practices are implemented as described in Sections [~~63M-1-3205~~]
10110 63N-12-206 and [~~63M-1-3206~~] 63N-12-207; and
10111 (d) engage private entities to provide financial support or employee time for STEM
10112 activities in schools in addition to what is currently provided by private entities.
10113 (2) As funding allows, the [~~executive~~] director of the STEM Action Center shall:
10114 (a) support high quality professional development for educators regarding STEM
10115 education;
10116 (b) ensure that the STEM Action Center acts as a research and development center for
10117 STEM education through a request for proposals process described in Section [~~63M-1-3205~~]
10118 63N-12-206;
10119 (c) review and acquire STEM education related materials and products for:
10120 (i) high quality professional development;
10121 (ii) assessment, data collection, analysis, and reporting; and
10122 (iii) public school instruction;
10123 (d) facilitate participation in interscholastic STEM related competitions, fairs, camps,

10124 and STEM education activities;
10125 (e) engage private industry in the development and maintenance of the STEM Action
10126 Center and STEM Action Center projects;
10127 (f) use resources to bring the latest STEM education learning tools into public
10128 education classrooms;
10129 (g) identify at least 10 best practice innovations used in Utah that have resulted in at
10130 least 80% of students performing at grade level in STEM areas;
10131 (h) identify best practices being used outside the state and, as appropriate, develop and
10132 implement selected practices through a pilot program;
10133 (i) identify:
10134 (i) learning tools for kindergarten through grade 6 identified as best practices; and
10135 (ii) learning tools for grades 7 through 12 identified as best practices;
10136 (j) provide a Utah best practices database, including best practices from public
10137 education, higher education, the Utah Education and Telehealth Network, and other STEM
10138 related entities;
10139 (k) keep track of the following items related to the best practices database described in
10140 Subsection (2)(j):
10141 (i) how the best practices database is being used; and
10142 (ii) how many individuals are using the database, including the demographics of the
10143 users, if available;
10144 (l) as appropriate, join and participate in a national STEM network;
10145 (m) identify performance changes linked to use of the best practices database described
10146 in Subsection (2)(j);
10147 (n) work cooperatively with the State Board of Education to designate schools as
10148 STEM schools, where the schools have agreed to adopt a plan of STEM implementation in
10149 alignment with criteria set by the State Board of Education and the board;
10150 (o) support best methods of high quality professional development for STEM
10151 education in kindergarten through grade 12, including methods of high quality professional
10152 development that reduce cost and increase effectiveness, to help educators learn how to most
10153 effectively implement best practice learning tools in classrooms;
10154 (p) recognize a high school's achievement in the STEM competitions, fairs, and camps

10155 described in Subsection (2)(d);
10156 (q) send student results from STEM competitions, fairs, and camps described in
10157 Subsection (2)(d) to media and ask the media to report on them;
10158 (r) develop and distribute STEM information to parents of students being served by the
10159 STEM Action Center;
10160 (s) support targeted high quality professional development for improved instruction in
10161 STEM education, including:
10162 (i) improved instructional materials that are dynamic and engaging for students;
10163 (ii) use of applied instruction; and
10164 (iii) introduction of other research-based methods that support student achievement in
10165 STEM areas; and
10166 (t) ensure that an online college readiness assessment tool be accessible by:
10167 (i) public education students; and
10168 (ii) higher education students.
10169 (3) The board may prescribe other duties for the STEM Action Center in addition to
10170 the responsibilities described in this section.
10171 (4) (a) The [~~executive~~] director shall track and compare the student performance of
10172 students participating in a STEM Action Center program to all other similarly situated students
10173 in the state, in the following STEM related activities, at the beginning and end of each year:
10174 (i) public education high school graduation rates;
10175 (ii) the number of students taking a remedial mathematics course at an institution of
10176 higher education described in Section 53B-2-101;
10177 (iii) the number of students who graduate from a Utah public school and begin a
10178 postsecondary education program; and
10179 (iv) the number of students, as compared to all similarly situated students, who are
10180 performing at grade level in STEM classes.
10181 (b) The State Board of Education and the State Board of Regents shall provide
10182 information to the board to assist the board in complying with the requirements of Subsection
10183 (4)(a) if allowed under federal law.
10184 Section 280. Section **63N-12-206**, which is renumbered from Section 63M-1-3205 is
10185 renumbered and amended to read:

10186 **[~~63M-1-3205~~]. 63N-12-206. Acquisition of STEM education related**
10187 **instructional technology program -- Research and development of education related**
10188 **instructional technology through a pilot program.**
10189 (1) For purposes of this section:
10190 (a) "Pilot" means a pilot of the program.
10191 (b) "Program" means the STEM education related instructional technology program
10192 created in Subsection (2).
10193 (2) (a) There is created the STEM education related instructional technology program
10194 to provide public schools the STEM education related instructional technology described in
10195 Subsection (3).
10196 (b) On behalf of the board, the staff of the board and the staff of the State Board of
10197 Education shall collaborate and may select one or more providers, through a request for
10198 proposals process, to provide STEM education related instructional technology to school
10199 districts and charter schools.
10200 (c) On behalf of the board, the staff of the board and the staff of the State Board of
10201 Education shall consider and may accept an offer from a provider in response to the request for
10202 proposals described in Subsection (2)(b) even if the provider did not participate in a pilot
10203 described in Subsection (5).
10204 (3) The STEM education related instructional technology shall:
10205 (a) support mathematics instruction for students in:
10206 (i) kindergarten though grade 6; or
10207 (ii) grades 7 and 8; or
10208 (b) support mathematics instruction for secondary students to prepare the secondary
10209 students for college mathematics courses.
10210 (4) In selecting a provider for STEM education related instructional technology to
10211 support mathematics instruction for the students described in Subsection (3)(a), the board shall
10212 consider the following criteria:
10213 (a) the technology contains individualized instructional support for skills and
10214 understanding of the core standards in mathematics;
10215 (b) the technology is self-adapting to respond to the needs and progress of the learner;
10216 and

10217 (c) the technology provides opportunities for frequent, quick, and informal assessments
10218 and includes an embedded progress monitoring tool and mechanisms for regular feedback to
10219 students and teachers.
10220 (5) Before issuing a request for proposals described in Subsection (2), on behalf of the
10221 board, the staff of the board and the staff of the State Board of Education shall collaborate and
10222 may:
10223 (a) conduct a pilot of the program to test and select providers for the program;
10224 (b) select at least two providers through a direct award or sole source procurement
10225 process for the purpose of conducting the pilot; and
10226 (c) select schools to participate in the pilot.
10227 (6) (a) A contract with a provider for STEM education related instructional technology
10228 may include professional development for full deployment of the STEM education related
10229 instructional technology.
10230 (b) No more than 10% of the money appropriated for the program may be used to
10231 provide professional development related to STEM education related instructional technology
10232 in addition to the professional development described in Subsection (6)(a).
10233 Section 281. Section **63N-12-207**, which is renumbered from Section 63M-1-3206 is
10234 renumbered and amended to read:
10235 **[~~63M-1-3206~~]. 63N-12-207. Distribution of STEM education instructional**
10236 **technology to schools.**
10237 (1) Subject to legislative appropriations, on behalf of the board, the staff of the board
10238 and the staff of the State Board of Education shall collaborate and shall:
10239 (a) distribute STEM education related instructional technology described in Section
10240 [~~63M-1-3205~~] 63N-12-206 to school districts and charter schools; and
10241 (b) provide related professional development to the school districts and charter schools
10242 that receive STEM education related instructional technology.
10243 (2) A school district or charter school may apply to the board, through a competitive
10244 process, to receive STEM education related instructional technology from the board.
10245 (3) A school district or charter school that receives STEM education related
10246 instructional technology as described in this section shall provide the school district's or charter
10247 school's own computer hardware.

10248 Section 282. Section **63N-12-208**, which is renumbered from Section 63M-1-3207 is
10249 renumbered and amended to read:
10250 **[~~63M-1-3207~~]. 63N-12-208. Report to Legislature and the State Board of**
10251 **Education.**
10252 (1) The board shall report the progress of the STEM Action Center, including the
10253 information described in Subsection (2), to the following groups once each year:
10254 (a) the Education Interim Committee;
10255 (b) the Public Education Appropriations Subcommittee;
10256 (c) the State Board of Education; and
10257 (d) the office for inclusion in the office's annual written report described in Section
10258 [~~63M-1-206~~] 63N-1-301.
10259 (2) The report described in Subsection (1) shall include information that demonstrates
10260 the effectiveness of the program, including:
10261 (a) the number of educators receiving high quality professional development;
10262 (b) the number of students receiving services from the STEM Action Center;
10263 (c) a list of the providers selected pursuant to this part;
10264 (d) a report on the STEM Action Center's fulfilment of its duties described in Section
10265 [~~63M-1-3204~~] 63N-12-205; and
10266 (e) student performance of students participating in a STEM Action Center program as
10267 collected in Subsection [~~63M-1-3204~~] 63N-12-205(4).
10268 Section 283. Section **63N-12-209**, which is renumbered from Section 63M-1-3208 is
10269 renumbered and amended to read:
10270 **[~~63M-1-3208~~]. 63N-12-209. STEM education endorsements and incentive**
10271 **program.**
10272 (1) The State Board of Education shall collaborate with the STEM Action Center to:
10273 (a) develop STEM education endorsements; and
10274 (b) create and implement financial incentives for:
10275 (i) an educator to earn an elementary or secondary STEM education endorsement
10276 described in Subsection (1)(a); and
10277 (ii) a school district or a charter school to have STEM endorsed educators on staff.
10278 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

10279 State Board of Education shall make rules to establish how a STEM education endorsement
10280 incentive described in Subsection (1)[~~(a)~~] will be valued on a salary scale for educators.
10281 Section 284. Section **63N-12-210**, which is renumbered from Section 63M-1-3209 is
10282 renumbered and amended to read:
10283 **[~~63M-1-3209~~]. 63N-12-210. Acquisition of STEM education high quality**
10284 **professional development.**
10285 (1) The STEM Action Center shall, through a request for proposals process, select
10286 technology providers for the purpose of providing a STEM education high quality professional
10287 development application.
10288 (2) The high quality professional development application described in Subsection (1)
10289 shall:
10290 (a) allow the State Board of Education, a school district, or a school to define the
10291 application's input and track results of the high quality professional development;
10292 (b) allow educators to access automatic tools, resources, and strategies;
10293 (c) allow educators to work in online learning communities, including giving and
10294 receiving feedback via uploaded video;
10295 (d) track and report data on the usage of the components of the application's system
10296 and the relationship to improvement in classroom instruction;
10297 (e) include video examples of highly effective STEM education teaching that:
10298 (i) cover a cross section of grade levels and subjects;
10299 (ii) under the direction of the State Board of Education, include videos of highly
10300 effective Utah STEM educators; and
10301 (iii) contain tools to help educators implement what they have learned; and
10302 (f) allow for additional STEM education video content to be added.
10303 (3) In addition to the high quality professional development application described in
10304 Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or
10305 blended high quality professional development that allows for face-to-face applied learning.
10306 Section 285. Section **63N-12-211**, which is renumbered from Section 63M-1-3210 is
10307 renumbered and amended to read:
10308 **[~~63M-1-3210~~]. 63N-12-211. STEM education middle school applied science**
10309 **initiative.**

10310 (1) The STEM Action Center shall develop an applied science initiative for students in
10311 grades 7 and 8 that includes:
10312 (a) a STEM applied science curriculum with instructional materials;
10313 (b) STEM hybrid or blended high quality professional development that allows for
10314 face-to-face applied learning; and
10315 (c) hands-on tools for STEM applied science learning.
10316 (2) The STEM Action Center may, through a request for proposals process, select a
10317 consultant to assist in developing the initiative described in Subsection (1).
10318 Section 286. Section **63N-12-212**, which is renumbered from Section 63M-1-3211 is
10319 renumbered and amended to read:
10320 **[~~63M-1-3211~~]. 63N-12-212. High school STEM education initiative.**
10321 (1) Subject to legislative appropriations, after consulting with State Board of Education
10322 staff, the STEM Action Center shall award grants to school districts and charter schools to fund
10323 STEM related certification for high school students.
10324 (2) (a) A school district or charter school may apply for a grant from the STEM Action
10325 Center, through a competitive process, to fund the school district's or charter school's STEM
10326 related certification training program.
10327 (b) A school district's or charter school's STEM related certification training program
10328 shall:
10329 (i) prepare high school students to be job ready for available STEM related positions of
10330 employment; and
10331 (ii) when a student completes the program, result in the student gaining a nationally
10332 industry-recognized employer STEM related certification.
10333 (3) A school district or charter school may partner with one or more of the following to
10334 provide a STEM related certification program:
10335 (a) a Utah College of Applied Technology college campus;
10336 (b) Salt Lake Community College;
10337 (c) Snow College; or
10338 (d) a private sector employer.
10339 Section 287. Section **63N-13-101**, which is renumbered from Section 63M-1-2101 is
10340 renumbered and amended to read:

10341 **CHAPTER 13. PROCUREMENT PROGRAMS**

10342 **Part 1. Procurement Assistance**

10343 **[~~63M-1-2101~~]. 63N-13-101. Projects to assist companies secure new business**
10344 **with federal, state, and local governments.**

10345 (1) This chapter is known as "Procurement Programs."

10346 [~~(1)~~] (2) The Legislature recognizes that:

10347 (a) many Utah companies provide products and services which are routinely procured
10348 by a myriad of governmental entities at all levels of government, but that attempting to
10349 understand and comply with the numerous certification, registration, proposal, and contract
10350 requirements associated with government procurement often raises significant barriers for
10351 those companies with no government contracting experience;

10352 (b) the costs associated with obtaining a government contract for products or services
10353 often prevent most small businesses from working in the governmental procurement market;

10354 (c) currently a majority of federal procurement opportunities are contracted to
10355 businesses located outside of the state;

10356 (d) the Governor's Office of Economic Development currently administers programs
10357 and initiatives that help create and grow companies in Utah and recruit companies to Utah
10358 through the use of state employees, public-private partnerships, and contractual services; and

10359 (e) there exists a significant opportunity for Utah companies to secure new business
10360 with federal, state, and local governments.

10361 [~~(2)~~] (3) The office, through its executive director:

10362 (a) shall manage and direct the administration of state and federal programs and
10363 initiatives whose purpose is to procure federal, state, and local governmental contracts;

10364 (b) may require program accountability measures; and

10365 (c) may receive and distribute legislative appropriations and public and private grants
10366 for projects and programs that:

10367 (i) are focused on growing Utah companies and positively impacting statewide
10368 revenues by helping these companies secure new business with federal, state, and local
10369 governments;

10370 (ii) provide guidance to Utah companies interested in obtaining new business with
10371 federal, state, and local governmental entities;

10372 (iii) would facilitate marketing, business development, and expansion opportunities for
10373 Utah companies in cooperation with the Governor's Office of Economic Development's
10374 Procurement Technical Assistance Center Program and with public, nonprofit, or private sector
10375 partners such as local chambers of commerce, trade associations, or private contractors as
10376 determined by the office's director to successfully match Utah businesses with government
10377 procurement opportunities; and
10378 (iv) may include the following components:
10379 (A) recruitment, individualized consultation, and an introduction to government
10380 contracting;
10381 (B) specialized contractor training for companies located in Utah;
10382 (C) a Utah contractor matching program for government requirements;
10383 (D) experienced proposal and bid support; and
10384 (E) specialized support services.
10385 [~~(3)~~] (4) (a) The office, through its executive director, shall make any distribution
10386 referred to in Subsection [~~(2)~~] (3) on a semiannual basis.
10387 (b) A recipient of money distributed under this section shall provide the office with a
10388 set of standard monthly reports, the content of which shall be determined by the office to
10389 include at least the following information:
10390 (i) consultive meetings with Utah companies;
10391 (ii) seminars or training meetings held;
10392 (iii) government contracts awarded to Utah companies;
10393 (iv) increased revenues generated by Utah companies from new government contracts;
10394 (v) jobs created;
10395 (vi) salary ranges of new jobs; and
10396 (vii) the value of contracts generated.
10397 Section 288. Section **63N-13-201**, which is renumbered from Section 63M-1-2601 is
10398 renumbered and amended to read:
10399 **Part 2. Government Procurement Private Proposal Program**
10400 **[~~63M-1-2601~~]. 63N-13-201. Title.**
10401 This part is known as the "Government Procurement Private Proposal Program."
10402 Section 289. Section **63N-13-202**, which is renumbered from Section 63M-1-2602 is

10403 renumbered and amended to read:
10404 **[~~63M-1-2602~~]. 63N-13-202. Definitions.**
10405 As used in this part:
10406 (1) "Affected department" means, as applicable, the Board of Education or the
10407 Department of Technology Services.
10408 (2) "Board" means the Board of Business and Economic Development created under
10409 Section [~~63M-1-301~~] 63N-1-401.
10410 (3) "Board of Education" means the Utah State Board of Education.
10411 (4) "Chief procurement officer" means the chief procurement officer appointed under
10412 Section 63G-6a-302.
10413 (5) "Committee" means the proposal review committee created under Section
10414 [~~63M-1-2604~~] 63N-13-204.
10415 (6) "Day" means a calendar day.
10416 [~~(7) "Director" is as defined in Section 63M-1-102.~~]
10417 [~~(8)~~] (7) "Executive Appropriations Committee" means the Legislature's Executive
10418 Appropriations Committee.
10419 [~~(9)~~] (8) "Information technology" [~~is~~] has the same meaning as defined in Section
10420 63F-1-102.
10421 [~~(10) "Office" means the Governor's Office of Economic Development created under~~
10422 ~~Section 63M-1-201.~~]
10423 [~~(11)~~] (9) "Private entity" means a person submitting a proposal under this part for the
10424 purpose of entering into a project.
10425 [~~(12)~~] (10) "Project" means the subject of a proposal or an agreement for the
10426 procurement or disposal of:
10427 (a) information technology or telecommunications products or services; or
10428 (b) supplies or services for or on behalf of the Department of Technology Services or
10429 the Board of Education.
10430 [~~(13)~~] (11) "Proposal" means an unsolicited offer by a private entity to undertake a
10431 project, including an initial proposal under Section [~~63M-1-2605~~] 63N-13-205 and a detailed
10432 proposal under Section [~~63M-1-2608~~] 63N-13-208.
10433 [~~(14)~~] (12) "Services" [~~is~~] has the same meaning as defined in Section 63G-6a-103.

10434 [~~(15)~~] (13) "Supplies" [~~is~~] has the same meaning as defined in Section 63G-6a-103.
10435 [~~(16)~~] (14) "Telecommunications" [~~is~~] has the same meaning as defined in Section
10436 63F-1-102.
10437 Section 290. Section **63N-13-203**, which is renumbered from Section 63M-1-2603 is
10438 renumbered and amended to read:
10439 **[~~63M-1-2603~~]. 63N-13-203. Government Procurement Private Proposal**
10440 **Program -- Proposals -- Rulemaking.**
10441 (1) There is created within the office the Government Procurement Private Proposal
10442 Program.
10443 (2) In accordance with this part, the board may:
10444 (a) accept a proposal for a project;
10445 (b) solicit comments, suggestions, and modifications to a project in accordance with
10446 Section 63G-6a-711; and
10447 (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
10448 Rulemaking Act, establishing requirements, including time limits for any action required by the
10449 affected department, a directly affected state entity or school district, or the Governor's Office
10450 of Management and Budget, for the procurement of a project to the extent not governed by
10451 Title 63G, Chapter 6a, Utah Procurement Code.
10452 Section 291. Section **63N-13-204**, which is renumbered from Section 63M-1-2604 is
10453 renumbered and amended to read:
10454 **[~~63M-1-2604~~]. 63N-13-204. Committee for reviewing proposals --**
10455 **Appointment -- Accepting or rejecting proposal.**
10456 (1) The executive director shall appoint a committee composed of members of the
10457 board to review and evaluate a proposal submitted in accordance with this part.
10458 (2) The executive director shall determine the number of board members that constitute
10459 a committee.
10460 (3) The committee shall, at all times, consist of less than a quorum of the members of
10461 the board, as established under Section [~~63M-1-301~~] 63N-1-401.
10462 (4) A committee member shall serve on the committee until:
10463 (a) replaced by the executive director; or
10464 (b) the committee member ceases to be a member of the board.

10465 (5) The executive director may fill a vacancy among voting members on the
10466 committee.
10467 (6) The committee shall include the following nonvoting members in addition to the
10468 members appointed under Subsection (1):
10469 (a) a member of the Senate, appointed by the president of the Senate; and
10470 (b) a member of the House of Representatives, appointed by the speaker of the House
10471 of Representatives, who may not be from the same political party as the member of the Senate
10472 appointed under Subsection (6)(a).
10473 (7) (a) A vacancy among legislative members appointed under Subsection (6) shall be
10474 filled by the president of the Senate or the speaker of the House of Representatives,
10475 respectively.
10476 (b) At the time of appointment or reappointment, the president of the Senate and the
10477 speaker of the House of Representatives shall consult to ensure that the legislative members
10478 appointed under Subsection (6) are not members of the same political party.
10479 (8) A committee member is subject to Title 67, Chapter 16, Utah Public Officers' and
10480 Employees' Ethics Act, and any additional requirement established by the board in accordance
10481 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
10482 (9) The committee shall inform a private entity of the committee's decision to approve
10483 or reject a proposal in writing.
10484 (10) If the committee, in its sole discretion, accepts a proposal, the proposal shall be
10485 evaluated under this part.
10486 (11) If the committee, in its sole discretion, rejects a proposal, the committee shall
10487 notify the private entity of the reason for the rejection and shall return any remaining portion of
10488 the fee required under Section [~~63M-1-2612~~] 63N-13-212.
10489 Section 292. Section **63N-13-205**, which is renumbered from Section 63M-1-2605 is
10490 renumbered and amended to read:
10491 **[~~63M-1-2605~~]. 63N-13-205. Initial proposal -- Requirements.**
10492 (1) In accordance with this part, a private entity may at any time submit to the
10493 committee an initial proposal for a project.
10494 (2) An initial proposal shall include:
10495 (a) a conceptual description of the project;

10496 (b) a description of the economic benefit of the project to the state and the affected
10497 department;
10498 (c) information concerning the products, services, and supplies currently being
10499 provided by the state, that are similar to the project;
10500 (d) an estimate of the following costs associated with the project:
10501 (i) design;
10502 (ii) implementation;
10503 (iii) operation and maintenance; and
10504 (iv) any other related project cost; and
10505 (e) the name and address of a person who may be contacted for further information
10506 concerning the initial proposal.
10507 (3) A private entity submitting an initial proposal under this section shall pay the fee
10508 required by Section [~~63M-1-2612~~] 63N-13-212 when the initial proposal is submitted.
10509 (4) An initial proposal submitted under this section is a protected record under Title
10510 63G, Chapter 2, Government Records Access and Management Act, until the chief
10511 procurement officer initiates a procurement process in accordance with Section 63G-6a-711.
10512 (5) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
10513 Administrative Rulemaking Act, detailing the portions of an initial proposal that remain
10514 protected after the chief procurement officer initiates a procurement process.
10515 Section 293. Section **63N-13-206**, which is renumbered from Section 63M-1-2606 is
10516 renumbered and amended to read:
10517 **[~~63M-1-2606~~]. 63N-13-206. Review of initial proposal -- Affected**
10518 **department review.**
10519 (1) The committee shall review and evaluate an initial proposal submitted in
10520 accordance with:
10521 (a) this part; and
10522 (b) any rule established by the board under Section [~~63M-1-2603~~] 63N-13-203.
10523 (2) If the committee, in its sole discretion, determines to proceed with the project, the
10524 committee shall submit a copy of the initial proposal to:
10525 (a) the affected department; and
10526 (b) the Governor's Office of Management and Budget.

10527 (3) (a) An affected department, directly affected state entity, and school district
10528 receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial
10529 proposal and provide the committee with any comment, suggestion, or modification to the
10530 project.
10531 (b) After receiving an initial proposal, the Governor's Office of Management and
10532 Budget shall prepare an economic feasibility report containing:
10533 (i) information concerning the economic feasibility and effectiveness of the project
10534 based upon competent evidence;
10535 (ii) a dollar amount representing the total estimated fiscal impact of the project to the
10536 affected department and the state; and
10537 (iii) any other matter the committee requests or is required by the board by rule.
10538 (4) In reviewing an initial proposal, the affected department shall share the initial
10539 proposal with any other state entity or school district that will be directly affected if the
10540 proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.
10541 (5) If the committee determines to proceed with the project, the committee shall submit
10542 a copy of the initial proposal, including any comment, suggestion, or modification to the initial
10543 proposal, to:
10544 (a) the chief procurement officer in accordance with Section 63G-6a-711; and
10545 (b) the Executive Appropriations Committee, for informational purposes.
10546 (6) Before taking any action under Subsection (5), the committee shall consider:
10547 (a) any comment, suggestion, or modification to the initial proposal submitted in
10548 accordance with Subsection (3);
10549 (b) the extent to which the project is practical, efficient, and economically beneficial to
10550 the state and the affected department;
10551 (c) the economic feasibility report prepared by the Governor's Office of Management
10552 and Budget; and
10553 (d) any other reasonable factor identified by the committee or required by the board by
10554 rule.
10555 Section 294. Section **63N-13-207**, which is renumbered from Section 63M-1-2607 is
10556 renumbered and amended to read:
10557 **[~~63M-1-2607~~]. <u>63N-13-207.</u> Acceptance of initial proposal -- Obtaining**

10558 **detailed proposals.**
10559 (1) If an initial proposal is accepted under Section [~~63M-1-2606~~] 63N-13-206, the
10560 chief procurement officer shall:
10561 (a) take action under Section 63G-6a-711 to initiate a procurement process to obtain
10562 one or more detailed proposals using information from portions of the initial proposal that are
10563 not protected records under Title 63G, Chapter 2, Government Records Access and
10564 Management Act;
10565 (b) consult with the committee during the procurement process; and
10566 (c) submit all detailed proposals that meet the guidelines established under Subsection
10567 [~~63M-1-2608~~] 63N-13-208(1), including the detailed proposal submitted by the private entity
10568 that submitted the initial proposal for the project, to:
10569 (i) the committee; and
10570 (ii) the Governor's Office of Management and Budget.
10571 (2) The office is considered the purchasing agency for a procurement process initiated
10572 under this part.
10573 Section 295. Section **63N-13-208**, which is renumbered from Section 63M-1-2608 is
10574 renumbered and amended to read:
10575 **[~~63M-1-2608~~]. 63N-13-208. Detailed proposal -- Requirements --**
10576 **Cooperation of affected department.**
10577 (1) A detailed proposal submitted in response to a procurement process initiated under
10578 Section [~~63M-1-2607~~] 63N-13-207 shall include:
10579 (a) a conceptual description of the project, including the scope of the work;
10580 (b) a description of the economic benefit of the project to the state and the affected
10581 department;
10582 (c) an estimate of the design, implementation, operation, maintenance, or other costs
10583 associated with the project;
10584 (d) information concerning the information technology or telecommunication product
10585 and service or other supply or service currently provided by the state that is similar to the
10586 project being proposed, if applicable;
10587 (e) a statement setting forth the private entity's general plan for financing the project,
10588 including any appropriation by the Legislature or other public money and, if applicable, the

10589 sources of the private entity's funds and identification of any dedicated revenue source or
10590 proposed debt or equity investment on behalf of the private entity;
10591 (f) the name and address of the person who may be contacted for further information
10592 concerning the detailed proposal;
10593 (g) a statement describing the private entity's experience with other similar projects and
10594 a description of why the private entity is best qualified for the project; and
10595 (h) any other information:
10596 (i) reasonably requested by the affected department or the committee, or required by
10597 the board by rule; or
10598 (ii) that the private entity considers necessary or appropriate to complete or describe
10599 the detailed proposal.
10600 (2) To assist each private entity in preparing a detailed proposal:
10601 (a) the affected department shall provide each private entity with access to all
10602 information, records, documents, and reports related to the proposal and the project that are
10603 designated public records under Title 63G, Chapter 2, Government Records Access and
10604 Management Act; and
10605 (b) the affected department and the committee shall cooperate with each private entity
10606 to assist the private entity in the development of a detailed proposal that is:
10607 (i) practical;
10608 (ii) efficient; and
10609 (iii) economically beneficial to the state and the affected department.
10610 (3) The committee or any private entity may choose to terminate the development of
10611 the detailed proposal at any time before the submission of the detailed proposal to the chief
10612 procurement officer under Section 63G-6a-711.
10613 Section 296. Section **63N-13-209**, which is renumbered from Section 63M-1-2609 is
10614 renumbered and amended to read:
10615 **[~~63M-1-2609~~]. 63N-13-209. Receipt of detailed proposals -- Economic**
10616 **feasibility report -- Acceptance of a detailed proposal.**
10617 (1) If the committee, in its sole discretion, determines that a detailed proposal does not
10618 substantially meet the guidelines established under Subsection [~~63M-1-2608~~] 63N-13-208(1),
10619 the committee may elect not to review the detailed proposal.

10620 (2) (a) After receiving a detailed proposal, the Governor's Office of Management and
10621 Budget shall update the economic feasibility report prepared under Section [~~63M-1-2606~~]
10622 63N-13-206.
10623 (b) A detailed proposal that is to be reviewed by the committee shall be submitted to
10624 the affected department, a directly affected state entity, and a directly affected school district
10625 for comment or suggestion.
10626 (3) In determining which, if any, of the detailed proposals to accept, in addition to the
10627 proposal evaluation criteria, the committee shall consider the following factors:
10628 (a) any comment, suggestion, or modification offered in accordance with Subsection
10629 [~~63M-1-2606~~] 63N-13-206(3) or Subsection (2)(b);
10630 (b) the economic feasibility report updated in accordance with Subsection (2)(a);
10631 (c) the source of funding and any resulting constraint necessitated by the funding
10632 source;
10633 (d) any alternative funding proposal;
10634 (e) the extent to which the project is practical, efficient, and economically beneficial to
10635 the state and the affected department; and
10636 (f) any other reasonable factor identified by the committee or required by the board by
10637 rule.
10638 (4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal
10639 shall be submitted to the board for approval.
10640 (b) If the affected department or a directly affected state entity or school district
10641 disputes the detailed proposal approved by the board, the Governor's Office of Management
10642 and Budget shall consider the detailed proposal and any comment, suggestion, or modification
10643 and determine whether to proceed with a project agreement.
10644 (c) If there is no funding for a project that is the subject of a detailed proposal and the
10645 committee determines to proceed with the project, the office shall submit a report to the
10646 Governor's Office of Management and Budget and the Executive Appropriations Committee
10647 detailing the position of the board, the affected department, a directly affected state entity or
10648 school district.
10649 (5) A detailed proposal received from a private entity other than the private entity that
10650 submitted the initial proposal may not be accepted in place of the detailed proposal offered by

10651 the private entity that submitted the initial proposal solely because of a lower cost if the lower
10652 cost is within the amount of the fee paid by the private entity that submitted the initial proposal
10653 for review of the initial proposal.
10654 Section 297. Section **63N-13-210**, which is renumbered from Section 63M-1-2610 is
10655 renumbered and amended to read:
10656 **[~~63M-1-2610~~]. 63N-13-210. Project agreement.**
10657 (1) If the board accepts the detailed proposal, the executive director shall:
10658 (a) prepare a project agreement in consultation with the affected department and any
10659 other state entity directly impacted by the detailed proposal; and
10660 (b) enter into the project agreement with the private entity.
10661 (2) A project agreement shall be signed by the executive director, the affected
10662 department, a directly affected state entity or school district, and the private entity.
10663 (3) A project agreement shall include provisions concerning:
10664 (a) the scope of the project;
10665 (b) the pricing method of the project;
10666 (c) the executive director's or the state's ability to terminate for convenience or for
10667 default, and any termination compensation to be paid to the private entity, if applicable;
10668 (d) the ability to monitor performance under the project agreement;
10669 (e) the appropriate limits of liability;
10670 (f) the appropriate transition of services, if applicable;
10671 (g) the exceptions from applicable rules and procedures for the implementation and
10672 administration of the project by the affected department, if any;
10673 (h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a,
10674 Part 12, Contracts and Change Orders; and
10675 (i) any other matter reasonably requested by the committee or required by the board by
10676 rule.
10677 (4) A copy of the signed project agreement shall be submitted to:
10678 (a) the affected department; and
10679 (b) the Executive Appropriations Committee.
10680 (5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah
10681 Procurement Code.

10682 (6) The affected department shall implement and administer the project agreement in
10683 accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
10684 except as modified by the project agreement under Subsection (3)(g).
10685 Section 298. Section **63N-13-211**, which is renumbered from Section 63M-1-2611 is
10686 renumbered and amended to read:
10687 **[~~63M-1-2611~~]. 63N-13-211. Advisory committee.**
10688 (1) The executive director may appoint an advisory committee comprised of:
10689 (a) representatives of:
10690 (i) the affected department for the proposal;
10691 (ii) a directly affected state entity or school district;
10692 (iii) the Department of Human Resource Management; and
10693 (iv) the Division of Risk Management;
10694 (b) members of the public; and
10695 (c) other members.
10696 (2) A member of an advisory committee may not receive compensation or benefits for
10697 the member's service, but may receive per diem and travel expenses in accordance with:
10698 (a) Section 63A-3-106;
10699 (b) Section 63A-3-107; and
10700 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
10701 63A-3-107.
10702 (3) An advisory committee appointed in accordance with Subsection (1) may not
10703 participate in the final decision-making of the committee or the board.
10704 (4) The staff, any outside consultant, and any advisory subcommittee shall:
10705 (a) provide the committee and the board with professional services, including
10706 architectural, engineering, legal, and financial services, to develop rules and guidelines to
10707 implement the program described in this part; and
10708 (b) assist the committee and the board in:
10709 (i) reviewing and commenting on initial proposals;
10710 (ii) reviewing and commenting on detailed proposals; and
10711 (iii) preparing and negotiating the terms of any project agreement.
10712 Section 299. Section **63N-13-212**, which is renumbered from Section 63M-1-2612 is

10713 renumbered and amended to read:

10714 **[~~63M-1-2612~~]. 63N-13-212. Private Proposal Expendable Special Revenue**
10715 **Fund -- Fees.**

10716 (1) There is created an expendable special revenue fund within the office called the
10717 Private Proposal Expendable Special Revenue Fund.

10718 (2) Money collected from the payment of a fee required by this part shall be deposited
10719 in the Private Proposal Expendable Special Revenue Fund.

10720 (3) The board or the committee may use the money in the Private Proposal Expendable
10721 Special Revenue Fund to offset:

10722 (a) the expense of hiring staff and engaging any outside consultant to review a proposal
10723 under this part; and

10724 (b) any expense incurred by the Governor's Office of Management and Budget or the
10725 affected department in the fulfillment of its duties under this part.

10726 (4) The board shall establish a fee in accordance with Section 63J-1-504 for:

10727 (a) reviewing an initial proposal;

10728 (b) reviewing any detailed proposal; and

10729 (c) preparing any project agreement.

10730 (5) The board may waive the fee established under Subsection (4) if the board
10731 determines that it is:

10732 (a) reasonable; and

10733 (b) in the best interest of the state.

10734 Section 300. Section **79-4-1103** is amended to read:

10735 **79-4-1103. Governor's duties -- Priority of federal property.**

10736 (1) During a fiscal emergency, the governor shall:

10737 (a) if financially practicable, work with the federal government to open and maintain
10738 the operation of one or more national parks, national monuments, national forests, and national
10739 recreation areas in the state, in the order established under this section; and

10740 (b) report to the speaker of the House and the president of the Senate on the need, if
10741 any, for additional appropriations to assist the division in opening and operating one or more
10742 national parks, national monuments, national forests, and national recreation areas in the state.

10743 (2) The director of the Outdoor Recreation Office, created in Section [~~63M-1-3304~~]

10744 63N-9-104, in consultation with the executive director of the Governor's Office of Economic
10745 Development, shall determine, by rule, the priority of national parks, national monuments,
10746 national forests, and national recreation areas in the state.
10747 (3) In determining the priority described in Subsection (2), the director of the Outdoor
10748 Recreation Office shall consider the:
10749 (a) economic impact of the national park, national monument, national forest, or
10750 national recreation area in the state; and
10751 (b) recreational value offered by the national park, national monument, national forest,
10752 or national recreation area.
10753 (4) The director of the Outdoor Recreation Office shall:
10754 (a) report the priority determined under Subsection (2) to the Natural Resources,
10755 Agriculture, and Environment Interim Committee by November 30, 2014; and
10756 (b) annually review the priority set under Subsection (2) to determine whether the
10757 priority list should be amended.
10758 Section 301. **Repealer.**
10759 This bill repeals:
10760 Section **63M-1-204, Organization of office -- Jurisdiction of director.**
10761 Section **63M-1-207, Daylight saving time study.**
10762 Section **63M-1-301, Board of Business and Economic Development.**
10763 Section **63M-1-304, Governor's Office of Economic Development -- Powers and**
10764 **duties of office -- Consulting with board on funds or services provided by office.**
10765 Section **63M-1-801, Creation of shared foreign sales corporations.**
10766 Section **63M-1-802, Management fees.**
10767 Section **63M-1-1301, Title.**
10768 Section **63M-1-1302, Purpose.**
10769 Section **63M-1-1901, Military installation projects for economic development --**
10770 **Funding -- Criteria -- Dispersal -- Report.**
10771 Section **63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment**
10772 **of partial rebates.**