

1 **COMMUNITY AND ECONOMIC DEVELOPMENT**

2 **RESTRUCTURING**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Craig W. Buttars**

7 **LONG TITLE**

8 **General Description:**

9 This bill restructures the Department of Community and Economic Development by
10 transferring the responsibility for economic development and tourism at the state level
11 to a new entity within the governor's office, the Governor's Office of Economic
12 Development.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ restructures the Department of Community and Economic Development by
16 transferring the responsibilities of the Division of Business and Economic
17 Development and the Division of Travel Development to a newly created
18 Governor's Office of Economic Development;
- 19 ▶ transfers from the current Department of Community and Economic Development
20 to the Governor's Office of Economic Development the duty and responsibility to
21 administer the following established programs:
- 22 • the Enterprise Zone Act;
 - 23 • Targeted Business Income Tax Credits within an Enterprise Zone;
 - 24 • Centers of Excellence;
 - 25 • Shared Foreign Sales Corporations;
 - 26 • the Industrial Assistance Fund;
 - 27 • the Recycling Market Development Zone Act;



- 28 • the Utah Venture Capital Enhancement Act;
- 29 • Aerospace and Aviation Development Zones;
- 30 • the Tourism Performance Marketing Fund;
- 31 • the Waste Tire Recycling Industry Assistance Loan Program;
- 32 • the Utah Pioneers Communities Program; and
- 33 • the Rural Development Act;
- 34 ▶ provides for management and administration of the Governor's Office of Economic
- 35 Development by a director appointed by the governor with compensation being set
- 36 by the governor within the salary range fixed by the Legislature in Title 67, Chapter
- 37 22, State Officer Compensation, and provides the director with authority similar to
- 38 that of the executive director of the current Department of Community and
- 39 Economic Development in matters related to economic development and tourism,
- 40 including establishing the office in any fashion considered appropriate by the
- 41 director;
- 42 ▶ renames the Department of Community and Economic Development as the
- 43 Department of Community and Culture, and provides the department with
- 44 responsibility for community and cultural development within the state and the
- 45 coordination of state and local programs related to community and cultural
- 46 development;
- 47 ▶ changes the Board of Business and Economic Development to an advisory board
- 48 while renaming the Board of Travel Development to the Board of Tourism
- 49 Development and keeping it an advisory board;
- 50 ▶ removes the rulemaking authority of entities absorbed into the Governor's Office of
- 51 Economic Development;
- 52 ▶ repeals the position of the Director of the Division of Business and Economic
- 53 Development, the Fusion/Energy Technology Act, and the Community Economic
- 54 Development Project Fund and distribution process for fund moneys;
- 55 ▶ eliminates the Tourism Marketing Performance Fund Committee and the Utah
- 56 Tourism Industry Coalition which nominated members to the Tourism Marketing
- 57 Performance Fund Committee;
- 58 ▶ transfers to the Governor's Office of Economic Development all the powers and

- 59 limitations of a municipality;
- 60 ▶ transfers to the Governor's Office of Economic Development oversight over special
61 service district guaranteed bonds;
- 62 ▶ transfers to the director of the Governor's Office of Economic Development
63 membership on the Hazardous Waste Facilities Authority and the State Council on
64 Workforce Services;
- 65 ▶ provides a representative from the Governor's Office of Economic Development to
66 serve on the Resource Development Coordinating Committee;
- 67 ▶ transfers to the director in the Governor's Office of Economic Development
68 authority to appear before the Public Service Commission regarding the economic
69 impact of any matter;
- 70 ▶ transfers to the Governor's Office of Economic Development oversight over the
71 Economic Incentive Restricted Account;
- 72 ▶ transfers to the Governor's Office of Economic Development the responsibility to
73 provide staff to the Utah Technology Industry Council and its steering committee;
- 74 ▶ provides that employees of the Department of Community and Culture and the
75 Governor's Office of Economic Development whose positions are designated as
76 schedule AM are not considered "state employees" by the Department of Human
77 Resource Management and are exempt from classified service and career service
78 provisions;
- 79 ▶ transfers to the Governor's Office of Economic Development responsibility for input
80 on road-building programs in scenic centers of the state;
- 81 ▶ transfers to the Governor's Office of Economic Development membership on the
82 Utah State Scenic Byway Committee;
- 83 ▶ provides that the Department of Transportation may consult with the Governor's
84 Office of Economic Development in erecting, administering, and maintaining
85 informational signs on the interstate or primary road system;
- 86 ▶ makes employing unit names available to the Governor's Office of Economic
87 Development;
- 88 ▶ transfers to the Governor's Office of Economic Development authority to give input
89 to the Transportation Commission in selecting license plate slogans for the state;

- 90 ▶ transfers to the Governor's Office of Economic Development the responsibility to
- 91 serve as managing partner for the website known as Business.utah.gov;
- 92 ▶ provides that the executive director of the Department of Community and Culture
- 93 shall designate three qualified interim successors in case of emergency;
- 94 ▶ makes conforming changes to boards and programs throughout the Utah Code
- 95 which refer to the Department of Community and Economic Development or its
- 96 executive director by replacing those references with the new titles and designations
- 97 of entities and positions created in this bill; and
- 98 ▶ makes technical changes.

99 **Monies Appropriated in this Bill:**

100 None

101 **Other Special Clauses:**

102 This bill takes effect on July 1, 2005.

103 **Utah Code Sections Affected:**

104 AMENDS:

- 105 **9-1-102**, as enacted by Chapter 241, Laws of Utah 1992
- 106 **9-1-201**, as last amended by Chapter 231, Laws of Utah 2002
- 107 **9-4-304**, as last amended by Chapter 176, Laws of Utah 2002
- 108 **9-4-801**, as last amended by Chapter 22, Laws of Utah 2004
- 109 **9-4-904**, as last amended by Chapter 176, Laws of Utah 2002
- 110 **9-9-104.6**, as enacted by Chapter 55, Laws of Utah 2003
- 111 **10-9-307**, as last amended by Chapter 202, Laws of Utah 2004
- 112 **11-17-1.5**, as last amended by Chapter 73, Laws of Utah 2001
- 113 **11-17-18**, as enacted by Chapter 206, Laws of Utah 1986
- 114 **17-27-307**, as last amended by Chapter 202, Laws of Utah 2004
- 115 **17A-2-1318**, as renumbered and amended by Chapter 186, Laws of Utah 1990
- 116 **19-3-301**, as last amended by Chapter 107, Laws of Utah 2001
- 117 **19-6-807**, as last amended by Chapter 256, Laws of Utah 2002
- 118 **19-6-824**, as last amended by Chapter 256, Laws of Utah 2002
- 119 **19-9-104**, as renumbered and amended by Chapter 184, Laws of Utah 2003
- 120 **35A-1-206**, as last amended by Chapter 1, Laws of Utah 1998

121 **35A-3-103**, as last amended by Chapter 18, Laws of Utah 2004
122 **35A-3-203**, as last amended by Chapter 13, Laws of Utah 2003
123 **35A-3-205**, as last amended by Chapter 13, Laws of Utah 2003
124 **35A-3-309**, as last amended by Chapters 18 and 29, Laws of Utah 2004
125 **35A-4-312**, as last amended by Chapter 135, Laws of Utah 2003
126 **41-1a-405**, as renumbered and amended by Chapter 1, Laws of Utah 1992
127 **46-4-503**, as last amended by Chapters 90 and 120, Laws of Utah 2004
128 **53B-18-1002**, as enacted by Chapter 23, Laws of Utah 2004
129 **59-7-610**, as last amended by Chapter 198, Laws of Utah 2003
130 **59-10-108.7**, as last amended by Chapter 198, Laws of Utah 2003
131 **59-21-2**, as last amended by Chapter 24, Laws of Utah 2003
132 **63-5b-102**, as last amended by Chapters 14 and 159, Laws of Utah 2002
133 **63-38d-502**, as last amended by Chapter 18, Laws of Utah 2004
134 **63-49a-1**, as enacted by Chapter 255, Laws of Utah 1994
135 **63-49a-2**, as enacted by Chapter 255, Laws of Utah 1994
136 **63-49a-3**, as last amended by Chapter 31, Laws of Utah 1995
137 **63-51-10**, as enacted by Chapter 242, Laws of Utah 1981
138 **63A-9-801**, as last amended by Chapter 209, Laws of Utah 2003
139 **63B-5-201**, as last amended by Chapter 73, Laws of Utah 2001
140 **63D-1a-203**, as enacted by Chapter 209, Laws of Utah 2003
141 **67-19-6.7**, as last amended by Chapters 82 and 375, Laws of Utah 1997
142 **67-19-12**, as last amended by Chapter 16, Laws of Utah 2003
143 **67-19-15**, as last amended by Chapter 213, Laws of Utah 1997
144 **67-19c-101**, as last amended by Chapters 82 and 375, Laws of Utah 1997
145 **67-22-2**, as last amended by Chapters 156 and 306, Laws of Utah 2004
146 **72-1-209**, as renumbered and amended by Chapter 270, Laws of Utah 1998
147 **72-4-302**, as enacted by Chapter 172, Laws of Utah 2004
148 **72-7-504**, as last amended by Chapter 166, Laws of Utah 2003
149 **73-10c-3**, as last amended by Chapter 243, Laws of Utah 1996
150 ENACTS:
151 **63-38f-201**, Utah Code Annotated 1953

152 **63-38f-703**, Utah Code Annotated 1953
153 RENUMBERS AND AMENDS:
154 **63-38f-101**, (Renumbered from 9-2-201, as renumbered and amended by Chapter 241,
155 Laws of Utah 1992)
156 **63-38f-102**, (Renumbered from 9-2-102, as enacted by Chapter 241, Laws of Utah
157 1992)
158 **63-38f-202**, (Renumbered from 9-1-204, as last amended by Chapter 176, Laws of Utah
159 2002)
160 **63-38f-203**, (Renumbered from 9-1-205, as last amended by Chapter 352, Laws of Utah
161 2004)
162 **63-38f-204**, (Renumbered from 9-1-206, as renumbered and amended by Chapter 241,
163 Laws of Utah 1992)
164 **63-38f-205**, (Renumbered from 9-1-207, as enacted by Chapter 29, Laws of Utah 1993)
165 **63-38f-301**, (Renumbered from 9-2-202, as renumbered and amended by Chapter 241,
166 Laws of Utah 1992)
167 **63-38f-302**, (Renumbered from 9-2-203, as last amended by Chapter 176, Laws of Utah
168 2002)
169 **63-38f-303**, (Renumbered from 9-2-204, as last amended by Chapter 50, Laws of Utah
170 2000)
171 **63-38f-304**, (Renumbered from 9-2-205, as last amended by Chapter 50, Laws of Utah
172 2000)
173 **63-38f-401**, (Renumbered from 9-2-401, as renumbered and amended by Chapter 241,
174 Laws of Utah 1992)
175 **63-38f-402**, (Renumbered from 9-2-402, as last amended by Chapter 292, Laws of Utah
176 1996)
177 **63-38f-403**, (Renumbered from 9-2-403, as last amended by Chapter 292, Laws of Utah
178 1996)
179 **63-38f-404**, (Renumbered from 9-2-404, as last amended by Chapter 302, Laws of Utah
180 2004)
181 **63-38f-405**, (Renumbered from 9-2-405, as last amended by Chapter 292, Laws of Utah
182 1996)

- 183 **63-38f-406**, (Renumbered from 9-2-406, as last amended by Chapter 292, Laws of Utah
- 184 1996)
- 185 **63-38f-407**, (Renumbered from 9-2-407, as renumbered and amended by Chapter 241,
- 186 Laws of Utah 1992)
- 187 **63-38f-408**, (Renumbered from 9-2-408, as renumbered and amended by Chapter 241,
- 188 Laws of Utah 1992)
- 189 **63-38f-409**, (Renumbered from 9-2-409, as renumbered and amended by Chapter 241,
- 190 Laws of Utah 1992)
- 191 **63-38f-410**, (Renumbered from 9-2-410, as renumbered and amended by Chapter 241,
- 192 Laws of Utah 1992)
- 193 **63-38f-411**, (Renumbered from 9-2-411, as last amended by Chapter 292, Laws of Utah
- 194 1996)
- 195 **63-38f-412**, (Renumbered from 9-2-412, as last amended by Chapter 170, Laws of Utah
- 196 1999)
- 197 **63-38f-413**, (Renumbered from 9-2-413, as last amended by Chapter 155, Laws of Utah
- 198 2001)
- 199 **63-38f-414**, (Renumbered from 9-2-414, as last amended by Chapter 292, Laws of Utah
- 200 1996)
- 201 **63-38f-415**, (Renumbered from 9-2-415, as enacted by Chapter 275, Laws of Utah
- 202 1998)
- 203 **63-38f-416**, (Renumbered from 9-2-416, as enacted by Chapter 302, Laws of Utah
- 204 2004)
- 205 **63-38f-501**, (Renumbered from 9-2-1801, as enacted by Chapter 155, Laws of Utah
- 206 2001)
- 207 **63-38f-502**, (Renumbered from 9-2-1802, as enacted by Chapter 155, Laws of Utah
- 208 2001)
- 209 **63-38f-503**, (Renumbered from 9-2-1803, as last amended by Chapter 198, Laws of
- 210 Utah 2003)
- 211 **63-38f-601**, (Renumbered from 9-2-501, as renumbered and amended by Chapter 241,
- 212 Laws of Utah 1992)
- 213 **63-38f-602**, (Renumbered from 9-2-502, as renumbered and amended by Chapter 241,

214 Laws of Utah 1992)
215 **63-38f-603**, (Renumbered from 9-2-503, as last amended by Chapter 16, Laws of Utah
216 2003)
217 **63-38f-604**, (Renumbered from 9-2-504, as last amended by Chapter 82, Laws of Utah
218 1997)
219 **63-38f-605**, (Renumbered from 9-2-505, as renumbered and amended by Chapter 241,
220 Laws of Utah 1992)
221 **63-38f-606**, (Renumbered from 9-2-506, as last amended by Chapter 16, Laws of Utah
222 2003)
223 **63-38f-607**, (Renumbered from 9-2-507, as renumbered and amended by Chapter 241,
224 Laws of Utah 1992)
225 **63-38f-701**, (Renumbered from 9-2-601, as renumbered and amended by Chapter 241,
226 Laws of Utah 1992)
227 **63-38f-702**, (Renumbered from 9-2-602, as renumbered and amended by Chapter 241,
228 Laws of Utah 1992)
229 **63-38f-704**, (Renumbered from 9-2-603, as renumbered and amended by Chapter 241,
230 Laws of Utah 1992)
231 **63-38f-801**, (Renumbered from 9-2-901, as renumbered and amended by Chapter 241,
232 Laws of Utah 1992)
233 **63-38f-802**, (Renumbered from 9-2-902, as renumbered and amended by Chapter 241,
234 Laws of Utah 1992)
235 **63-38f-901**, (Renumbered from 9-2-1201, as renumbered and amended by Chapter 241,
236 Laws of Utah 1992)
237 **63-38f-902**, (Renumbered from 9-2-1202, as last amended by Chapter 182, Laws of
238 Utah 2004)
239 **63-38f-903**, (Renumbered from 9-2-1203, as last amended by Chapter 182, Laws of
240 Utah 2004)
241 **63-38f-904**, (Renumbered from 9-2-1204, as last amended by Chapter 182, Laws of
242 Utah 2004)
243 **63-38f-905**, (Renumbered from 9-2-1205, as last amended by Chapter 182, Laws of
244 Utah 2004)

- 245 **63-38f-906**, (Renumbered from 9-2-1205.1, as enacted by Chapter 14, Laws of Utah
- 246 2003)
- 247 **63-38f-907**, (Renumbered from 9-2-1205.5, as last amended by Chapter 182, Laws of
- 248 Utah 2004)
- 249 **63-38f-908**, (Renumbered from 9-2-1205.8, as enacted by Chapter 182, Laws of Utah
- 250 2004)
- 251 **63-38f-909**, (Renumbered from 9-2-1207, as last amended by Chapter 14, Laws of Utah
- 252 2003)
- 253 **63-38f-1001**, (Renumbered from 9-2-1401, as enacted by Chapter 153, Laws of Utah
- 254 1992)
- 255 **63-38f-1002**, (Renumbered from 9-2-1402, as enacted by Chapter 153, Laws of Utah
- 256 1992)
- 257 **63-38f-1003**, (Renumbered from 9-2-1403, as enacted by Chapter 153, Laws of Utah
- 258 1992)
- 259 **63-38f-1101**, (Renumbered from 9-2-1601, as enacted by Chapter 236, Laws of Utah
- 260 1996)
- 261 **63-38f-1102**, (Renumbered from 9-2-1602, as enacted by Chapter 236, Laws of Utah
- 262 1996)
- 263 **63-38f-1103**, (Renumbered from 9-2-1603, as last amended by Chapter 65, Laws of
- 264 Utah 2002)
- 265 **63-38f-1104**, (Renumbered from 9-2-1604, as enacted by Chapter 236, Laws of Utah
- 266 1996)
- 267 **63-38f-1105**, (Renumbered from 9-2-1605, as enacted by Chapter 236, Laws of Utah
- 268 1996)
- 269 **63-38f-1106**, (Renumbered from 9-2-1606, as enacted by Chapter 236, Laws of Utah
- 270 1996)
- 271 **63-38f-1107**, (Renumbered from 9-2-1607, as enacted by Chapter 236, Laws of Utah
- 272 1996)
- 273 **63-38f-1108**, (Renumbered from 9-2-1608, as enacted by Chapter 236, Laws of Utah
- 274 1996)
- 275 **63-38f-1109**, (Renumbered from 9-2-1609, as enacted by Chapter 236, Laws of Utah

276 1996)
277 **63-38f-1110**, (Renumbered from 9-2-1610, as last amended by Chapter 1, Laws of Utah
278 2000)
279 **63-38f-1111**, (Renumbered from 9-2-1611, as enacted by Chapter 236, Laws of Utah
280 1996)
281 **63-38f-1112**, (Renumbered from 9-2-1612, as enacted by Chapter 236, Laws of Utah
282 1996)
283 **63-38f-1201**, (Renumbered from 9-2-1901, as enacted by Chapter 291, Laws of Utah
284 2003)
285 **63-38f-1202**, (Renumbered from 9-2-1902, as last amended by Chapter 4, Laws of Utah
286 2003, Second Special Session)
287 **63-38f-1203**, (Renumbered from 9-2-1903, as last amended by Chapter 4, Laws of Utah
288 2003, Second Special Session)
289 **63-38f-1204**, (Renumbered from 9-2-1904, as enacted by Chapter 291, Laws of Utah
290 2003)
291 **63-38f-1205**, (Renumbered from 9-2-1905, as last amended by Chapter 4, Laws of Utah
292 2003, Second Special Session)
293 **63-38f-1206**, (Renumbered from 9-2-1906, as last amended by Chapter 4, Laws of Utah
294 2003, Second Special Session)
295 **63-38f-1207**, (Renumbered from 9-2-1907, as enacted by Chapter 291, Laws of Utah
296 2003)
297 **63-38f-1208**, (Renumbered from 9-2-1908, as enacted by Chapter 291, Laws of Utah
298 2003)
299 **63-38f-1209**, (Renumbered from 9-2-1909, as last amended by Chapter 4, Laws of Utah
300 2003, Second Special Session)
301 **63-38f-1210**, (Renumbered from 9-2-1910, as enacted by Chapter 291, Laws of Utah
302 2003)
303 **63-38f-1211**, (Renumbered from 9-2-1911, as enacted by Chapter 291, Laws of Utah
304 2003)
305 **63-38f-1212**, (Renumbered from 9-2-1912, as last amended by Chapter 4, Laws of Utah
306 2003, Second Special Session)

- 307 **63-38f-1213**, (Renumbered from 9-2-1913, as last amended by Chapter 4, Laws of Utah
- 308 2003, Second Special Session)
- 309 **63-38f-1214**, (Renumbered from 9-2-1914, as last amended by Chapter 4, Laws of Utah
- 310 2003, Second Special Session)
- 311 **63-38f-1215**, (Renumbered from 9-2-1915, as enacted by Chapter 291, Laws of Utah
- 312 2003)
- 313 **63-38f-1216**, (Renumbered from 9-2-1916, as enacted by Chapter 291, Laws of Utah
- 314 2003)
- 315 **63-38f-1217**, (Renumbered from 9-2-1917, as enacted by Chapter 291, Laws of Utah
- 316 2003)
- 317 **63-38f-1218**, (Renumbered from 9-2-1918, as enacted by Chapter 291, Laws of Utah
- 318 2003)
- 319 **63-38f-1219**, (Renumbered from 9-2-1919, as enacted by Chapter 291, Laws of Utah
- 320 2003)
- 321 **63-38f-1220**, (Renumbered from 9-2-1920, as enacted by Chapter 291, Laws of Utah
- 322 2003)
- 323 **63-38f-1221**, (Renumbered from 9-2-1921, as enacted by Chapter 291, Laws of Utah
- 324 2003)
- 325 **63-38f-1222**, (Renumbered from 9-2-1922, as enacted by Chapter 291, Laws of Utah
- 326 2003)
- 327 **63-38f-1223**, (Renumbered from 9-2-1923, as last amended by Chapter 92, Laws of
- 328 Utah 2004)
- 329 **63-38f-1224**, (Renumbered from 9-2-1924, as enacted by Chapter 291, Laws of Utah
- 330 2003)
- 331 **63-38f-1301**, (Renumbered from 9-2-2001, as enacted by Chapter 247, Laws of Utah
- 332 2003)
- 333 **63-38f-1302**, (Renumbered from 9-2-2002, as enacted by Chapter 247, Laws of Utah
- 334 2003)
- 335 **63-38f-1303**, (Renumbered from 9-2-2003, as enacted by Chapter 247, Laws of Utah
- 336 2003)
- 337 **63-38f-1304**, (Renumbered from 9-2-2004, as enacted by Chapter 247, Laws of Utah

338 2003)
339 **63-38f-1305**, (Renumbered from 9-2-2005, as enacted by Chapter 247, Laws of Utah
340 2003)
341 **63-38f-1306**, (Renumbered from 9-2-2006, as enacted by Chapter 247, Laws of Utah
342 2003)
343 **63-38f-1307**, (Renumbered from 9-2-2007, as enacted by Chapter 247, Laws of Utah
344 2003)
345 **63-38f-1308**, (Renumbered from 9-2-2008, as enacted by Chapter 247, Laws of Utah
346 2003)
347 **63-38f-1309**, (Renumbered from 9-2-2009, as enacted by Chapter 247, Laws of Utah
348 2003)
349 **63-38f-1401**, (Renumbered from 9-2-1701, as enacted by Chapter 301, Laws of Utah
350 1997)
351 **63-38f-1402**, (Renumbered from 9-2-1702, as last amended by Chapter 159, Laws of
352 Utah 2001)
353 **63-38f-1403**, (Renumbered from 9-2-1703, as last amended by Chapter 159, Laws of
354 Utah 2001)
355 **63-38f-1404**, (Renumbered from 9-2-1703.5, as last amended by Chapters 16 and 83,
356 Laws of Utah 2003)
357 **63-38f-1405**, (Renumbered from 9-2-1704, as last amended by Chapter 159, Laws of
358 Utah 2001)
359 **63-38f-1406**, (Renumbered from 9-3-201, as last amended by Chapter 109, Laws of
360 Utah 1994)
361 **63-38f-1407**, (Renumbered from 9-3-202, as last amended by Chapter 176, Laws of
362 Utah 2002)
363 **63-38f-1408**, (Renumbered from 9-3-203, as last amended by Chapter 109, Laws of
364 Utah 1994)
365 **63-38f-1409**, (Renumbered from 9-3-204, as last amended by Chapter 207, Laws of
366 Utah 2002)
367 **63-38f-1410**, (Renumbered from 9-3-206, as last amended by Chapter 109, Laws of
368 Utah 1994)

369 **63-38f-1501**, (Renumbered from 9-8-901, as last amended by Chapter 92, Laws of Utah
370 1996)

371 **63-38f-1502**, (Renumbered from 9-8-902, as last amended by Chapter 92, Laws of Utah
372 1996)

373 **63-38f-1503**, (Renumbered from 9-8-903, as last amended by Chapters 92 and 243,
374 Laws of Utah 1996)

375 **63-38f-1504**, (Renumbered from 9-8-904, as last amended by Chapter 92, Laws of Utah
376 1996)

377 **63-38f-1505**, (Renumbered from 9-8-905, as last amended by Chapter 92, Laws of Utah
378 1996)

379 **63-38f-1601**, (Renumbered from 9-16-101, as enacted by Chapter 73, Laws of Utah
380 2004)

381 **63-38f-1602**, (Renumbered from 9-16-102, as enacted by Chapter 73, Laws of Utah
382 2004)

383 **63-38f-1603**, (Renumbered from 9-16-103, as enacted by Chapter 73, Laws of Utah
384 2004)

385 **63-38f-1604**, (Renumbered from 9-16-104, as enacted by Chapter 73, Laws of Utah
386 2004)

387 **63-38f-1605**, (Renumbered from 9-16-105, as enacted by Chapter 73, Laws of Utah
388 2004)

389 **63-38f-1606**, (Renumbered from 9-16-106, as enacted by Chapter 73, Laws of Utah
390 2004)

391 REPEALS:

392 **9-2-206**, as renumbered and amended by Chapter 241, Laws of Utah 1992

393 **9-2-801**, as renumbered and amended by Chapter 241, Laws of Utah 1992

394 **9-2-809**, as last amended by Chapter 10, Laws of Utah 1994

395 **9-2-1501**, as last amended by Chapter 95, Laws of Utah 2000

396 **9-2-1502**, as last amended by Chapter 95, Laws of Utah 2000

397 **9-2-1503**, as enacted by Chapter 301, Laws of Utah 1996

398 **9-2-1504**, as last amended by Chapter 95, Laws of Utah 2000

399 **9-2-1505**, as last amended by Chapter 95, Laws of Utah 2000

- 400 **9-2-1506**, as last amended by Chapter 95, Laws of Utah 2000
- 401 **9-2-1507**, as enacted by Chapter 301, Laws of Utah 1996
- 402 **9-2-1705**, as last amended by Chapter 159, Laws of Utah 2001
- 403 **9-2-1706**, as enacted by Chapter 159, Laws of Utah 2001

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section **9-1-102** is amended to read:

9-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Community and [~~Economic Development~~]
Culture.

(2) "Executive director" means the executive director of the Department of Community
and [~~Economic Development~~] Culture.

Section 2. Section **9-1-201** is amended to read:

Part 2. Department of Community and Culture

**9-1-201. Department of Community and Culture -- Creation -- Powers and
duties.**

(1) There is created the Department of Community and [~~Economic Development~~]
Culture.

(2) The department shall:

(a) be responsible for community and [~~economic~~] cultural development within the
state;

(b) perform [~~economic~~] community and cultural development planning for the state;

(c) coordinate the program plans of the various divisions within the department;

(d) administer and coordinate all state or federal grant programs which are, or become,
available for community and [~~economic~~] cultural development;

(e) administer any other programs over which the department is given administrative
supervision by the governor;

(f) annually submit a report to the governor and the Legislature; and

431 (g) perform any other duties as provided by the Legislature.

432 (3) The department may solicit and accept contributions of moneys, services, and
433 facilities from any other sources, public or private, but may not use these funds for publicizing
434 the exclusive interest of the donor.

435 (4) Moneys received pursuant to Subsection (3) shall be deposited in the General Fund
436 as restricted revenues of the department.

437 Section 3. Section **9-4-304** is amended to read:

438 **9-4-304. Permanent Community Impact Fund Board created -- Members --**

439 **Terms -- Chair -- Expenses.**

440 (1) There is created within the Department of Community and [Economic
441 Development] Culture the Permanent Community Impact Fund Board composed of 11
442 members as follows:

443 (a) the chair of the Board of Water Resources or the chair's designee;

444 (b) the chair of the Water Quality Board or the chair's designee;

445 (c) the director of the department or the director's designee;

446 (d) the chair of the State Board of Education or the chair's designee;

447 (e) the chair of the State Board of Regents or the chair's designee;

448 (f) the state treasurer;

449 (g) the chair of the Transportation Commission or the chair's designee;

450 (h) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

451 (i) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or
452 Wayne County;

453 (j) a locally elected official who resides in Duchesne, Daggett, or Uintah County; and

454 (k) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or
455 Kane County.

456 (2) (a) The members specified under Subsections (1)(h) through [(1)](k) shall be:

457 (i) nominated by the Board of Directors of the Southeastern Association of
458 Governments, Central Utah Association of Governments, Uintah Basin Association of
459 Governments, and Southwestern Association of Governments, respectively; and

460 (ii) appointed by the governor with the consent of the Senate.

461 (iii) Except as required by Subsection (2)(a)(iv), as terms of current board members

462 expire, the governor shall appoint each new member or reappointed member to a four-year
463 term.

464 (iv) Notwithstanding the requirements of Subsection (2)(a)(iii), the governor shall, at
465 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
466 board members are staggered so that approximately half of the board is appointed every two
467 years.

468 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
469 appointed for the unexpired term.

470 (3) The terms of office for the members of the impact board specified under
471 Subsections (1)(a) through ~~(f)~~(g) shall run concurrently with the terms of office for the
472 councils, boards, committees, commission, departments, or offices from which the members
473 come.

474 (4) The executive director of the department, or the executive director's designee, shall
475 be the chair of the impact board.

476 (5) (a) (i) Members who are not government employees shall receive no compensation
477 or benefits for their services, but may receive per diem and expenses incurred in the
478 performance of the member's official duties at the rates established by the Division of Finance
479 under Sections 63A-3-106 and 63A-3-107.

480 (ii) Members may decline to receive per diem and expenses for their service.

481 (b) (i) State government officer and employee members who do not receive salary, per
482 diem, or expenses from their agency for their service may receive per diem and expenses
483 incurred in the performance of their official duties from the board at the rates established by the
484 Division of Finance under Sections 63A-3-106 and 63A-3-107.

485 (ii) State government officer and employee members may decline to receive per diem
486 and expenses for their service.

487 (c) (i) Higher education members who do not receive salary, per diem, or expenses
488 from the entity that they represent for their service may receive per diem and expenses incurred
489 in the performance of their official duties from the committee at the rates established by the
490 Division of Finance under Sections 63A-3-106 and 63A-3-107.

491 (ii) Higher education members may decline to receive per diem and expenses for their
492 service.

493 (d) (i) Local government members who do not receive salary, per diem, or expenses
494 from the entity that they represent for their service may receive per diem and expenses incurred
495 in the performance of their official duties at the rates established by the Division of Finance
496 under Sections 63A-3-106 and 63A-3-107.

497 (ii) Local government members may decline to receive per diem and expenses for their
498 service.

499 Section 4. Section **9-4-801** is amended to read:

500 **9-4-801. Creation.**

501 (1) There is created the Homeless Coordinating Committee.

502 (2) (a) The committee shall consist of the state planning coordinator, the state
503 superintendent of public instruction, the chair of the board of trustees of the Utah Housing
504 Corporation, and the executive directors of the Department of Human Services, the Department
505 of Corrections, the Department of Community and [~~Economic Development~~] Culture, the
506 Department of Workforce Services, and the Department of Health, or their designees.

507 (b) The governor shall appoint the chair from among these members.

508 (3) The governor may also appoint as members of the committee representatives of
509 local governments, local housing authorities, local law enforcement agencies, and of federal
510 and private agencies and organizations concerned with the homeless, mentally ill, elderly,
511 single-parent families, substance abusers, and persons with a disability.

512 (4) (a) Except as required by Subsection (4)(b), as terms of current committee members
513 expire, the governor shall appoint each new member or reappointed member to a four-year
514 term.

515 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
516 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
517 committee members are staggered so that approximately half of the committee is appointed
518 every two years.

519 (c) A person appointed under this Subsection (4) may not be appointed to serve more
520 than three consecutive terms.

521 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
522 appointed for the unexpired term.

523 (6) (a) (i) Members who are not government employees shall receive no compensation

524 or benefits for their services, but may receive per diem and expenses incurred in the
525 performance of the member's official duties at the rates established by the Division of Finance
526 under Sections 63A-3-106 and 63A-3-107.

527 (ii) Members may decline to receive per diem and expenses for their service.

528 (b) (i) State government officer and employee members who do not receive salary, per
529 diem, or expenses from their agency for their service may receive per diem and expenses
530 incurred in the performance of their official duties from the committee at the rates established
531 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

532 (ii) State government officer and employee members may decline to receive per diem
533 and expenses for their service.

534 (c) (i) Local government members who do not receive salary, per diem, or expenses
535 from the entity that they represent for their service may receive per diem and expenses incurred
536 in the performance of their official duties at the rates established by the Division of Finance
537 under Sections 63A-3-106 and 63A-3-107.

538 (ii) Local government members may decline to receive per diem and expenses for their
539 service.

540 Section 5. Section **9-4-904** is amended to read:

541 **9-4-904. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum**
542 **-- Per diem and expenses.**

543 (1) (a) There is created an independent body politic and corporate, constituting a public
544 corporation, known as the "Utah Housing Corporation."

545 (b) The corporation may also be known and do business as the:

546 (i) Utah Housing Finance Association; and

547 (ii) Utah Housing Finance Agency in connection with any contract entered into when
548 that was the corporation's legal name.

549 (c) Any other entity may not use the names described in Subsections (1)(a) and (b)
550 without the express approval of the corporation.

551 (2) The corporation shall be governed by a board of trustees composed of the following
552 nine trustees:

553 (a) three ex officio trustees who shall be:

554 (i) the executive director of the Department of Community and [Economic

555 Development] Culture;

556 (ii) the commissioner of the Department of Financial Institutions or his designee; and

557 (iii) the state treasurer or his designee; and

558 (b) six public trustees, being private citizens of the state, as follows:

559 (i) two people representing the mortgage lending industry;

560 (ii) two people representing the home building and real estate industry; and

561 (iii) two people representing the public at large.

562 (3) The governor shall:

563 (a) appoint the six public trustees of the corporation with the consent of the Senate; and

564 (b) ensure that:

565 (i) the six public trustees are from different counties and are residents of Utah; and

566 (ii) not more than three of the public trustees belong to the same political party.

567 (4) (a) Except as required by Subsection (4)(b), the six public trustees shall be
568 appointed to terms of office of four years each.

569 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
570 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
571 corporation trustees are staggered so that approximately half of the board is appointed every
572 two years.

573 (5) (a) Any of the six public trustees of the corporation may be removed from office for
574 cause either by the governor or by an affirmative vote of any six trustees of the corporation.

575 (b) When a vacancy occurs in the board of trustees for any reason, the replacement
576 shall be appointed for the unexpired term.

577 (c) Each public trustee shall hold office for the term of his appointment and until his
578 successor has been appointed and qualified.

579 (d) Any public trustee is eligible for reappointment but may not serve more than two
580 full consecutive terms.

581 (6) (a) The governor shall select the chair of the corporation.

582 (b) The trustees shall elect from among their number a vice chair and other officers
583 they may determine.

584 (7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

585 An affirmative vote of at least five trustees is necessary for any action to be taken by the

586 corporation.

587 (b) A vacancy in the board of trustees may not impair the right of a quorum to exercise
588 all rights and perform all duties of the corporation.

589 (8) (a) (i) Trustees who are not government employees may not receive compensation
590 or benefits for their services, but may receive a reasonable per diem and reimbursement
591 expenses incurred in the performance of the trustee's official duties at the rates established by
592 the board of trustees.

593 (ii) Trustees may decline to receive per diem and expenses for their service.

594 (b) (i) State government officer and employee trustees who do not receive salary, per
595 diem, or expenses from their agency for their service may receive per diem and expenses
596 incurred in the performance of their official duties from the corporation at the rates established
597 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

598 (ii) State government officer and employee trustees may decline to receive per diem
599 and expenses for their service.

600 Section 6. Section **9-9-104.6** is amended to read:

601 **9-9-104.6. Participation of state agencies in meetings with tribal leaders.**

602 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the
603 division shall coordinate with representatives of tribal governments and the entities listed in
604 Subsection (2) to provide for the broadest participation possible in the joint meetings.

605 (2) The following may participate in all meetings described in Subsection (1):

606 (a) the chairs of the Native American Legislative Liaison Committee created in Section
607 36-22-1;

608 (b) the governor or the governor's designee;

609 (c) a representative appointed by the chief administrative officer of the following:

610 (i) the Department of Health;

611 (ii) the Department of Human Services;

612 (iii) the Department of Workforce Services;

613 (iv) the State Office of Education; and

614 (v) the State Board of Regents.

615 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

616 (i) designate [~~by no later than July 1, 2003~~] the name of a contact person for that

617 agency that can assist in coordinating the efforts of state and tribal governments in meeting the
618 needs of the Native Americans residing in the state; and

619 (ii) notify the division:

620 (A) who is the designated contact person described in Subsection (3)(a)(i); and

621 (B) of any change in who is the designated contact person described in Subsection
622 (3)(a)(i).

623 (b) This Subsection (3) applies to the:

624 (i) Department of Agriculture and Food;

625 (ii) Department of Community and [~~Economic Development~~] Culture;

626 (iii) Department of Corrections;

627 (iv) Department of Environmental Quality;

628 (v) Department of Natural Resources;

629 (vi) Department of Public Safety;

630 (vii) Department of Transportation;

631 (viii) Office of the Attorney General; and

632 (ix) State Tax Commission.

633 (c) At the request of the division, a contact person listed in Subsection (3)(b) may
634 participate in a meeting described in Subsection (1).

635 (4) (a) Salaries and expenses of a legislator participating in accordance with this
636 section in a meeting described in Subsection (1) shall be paid in accordance with Section
637 36-2-2 and Joint Rule 15.03.

638 (b) A state government officer or employee may receive per diem and expenses at the
639 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 for
640 participating in a meeting described in Subsection (1) if the officer or employee:

641 (i) participates in the meeting in accordance with this section; and

642 (ii) does not receive salary, per diem, or expenses from the officer's or employee's
643 agency for participating in the meeting.

644 (c) A state government officer or employee that participates in a meeting described in
645 Subsection (1) may decline to receive per diem and expenses for participating in the meeting.

646 Section 7. Section **10-9-307** is amended to read:

647 **10-9-307. Plans for moderate income housing.**

648 (1) The availability of moderate income housing is an issue of statewide concern. To
649 this end:

650 (a) cities should afford a reasonable opportunity for a variety of housing, including
651 moderate income housing, to meet the needs of people desiring to live there; and

652 (b) moderate income housing should be encouraged to allow persons with moderate
653 incomes to benefit from and to fully participate in all aspects of neighborhood and community
654 life.

655 (2) As used in this section:

656 (a) "Moderate income housing" means housing occupied or reserved for occupancy by
657 households with a gross household income equal to or less than 80% of the median gross
658 income for households of the same size in the county in which the city is located.

659 (b) "Plan for moderate income housing" or "plan" means a written document adopted
660 by a city legislative body that includes:

661 (i) an estimate of the existing supply of moderate income housing located within the
662 city;

663 (ii) an estimate of the need for moderate income housing in the city for the next five
664 years as revised biennially;

665 (iii) a survey of total residential zoning;

666 (iv) an evaluation of how existing zoning densities affect opportunities for moderate
667 income housing; and

668 (v) a description of the city's program to encourage an adequate supply of moderate
669 income housing.

670 (3) The legislative body of each city shall, as part of its general plan, adopt a plan for
671 moderate income housing within that city.

672 (4) A plan may provide moderate income housing by any means or combination of
673 techniques which provide a realistic opportunity to meet estimated needs. The plan may include
674 an analysis of why the means or techniques selected provide a realistic opportunity to meet the
675 objectives of this section. [~~Such~~] The techniques may include:

676 (a) rezoning for densities necessary to assure the economic viability of inclusionary
677 developments, either through mandatory set asides or density bonuses;

678 (b) infrastructure expansion and rehabilitation that will facilitate the construction of

679 moderate income housing;

680 (c) rehabilitation of existing uninhabitable housing stock;

681 (d) consideration of waiving construction related fees generally imposed by the city;

682 (e) utilization of state or federal funds or tax incentives to promote the construction of

683 moderate income housing;

684 (f) utilization of programs offered by the Utah Housing Corporation within that

685 agency's funding capacity; and

686 (g) utilization of affordable housing programs administered by the Department of

687 Community and [~~Economic Development~~] Culture.

688 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the

689 legislative body of each city shall biennially:

690 (i) review the plan and its implementation; and

691 (ii) prepare a report setting forth the findings of the review.

692 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

693 (i) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to

694 moderate income housing;

695 (ii) actions taken by the city to encourage preservation of existing moderate income

696 housing and development of new moderate income housing;

697 (iii) progress made within the city to provide moderate income housing, as measured

698 by permits issued for new units of moderate income housing; and

699 (iv) efforts made by the city to coordinate moderate income housing plans and actions

700 with neighboring municipalities.

701 (c) The legislative body of each city shall send a copy of the report under Subsection

702 (5)(a)(ii) to the Department of Community and [~~Economic Development~~] Culture and the

703 association of governments in which the city is located.

704 (6) In a civil action seeking enforcement or claiming a violation of this section, a

705 plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

706 Section 8. Section **11-17-1.5** is amended to read:

707 **11-17-1.5. Purpose of chapter.**

708 (1) (a) The purposes of this chapter are to stimulate the economic growth of the state,

709 to promote employment and achieve greater industrial development in the state, to maintain or

710 enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities
711 and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell
712 projects for the purpose of reducing, abating, or preventing pollution and to protect and
713 promote the health, welfare, and safety of the citizens of the state and to improve local health
714 and the general welfare by inducing corporations, persons, or entities engaged in health care
715 services, including hospitals, nursing homes, extended care facilities, facilities for the care of
716 persons with a physical or mental disability, and administrative and support facilities, to locate,
717 relocate, modernize, or expand in this state and to assist in the formation of investment capital
718 with respect thereto.

719 (b) The Legislature [~~hereby finds and~~] declares that the acquisition or financing, or
720 both, of projects under the Utah Industrial Facilities and Development Act and the issuance of
721 bonds under it constitutes a proper public purpose.

722 (2) (a) It is declared that the policy of the state is to encourage the development of free
723 enterprise and entrepreneurship for the purpose of the expansion of employment opportunities
724 and economic development.

725 (b) It is [~~found and~~] declared that there exists in the state an inadequate amount of
726 locally managed, pooled venture capital in the private sector available to invest in early stage
727 businesses having high growth potential and that can provide jobs for Utah citizens.

728 (c) It is found that venture capital is required for healthy economic development of
729 sectors of the economy having high growth and employment potential.

730 (d) It is further found that the public economic development purposes of the state and
731 its counties and municipalities can be fostered by the sale of industrial revenue bonds for the
732 purpose of providing funding for locally managed, pooled new venture and economic
733 development funds in accordance with the provisions of this [~~act~~] chapter.

734 (e) It is [~~found and~~] declared that in order to assure adequate investment of private
735 capital for these uses, cooperation between private enterprise and state and local government is
736 necessary and in the public interest and that the facilitation of capital accumulation is the
737 appropriate activity of the counties and municipalities of this state and also of the [~~Utah~~
738 ~~Division of Business and Economic Development, a division of the Utah Department of~~
739 ~~Community and Economic Development~~] Governor's Office of Economic Development.

740 (f) It is found that venture capital funds historically, because of the more intensive

741 nature of their relationship with companies in which they invest, tend to concentrate their
742 investments within a relatively close geographical area to their headquarters location.

743 (g) It is found and declared that investors in economic development or new venture
744 investment funds require for the overall security of their investments reasonable diversification
745 of investment portfolios and that, in the course of this diversification, investments are often
746 syndicated or jointly made among several financial institutions or funds. It is expressly found
747 and declared that an economic development or new venture investment fund must from time to
748 time for its optimal profitability and efficiency (which are important for the security and profit
749 of bond purchasers providing funds therefor) cooperate with others who may be located outside
750 [~~the state~~] of Utah or the county or municipality where the fund is headquartered in the making
751 of investments and that the fund must be free in the interests of reciprocal relationships with
752 other financial institutions and diversification of risks to invest from time to time in enterprises
753 that are located outside of Utah or the counties or municipalities. It is specifically found that
754 such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds
755 sold under this chapter, is within the public purposes of the state and any county or
756 municipality offering the bonds, provided that the fund locates within [~~the state of~~] Utah or the
757 county or municipality its headquarters where its actual investment decisions and management
758 functions occur and limits the aggregate amount of its investments in companies located
759 outside of Utah to an amount that in the aggregate does not exceed the aggregate amount of
760 investments made by institutions and funds located outside of Utah in Utah companies, that the
761 locally managed fund has sponsored or in which it has invested and that it has brought to the
762 attention of investors outside of Utah.

763 Section 9. Section **11-17-18** is amended to read:

764 **11-17-18. Powers of Governor's Office of Economic Development.**

765 For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation
766 Act, the [~~Division of Business and Economic Development, a division of the Department of~~
767 ~~Community and Economic Development~~] Governor's Office of Economic Development, has
768 all the powers set out in this chapter of, and is subject to the same limitations as, a municipality
769 as though the [~~division~~] office were defined as a municipality for purposes of this chapter, but
770 it shall have such powers with respect to economic development or new venture investment
771 fund projects only. It is not authorized to exercise such powers in any manner which will

772 create general obligations of the state [~~of Utah~~] or any agency, department, division, or political
773 subdivision thereof. [~~For purposes of this chapter, its governing body is deemed to be the~~
774 ~~Board of Business and Economic Development of the Division of Business and Economic~~
775 ~~Development.~~]

776 Section 10. Section **17-27-307** is amended to read:

777 **17-27-307. Plans for moderate income housing.**

778 (1) The availability of moderate income housing is an issue of statewide concern. To
779 this end:

780 (a) counties should afford a reasonable opportunity for a variety of housing, including
781 moderate income housing, to meet the needs of people desiring to live there; and

782 (b) moderate income housing should be located in all areas of a community to allow
783 persons with moderate incomes to benefit from and to fully participate in all aspects of
784 neighborhood and community life.

785 (2) As used in this section:

786 (a) "Moderate income housing" means housing occupied or reserved for occupancy by
787 households with a gross household income equal to or less than 80% of the median gross
788 income of the county statistical area for households of the same size.

789 (b) "Plan for moderate income housing" or "plan" means a written document adopted
790 by a county legislative body that includes, but is not limited to:

791 (i) an estimate of the existing supply of moderate income housing located within the
792 county;

793 (ii) an estimate of the need for moderate income housing in that county for the next
794 five years as revised biennially;

795 (iii) a survey of total residential zoning;

796 (iv) an evaluation of how existing zoning densities affect opportunities for moderate
797 income housing; and

798 (v) a description of the county's program to encourage an adequate supply of moderate
799 income housing.

800 (3) [~~Before December 31, 1998, each~~] Each county legislative body shall, as part of its
801 general plan, adopt a plan for moderate income housing within the unincorporated areas of that
802 county.

803 (4) (a) A plan may provide for moderate income housing by any means or combination
804 of techniques which provide a realistic opportunity to meet estimated needs.

805 (b) The plan may include an analysis of why the means or techniques selected provide
806 a realistic opportunity to meet the objectives of this section. [~~Such~~]

807 (c) The techniques may include:

808 [~~(a)~~] (i) rezoning for densities necessary to assure the economic viability of
809 inclusionary developments, either through mandatory set asides or density bonuses;

810 [~~(b)~~] (ii) infrastructure expansion and rehabilitation that will facilitate the construction
811 of moderate income housing;

812 [~~(c)~~] (iii) rehabilitation of existing uninhabitable housing stock;

813 [~~(d)~~] (iv) consideration of waiving construction related fees generally imposed by the
814 county;

815 [~~(e)~~] (v) utilization of state or federal funds or tax incentives to promote the
816 construction of moderate income housing;

817 [~~(f)~~] (vi) utilization of programs offered by the Utah Housing Corporation within that
818 agency's funding capacity; and

819 [~~(g)~~] (vii) utilization of affordable housing programs administered by the Department
820 of Community and [~~Economic Development~~] Culture.

821 (5) (a) After adoption of a plan for moderate income housing under Subsection (3), the
822 legislative body of each county with a population over 25,000 shall biennially:

823 (i) review the plan and its implementation; and

824 (ii) prepare a report setting forth the findings of the review.

825 (b) Each report under Subsection (5)(a)(ii) shall include a description of:

826 (i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers
827 to moderate income housing;

828 (ii) actions taken by the county to encourage preservation of existing moderate income
829 housing and development of new moderate income housing;

830 (iii) progress made within the county to provide moderate income housing, as
831 measured by permits issued for new units of moderate income housing; and

832 (iv) efforts made by the county to coordinate moderate income housing plans and
833 actions with neighboring counties.

834 (c) The legislative body of each county with a population over 25,000 shall send a copy
835 of the report under Subsection (5)(a)(ii) to the Department of Community and ~~Economic~~
836 ~~Development~~ Culture and the association of governments in which the county is located.

837 (6) In a civil action seeking enforcement or claiming a violation of this section, a
838 plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

839 Section 11. Section **17A-2-1318** is amended to read:

840 **17A-2-1318. Guaranteed bonds.**

841 (1) Guaranteed bonds may be issued in addition to and in excess of the 12% limitation
842 provided for in Section 17A-2-1317, but only upon the conditions provided for in Subsections
843 (2) and (3).

844 (2) There shall have been filed with and approved by the [~~Department of Community~~
845 ~~and~~] Governor's Office of Economic Development the following:

846 (a) a report to the service district proposing to issue the guaranteed bonds from
847 qualified registered architects or engineers or other persons qualified by experience as may be
848 appropriate to the project involved, setting forth:

849 (i) the estimated or, if available, the actual cost of acquisition, construction, and
850 equipment of the project financed or to be financed including a description of the project;

851 (ii) the principal amount of guaranteed bonds to be issued, the date and amount of each
852 stated maturity of them and, set forth separately, the same information with respect to any
853 guaranteed bonds of the service district as may be outstanding, including as to such outstanding
854 guaranteed bonds the rates of interest they bear;

855 (iii) the amount and the estimated amount of the annual debt service for each year
856 during the life of all guaranteed bonds issued and then intended to be issued to finance all or
857 any part of the project; and

858 (iv) the date or estimated date of the completion of the project;

859 (b) a copy, certified by the recording officer of the governing authority of the service
860 district of the proposed guarantee by one or more taxpayers owning property within the
861 boundaries of the service district of debt service on the guaranteed bonds, together with an
862 opinion of counsel to the effect that the guarantee, when executed, will be the legal and binding
863 obligation of the taxpayer or taxpayers in accordance with its tenor and terms; and

864 (c) evidence satisfactory to the [~~Department of Community and~~] Governor's Office of

865 Economic Development from the taxpayer or taxpayers guaranteeing the bonds as to the
866 financial ability of the taxpayer or taxpayers to perform under the guarantee.

867 (3) If the [~~Department of Community and~~ Governor's Office of Economic
868 Development [~~shall approve~~] approves the issuance of the guaranteed bonds, it shall indicate its
869 approval upon a duplicate original of the proceedings and return the same to the service
870 district. Upon the filing of this approval in the office of the county recorder in which the
871 governing authority is located, the principal amount of guaranteed bonds may be issued, but
872 only upon compliance with the election requirements of Section 17A-2-1322.

873 (4) If the principal amount of any guaranteed bonds which having once been issued,
874 remain outstanding but by their terms no longer enjoy the benefit of the guarantee, shall be
875 included in the determination of bonded indebtedness for the purpose of the 12% limitation
876 contained in Section 17A-2-1317. The service district shall on July 1st of each year file with
877 the department of community affairs a report certifying:

878 (a) the total amount of bonds and other debt then outstanding and subject to the 12%
879 limitation of Section 17A-2-1317;

880 (b) the total amount of guaranteed bonds then outstanding and not subject to such 12%
881 limitation; and

882 (c) the total amount of bonds which, during the preceding 12 months, were deemed by
883 their terms to no longer enjoy the benefit of the guarantee.

884 Section 12. Section **19-3-301** is amended to read:

885 **19-3-301. Restrictions on nuclear waste placement in state.**

886 (1) The placement, including transfer, storage, decay in storage, treatment, or disposal,
887 within the exterior boundaries of Utah of high-level nuclear waste or greater than class C
888 radioactive waste is prohibited.

889 (2) Notwithstanding Subsection (1) the governor, after consultation with the county
890 executive and county legislative body of the affected county and with concurrence of the
891 Legislature, may specifically approve the placement as provided in this part, but only if:

892 (a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the
893 Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A.
894 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear
895 waste or greater than class C radioactive waste; and

896 (ii) the authority of the federal Nuclear Regulatory Commission to grant a license
897 under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent
898 jurisdiction; or

899 (b) an agency of the federal government is transporting the waste, and all state and
900 federal requirements to proceed with the transportation have been met.

901 (3) The requirement for the approval of a final court of competent jurisdiction shall be
902 met in all of the following categories, in order for a state license proceeding regarding waste to
903 begin:

904 (a) transfer or transportation, by rail, truck, or other mechanisms;

905 (b) storage, including any temporary storage at a site away from the generating reactor;

906 (c) decay in storage;

907 (d) treatment; and

908 (e) disposal.

909 (4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category
910 listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the
911 governor, with the concurrence of the attorney general, shall certify in writing to the executive
912 director of the Department of Environmental Quality that all of the requirements have been
913 met, and that any necessary state licensing processes may begin.

914 (b) Separate certification under this Subsection (4) shall be given for each category in
915 Subsection (3).

916 (5) (a) The department shall make, by rule, a determination of the dollar amount of the
917 health and economic costs expected to result from a reasonably foreseeable accidental release
918 of waste involving a transfer facility or storage facility, or during transportation of waste,
919 within the exterior boundaries of the state. The department may initiate rulemaking under this
920 Subsection (5)(a) on or after March 15, 2001.

921 (b) (i) The department shall also determine the dollar amount currently available to
922 cover the costs as determined in Subsection (5)(a):

923 (A) under nuclear industry self-insurance;

924 (B) under federal insurance requirements; and

925 (C) in federal monies.

926 (ii) The department may not include any calculations of federal monies that may be

927 appropriated in the future in determining the amount under Subsection (5)(b)(i).

928 (c) The department shall use the information compiled under Subsections (5)(a) and (b)
929 to determine the amount of unfunded potential liability in the event of a release of waste from a
930 storage or transfer facility, or a release during the transportation of waste.

931 (6) (a) State agencies may not, for the purpose of providing any goods, services, or
932 municipal-type services to a storage facility or transfer facility, or to any organization engaged
933 in the transportation of waste, enter into any contracts or any other agreements prior to:

934 (i) the satisfaction of the conditions in Subsection (4); and

935 (ii) the executive director of the department having certified that the requirements of
936 Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application
937 proceeding for a storage facility or transfer facility.

938 (b) Political subdivisions of the state may not enter into any contracts or any other
939 agreements for the purpose of providing any goods, services, or municipal-type services to a
940 storage facility or transfer facility, or to any organization engaged in the transportation of
941 waste.

942 (c) This Subsection (6) does not prohibit a state agency from exercising the regulatory
943 authority granted to it by law.

944 (7) (a) Notwithstanding any other provision of law, any political subdivision may not
945 be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or
946 municipal-type services to a storage facility or transfer facility prior to the satisfaction of the
947 conditions in Subsection (4). These political subdivisions include:

948 (i) a cooperative;

949 (ii) a special district authorized by Title 17A, Special Districts;

950 (iii) a limited purpose local governmental entities authorized by Title 17, Counties;

951 (iv) any joint power agreement authorized by Title 11, Cities, Counties, and Local
952 Taxing Units; and

953 (v) the formation of a municipality, or any authority of a municipality authorized by
954 Title 10, Utah Municipal Code.

955 (b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision
956 authorized and formed under the laws of the state on or after March 15, 2001 which
957 subsequently contracts to, or in any manner agrees to provide, or does provide goods, services,

958 or municipal-type services to a storage facility or transfer facility is formed in violation of
959 Subsection (7)(a).

960 (ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political
961 subdivision are considered to have knowingly violated a provision of this part, and the
962 penalties of Section 19-3-312 apply.

963 (8) (a) An organization may not be formed for the purpose of providing any goods,
964 services, or municipal-type services to a storage facility or transfer facility prior to:

965 (i) the satisfaction of the conditions in Subsection (4); and

966 (ii) the executive director of the department having certified that the requirements of
967 Sections 19-3-304 through 19-3-308 have been met.

968 (b) A foreign organization may not be registered to do business in the state for the
969 purpose of providing any goods, services, or municipal-type services to a storage facility or
970 transfer facility prior to:

971 (i) the satisfaction of the conditions in Subsection (4); and

972 (ii) the executive director of the department having certified that the requirements of
973 Sections 19-3-304 through 19-3-308 have been met.

974 (c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

975 (i) the formation of a new organization or registration of a foreign organization within
976 the state, any of whose purposes are to provide goods, services, or municipal-type services to a
977 storage facility or transfer facility may not be licensed or registered in the state, and the local or
978 foreign organization is void and does not have authority to operate within the state;

979 (ii) any organization which is formed or registered on or after March 15, 2001, and
980 which subsequently contracts to, or in any manner agrees to provide, or does provide goods,
981 services, or municipal-type services to a storage facility or transfer facility has been formed or
982 registered in violation of Subsection (8)(a) or (b) respectively; and

983 (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the
984 organization or the principals of the foreign organization, are considered to have knowingly
985 violated a provision of this part, and are subject to the penalties in Section 19-3-312.

986 (9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type
987 services to any organization engaging in, or attempting to engage in the placement of high-level
988 nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility

989 within the state are declared to be against the greater public interest, health, and welfare of the
990 state, by promoting an activity which has the great potential to cause extreme public harm.

991 (ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or
992 informal, are declared to be void from inception, agreement, or execution as against public
993 policy.

994 (b) (i) Any contract or other agreement to provide goods, services, or municipal-type
995 services to storage or transfer facilities may not be executed within the state.

996 (ii) Any contract or other agreement, existing or executed on or after March 15, 2001,
997 is considered void from the time of agreement or execution.

998 (10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual
999 transaction fee of 75% of the gross value of the contract to the party providing the goods,
1000 services, or municipal-type services to the storage facility or transfer facility or transportation
1001 entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or
1002 before the last day of each month in accordance with rules established under Subsection
1003 (10)(d), and as follows:

1004 (i) 25% of the gross value of the contract to the department; and

1005 (ii) 50% of the gross value of the contract to the Department of Community and
1006 ~~[Economic Development]~~ Culture, to be used by the Utah Division of Indian Affairs as
1007 provided in Subsection (11).

1008 (b) Contracts and agreements subject to the fee under Subsection (10)(a) are those
1009 contracts and agreements to provide goods, services, or municipal-type services to a storage or
1010 transfer facility, or to any organization engaged in the transportation of high-level nuclear
1011 waste or greater than class C radioactive waste to a transfer facility or storage facility, and
1012 which:

1013 (i) are in existence on March 15, 2001; or

1014 (ii) become effective notwithstanding Subsection (9)(a).

1015 (c) Any governmental agency which regulates the charges to consumers for services
1016 provided by utilities or other organizations shall require the regulated utility or organization to
1017 include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods,
1018 services, or municipal-type services affected by Subsection (10)(b).

1019 (d) (i) The department, in consultation with the State Tax Commission, shall establish

1020 rules for the valuation of the contracts and assessment and collection of the fees, and other
1021 rules as necessary to determine the amount of and collection of the fee under Subsection
1022 (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after
1023 March 15, 2001.

1024 (ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall
1025 make a good faith estimate of the fee under Subsection (10)(a) for calender year 2001, and
1026 remit that amount to the department on or before July 31, 2001.

1027 (11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to
1028 the Department of Community and [~~Economic Development~~] Culture for use by the Utah
1029 Division of Indian Affairs shall be used for establishment of a statewide community and
1030 economic development program for the tribes of Native American people within the exterior
1031 boundaries of the state who have by tribal procedure established a position rejecting siting of
1032 any nuclear waste facility on their reservation lands.

1033 (b) The program under Subsection (11)(a) shall include:

- 1034 (i) educational services and facilities;
1035 (ii) health care services and facilities;
1036 (iii) programs of economic development;
1037 (iv) utilities;
1038 (v) sewer;
1039 (vi) street lighting;
1040 (vii) roads and other infrastructure; and
1041 (viii) oversight and staff support for the program.

1042 (12) It is the intent of the Legislature that this part does not prohibit or interfere with a
1043 person's exercise of the rights under the First Amendment to the Constitution of the United
1044 States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a
1045 storage facility or transfer facility within the borders of the state for the placement of high-level
1046 nuclear waste or greater than class C radioactive waste.

1047 Section 13. Section **19-6-807** is amended to read:

1048 **19-6-807. Special revenue fund -- Creation -- Deposits.**

1049 (1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling
1050 Fund."

- 1051 (2) The fund shall consist of:
- 1052 (a) the proceeds of the fee imposed under Section 19-6-805;
- 1053 (b) penalties collected under this part; and
- 1054 (c) assets transferred to and loan repayments deposited in the fund pursuant to Section
- 1055 19-6-824.
- 1056 (3) Money in the fund shall be used for:
- 1057 (a) partial reimbursement of the costs of transporting, processing, recycling, or
- 1058 disposing of waste tires as provided in this part;
- 1059 (b) payment of administrative costs of local health departments as provided in Section
- 1060 19-6-817;
- 1061 (c) payment of costs incurred by the Division of Finance in accounting for and tracking
- 1062 outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program;
- 1063 and
- 1064 (d) payment of costs incurred by the ~~Department of Community and~~ Governor's
- 1065 Office of Economic Development in collecting outstanding loans made under the Waste Tire
- 1066 Recycling Industrial Assistance Loan Program.
- 1067 (4) The Legislature may appropriate money from the fund to pay for costs of the
- 1068 Department of Environmental Quality in administering and enforcing this part.
- 1069 Section 14. Section **19-6-824** is amended to read:
- 1070 **19-6-824. Transfer of assets and liabilities from Waste Tire Recycling Industrial**
- 1071 **Assistance Loan Fund to restricted special revenue fund -- Administration of outstanding**
- 1072 **loans.**
- 1073 (1) The assets and liabilities of the Waste Tire Recycling Industrial Assistance Loan
- 1074 Fund shall be transferred to the restricted special revenue fund.
- 1075 (2) The Division of Finance shall account for and track any outstanding loans made
- 1076 under the Waste Tire Recycling Industrial Assistance Loan Program.
- 1077 (3) (a) The ~~Department of Community and~~ Governor's Office of Economic
- 1078 Development shall administer the collection of any outstanding loans made under the Waste
- 1079 Tire Recycling Industrial Assistance Loan Program.
- 1080 (b) Any loan repayments shall be deposited in the fund.
- 1081 Section 15. Section **19-9-104** is amended to read:

1082 **19-9-104. Creation of authority -- Members.**

1083 (1) (a) The authority comprises ten members. If the requirements of Section 19-9-103
1084 are met, the governor shall, with the consent of the Senate, appoint six members of the
1085 authority from the public-at-large.

1086 (b) The remaining four members of the authority are:

1087 (i) the executive director of the Department of Environmental Quality;

1088 (ii) the ~~[executive director]~~ director of the ~~[Department of Community and]~~ Governor's
1089 Office of Economic Development or the director's designee;

1090 (iii) the executive director of the Department of Natural Resources; and

1091 (iv) the executive director of the Department of Transportation.

1092 (2) Public-at-large members, no more than three of whom shall be from the same
1093 political party, shall be appointed to six-year terms of office, subject to removal by the
1094 governor with or without cause.

1095 (3) The governor shall name one public-at-large member as chairman of the authority
1096 responsible for the call and conduct of authority meetings.

1097 (4) The authority may elect other officers as necessary.

1098 (5) Five members of the authority present at a properly noticed meeting constitute a
1099 quorum for the transaction of official authority business.

1100 (6) Public-at-large members are entitled to per diem and expenses for each day devoted
1101 to authority business at the rates established by the director of the Division of Finance under
1102 Sections 63A-3-106 and 63A-3-107.

1103 Section 16. Section **35A-1-206** is amended to read:

1104 **35A-1-206. State Council on Workforce Services -- Appointment -- Membership**
1105 **-- Terms of members -- Compensation.**

1106 (1) There is created a State Council on Workforce Services that shall:

1107 (a) perform the activities described in Subsection (8);

1108 (b) advise on issues requested by the department and the Legislature; and

1109 (c) make recommendations to the department regarding:

1110 (i) the implementation of Chapters 2, 3, and 5; and

1111 (ii) the coordination of apprenticeship training.

1112 (2) (a) The council shall consist of the following voting members:

- 1113 (i) each chair of a regional workforce services council appointed under Section
1114 35A-2-103;
- 1115 (ii) the superintendent of public instruction or the superintendent's designee;
1116 (iii) the commissioner of higher education or the commissioner's designee; and
1117 (iv) the following members appointed by the governor in consultation with the
1118 executive director:
- 1119 (A) four representatives of small employers as defined by rule by the department;
1120 (B) four representatives of large employers as defined by rule by the department;
1121 (C) four representatives of employees or employee organizations, including at least one
1122 representative from nominees suggested by public employees organizations;
1123 (D) two representatives of the clients served under this title including
1124 community-based organizations;
1125 (E) a representative of veterans in the state; and
1126 (F) the executive director of the Utah State Office of Rehabilitation.
- 1127 (b) The following shall serve as nonvoting ex officio members of the council:
1128 (i) the executive director or the executive director's designee;
1129 (ii) a legislator appointed by the governor from nominations of the speaker of the
1130 House of Representatives and president of the Senate;
1131 (iii) the executive director of the Department of Human Services;
1132 (iv) the ~~[executive director]~~ director of the ~~[Department of Community and]~~ Governor's
1133 Office of Economic Development or the director's designee; and
1134 (v) the executive director of the Department of Health.
- 1135 (3) (a) The governor shall appoint one nongovernmental member from the council to
1136 be the chair.
1137 (b) The chair shall serve at the pleasure of the governor.
- 1138 (4) (a) A member appointed by the governor shall serve a term of four years and may
1139 be reappointed to one additional term.
1140 (b) A member shall continue to serve until the member's successor has been appointed
1141 and qualified.
1142 (c) Except as provided in Subsection (4)(d), as terms of council members expire, the
1143 governor shall appoint each new member or reappointed member to a four-year term.

1144 (d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the
1145 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1146 council members are staggered so that approximately one half of the council is appointed every
1147 two years.

1148 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
1149 appointed for the unexpired term.

1150 (5) A majority of the voting members constitutes a quorum for the transaction of
1151 business.

1152 (6) (a) (i) A public member may not receive compensation for the member's services,
1153 but may receive per diem and expenses incurred in the performance of the member's official
1154 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
1155 63A-3-107.

1156 (ii) A public member may decline to receive per diem and expenses for the member's
1157 service.

1158 (b) (i) A state government member who does not receive salary, per diem, or expenses
1159 from the state for the member's service may receive per diem and expenses incurred in the
1160 performance of the member's official duties as a member at the rates established by the
1161 Division of Finance under Sections 63A-3-106 and 63A-3-107.

1162 (ii) A state government member who is a member because of the member's state
1163 government position may not receive per diem or expenses for the member's service.

1164 (iii) A state government member may decline to receive per diem and expenses for the
1165 member's service.

1166 (c) A legislator on the council shall receive compensation and expenses as provided by
1167 law and legislative rule.

1168 (d) A higher education member who does not receive salary, per diem, or expenses
1169 from the entity that the member represents for the member's service may receive per diem and
1170 expenses incurred in the performance of the member's official duties from the council at the
1171 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1172 (e) (i) A local government member who does not receive salary, per diem, or expenses
1173 from the entity that the member represents for the member's service may receive per diem and
1174 expenses incurred in the performance of the member's official duties at the rates established by

1175 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1176 (ii) A local government member may decline to receive per diem and expenses for the
1177 member's service.

1178 (7) The department shall provide staff and administrative support to the council at the
1179 direction of the executive director.

1180 (8) The council shall:

1181 (a) develop a state workforce services plan in accordance with Section 35A-1-207;

1182 (b) review regional workforce services plans to certify consistency with state policy
1183 guidelines;

1184 (c) work cooperatively with regional councils on workforce services to oversee
1185 regional workforce services area operations and to ensure that services are being delivered in
1186 accordance with regional workforce services plans;

1187 (d) oversee the department's provision of technical assistance to the regional workforce
1188 services areas;

1189 (e) evaluate program performance, customer satisfaction, and other indicators to
1190 identify program strengths and weaknesses;

1191 (f) based on the evaluation conducted under Subsection (8)(e) develop plans to
1192 improve program outcomes;

1193 (g) improve the understanding and visibility of state workforce services efforts through
1194 external and internal marketing strategies;

1195 (h) make an annual report of accomplishments to the governor and the Legislature
1196 related to the activities of the department;

1197 (i) issue other studies, reports, or documents the council considers advisable that are
1198 not required under Subsection (8)(h);

1199 (j) coordinate the planning and delivery of workforce development services with public
1200 education, higher education, vocational rehabilitation, and human services; and

1201 (k) perform other responsibilities within the scope of workforce services as requested
1202 by:

1203 (i) the Legislature;

1204 (ii) the governor; or

1205 (iii) the executive director.

1206 Section 17. Section **35A-3-103** is amended to read:

1207 **35A-3-103. Division responsibilities.**

1208 The division shall:

1209 (1) administer public assistance programs assigned by the Legislature and the
1210 governor;

1211 (2) determine eligibility in accordance with the requirements of this chapter for public
1212 assistance programs assigned to it by the Legislature or the governor;

1213 (3) cooperate with the federal government in the administration of public assistance
1214 programs;

1215 (4) administer the Utah state employment service in accordance with Section
1216 35A-3-115;

1217 (5) provide for the compilation of necessary or desirable information, statistics, and
1218 reports;

1219 (6) perform other duties and functions required by law;

1220 (7) monitor the application of eligibility policy;

1221 (8) develop personnel training programs for more effective and efficient operation of
1222 all programs under the administration of the division;

1223 (9) provide refugee resettlement services;

1224 (10) provide child care assistance for children; and

1225 (11) provide services and support that enable clients to qualify for affordable housing
1226 in cooperation with:

1227 (a) the Utah Housing Corporation;

1228 (b) the Division of Housing and Community Development within the Department of
1229 Community and [~~Economic Development~~] Culture; and

1230 (c) local housing authorities.

1231 Section 18. Section **35A-3-203** is amended to read:

1232 **35A-3-203. Functions and duties of office -- Annual report.**

1233 The office shall:

1234 (1) assess critical child care needs throughout the state on an ongoing basis and focus
1235 its activities on helping to meet the most critical needs;

1236 (2) provide child care subsidy services for income-eligible children through age 12 and

- 1237 for income-eligible children with disabilities through age 18;
- 1238 (3) provide information:
- 1239 (a) to employers for the development of options for child care in the work place; and
- 1240 (b) for educating the public in obtaining quality child care;
- 1241 (4) coordinate services for quality child care training and child care resource and
- 1242 referral core services;
- 1243 (5) apply for, accept, or expend gifts or donations from public or private sources;
- 1244 (6) provide administrative support services to the committee;
- 1245 (7) work collaboratively with the following for the delivery of quality child care and
- 1246 early childhood programs, and school age programs throughout the state:
- 1247 (a) the State Board of Education;
- 1248 (b) the Department of Community and [~~Economic Development~~] Culture; and
- 1249 (c) the Department of Health;
- 1250 (8) research child care programs and public policy that will improve quality and
- 1251 accessibility and that will further the purposes of the office and child care, early childhood
- 1252 programs, and school age programs;
- 1253 (9) provide planning and technical assistance for the development and implementation
- 1254 of programs in communities that lack child care, early childhood programs, and school age
- 1255 programs;
- 1256 (10) provide organizational support for the establishment of nonprofit organizations
- 1257 approved by the Child Care Advisory Committee, created in Section 35A-3-205; and
- 1258 (11) provide a written report on the status of child care in Utah to the Legislature by
- 1259 November 1 of each year through the Workforce Services and Community and Economic
- 1260 Development Interim Committee.

1261 Section 19. Section **35A-3-205** is amended to read:

1262 **35A-3-205. Creation of committee.**

1263 (1) There is created a Child Care Advisory Committee.

1264 (2) The committee shall counsel and advise the office in fulfilling its statutory

1265 obligations to include:

1266 (a) a review of and recommendations on the office's annual budget;

1267 (b) recommendations on how the office might best respond to child care needs

1268 throughout the state; and

1269 (c) recommendations on the use of new monies that come into the office, including
1270 those for the Child Care Fund.

1271 (3) The committee is composed of the following members, with special attention given
1272 to insure diversity and representation from both urban and rural groups:

1273 (a) one expert in early childhood development;

1274 (b) one child care provider who operates a center;

1275 (c) one child care provider who operates a family child care business;

1276 (d) one parent who receives a child care subsidy from the office and is representative of
1277 single-parent households with children through age 12;

1278 (e) one representative of two-parent households with children through age 12 using
1279 child care;

1280 (f) one representative from the public at-large;

1281 (g) one representative of the State Office of Education;

1282 (h) one representative of the Department of Health;

1283 (i) one representative of the Department of Human Services;

1284 (j) one representative of the Department of Community and ~~[Economic Development]~~
1285 Culture;

1286 (k) two representatives from the corporate community, one who is a recent "Family
1287 Friendly" award winner and who received the award because of efforts in the child care arena;

1288 (l) two representatives from the small business community;

1289 (m) one representative from child care advocacy groups;

1290 (n) one representative of children with disabilities;

1291 (o) one representative from the state Head Start Association appointed by the
1292 association;

1293 (p) one representative from each child care provider association; and

1294 (q) one representative of a child care resource and referral center appointed by the
1295 organization representing child care resource and referral agencies.

1296 (4) (a) The executive director shall appoint the members designated in Subsections
1297 (3)(a) through (f) and (k) through (n).

1298 (b) The head of the respective departments shall appoint the members referred to in

1299 Subsections (3)(g) through (j).

1300 (c) Each child care provider association shall appoint its respective member referred to
1301 in Subsection (3)(p).

1302 (5) (a) Except as required by Subsection (5)(b), as terms of current committee members
1303 expire, the appointing authority shall appoint each new member or reappointed member to a
1304 four-year term.

1305 (b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority
1306 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
1307 terms of committee members are staggered so that approximately half of the committee is
1308 appointed every two years.

1309 (6) When a vacancy occurs in the membership for any reason, including missing three
1310 consecutive meetings where the member has not been excused by the chair prior to or during
1311 the meeting, the replacement shall be appointed for the unexpired term.

1312 (7) A majority of the members constitutes a quorum for the transaction of business.

1313 (8) (a) The executive director shall select a chair from the committee membership.

1314 (b) A chair may serve no more than two one-year terms as chair.

1315 (9) (a) Members who are not government employees may not receive compensation or
1316 benefits for their services, but may receive per diem and expenses incurred in the performance
1317 of the member's official duties at the rates established by the Division of Finance under
1318 Sections 63A-3-106 and 63A-3-107.

1319 (b) State government officer and employee members who do not receive salary, per
1320 diem, or expenses from their agency for their service may receive per diem and expenses
1321 incurred in the performance of their official duties from the committee at the rates established
1322 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1323 (c) Members identified in Subsections (9)(a) and (b) may decline to receive per diem
1324 and expenses for their service.

1325 Section 20. Section **35A-3-309** is amended to read:

1326 **35A-3-309. Information regarding home ownership.**

1327 (1) The division shall provide information and service coordination to assist a client to
1328 obtain affordable housing.

1329 (2) The information and services may include:

1330 (a) information from the Utah Housing Corporation and the Division of Housing and
1331 Community Development within the Department of Community and [~~Economic Development~~]
1332 Culture regarding special housing programs, including programs for first-time home buyers and
1333 persons with low and moderate incomes and the eligibility requirements for those programs;

1334 (b) referrals to programs operated by volunteers from the real estate industry that assist
1335 clients in obtaining affordable housing, including information on home ownership, down
1336 payments, closing costs, and credit requirements; and

1337 (c) referrals to housing programs operated by municipalities, counties, local housing
1338 authorities, and nonprofit housing organizations that assist individuals to obtain affordable
1339 housing, including first-time home ownership.

1340 Section 21. Section ~~35A-4-312~~ is amended to read:

1341 **35A-4-312. Records.**

1342 (1) (a) Each employing unit shall keep true and accurate work records containing any
1343 information the department may prescribe by rule.

1344 (b) The records shall be open to inspection and subject to being copied by the division
1345 or its authorized representatives at a reasonable time and as often as may be necessary.

1346 (c) The employing unit shall make the records available in the state for three years after
1347 the calendar year in which the services were rendered.

1348 (2) The division may require from an employing unit any sworn or unsworn reports
1349 with respect to persons employed by it that the division considers necessary for the effective
1350 administration of this chapter.

1351 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,
1352 information obtained under this chapter or obtained from an individual may not be published or
1353 open to public inspection in any manner revealing the employing unit's or individual's identity.

1354 (4) (a) The information obtained by the division under this section may not be used in
1355 court or admitted into evidence in an action or proceeding, except:

1356 (i) in an action or proceeding arising out of this chapter;

1357 (ii) in an action or proceeding by the Labor Commission to enforce the provisions of
1358 Title 34, Chapter 23, Employment of Minors, Chapter 28, Payment of Wages, Chapter 40, Utah
1359 Minimum Wage Act, or Title 34A, Utah Labor Code, [~~or Chapters 23, 28, and 40 of Title 34,~~
1360 ~~Labor in General,~~] provided the Labor Commission enters into a written agreement with the

1361 division under Subsection (6)(b); or
1362 (iii) under the terms of a court order obtained under Subsection 63-2-202(7) and
1363 Section 63-2-207 of the Government Records Access and Management Act.

1364 (b) The information obtained by the division under this section shall be disclosed to:
1365 (i) a party to an unemployment insurance hearing before an administrative law judge of
1366 the department or a review by the Workforce Appeals Board to the extent necessary for the
1367 proper presentation of the party's case; or
1368 (ii) an employer, upon request in writing for any information concerning claims for
1369 benefits with respect to the employer's former employees.

1370 (5) The information obtained by the division under this section may be disclosed to:
1371 (a) an employee of the department in the performance of the employee's duties in
1372 administering this chapter or other programs of the department;
1373 (b) an employee of the Labor Commission for the purpose of carrying out the programs
1374 administered by the Labor Commission;
1375 (c) an employee of the governor's office and other state governmental agencies
1376 administratively responsible for statewide economic development, to the extent necessary for
1377 economic development policy analysis and formulation;
1378 (d) an employee of other governmental agencies that are specifically identified and
1379 authorized by federal or state law to receive the information for the purposes stated in the law
1380 authorizing the employee of the agency to receive the information;
1381 (e) an employee of a governmental agency or workers' compensation insurer to the
1382 extent the information will aid in the detection or avoidance of duplicate, inconsistent, or
1383 fraudulent claims against a workers' compensation program, public assistance funds, or the
1384 recovery of overpayments of workers' compensation or public assistance funds;
1385 (f) an employee of a law enforcement agency to the extent the disclosure is necessary
1386 to avoid a significant risk to public safety or in aid of a felony criminal investigation;
1387 (g) an employee of the State Tax Commission or the Internal Revenue Service for the
1388 purposes of audit verification or simplification, state or federal tax compliance, verification of
1389 Standard Industry Codes, and statistics;
1390 (h) an employee or contractor of the department or an educational institution, or other
1391 governmental entity engaged in workforce investment and development activities under the

- 1392 Workforce Investment Act of 1998 for the purpose of coordinating services with the
1393 department, evaluating the effectiveness of those activities, and measuring performance;
- 1394 (i) an employee of the [~~Department of Community and~~ Governor's Office of
1395 Economic Development, for the purpose of periodically publishing in the Directory of Business
1396 and Industry, the name, address, telephone number, number of employees by range, Standard
1397 Industrial Code, and type of ownership of Utah employers;
- 1398 (j) the public for any purpose following a written waiver by all interested parties of
1399 their rights to nondisclosure; or
- 1400 (k) an individual whose wage data has been submitted to the department by an
1401 employer, so long as no information other than the individual's wage data and the identity of
1402 the party who submitted the information is provided to the individual.
- 1403 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
1404 with the exception of Subsections (5)(a) and (f), shall be made only if:
- 1405 (a) the division determines that the disclosure will not have a negative effect on the
1406 willingness of employers to report wage and employment information or on the willingness of
1407 individuals to file claims for unemployment benefits; and
- 1408 (b) the agency enters into a written agreement with the division in accordance with
1409 rules made by the department.
- 1410 (7) (a) The employees of a division of the department other than the Division of
1411 Workforce Information and Payment Services or an agency receiving private information from
1412 the division under this chapter are subject to the same requirements of privacy and
1413 confidentiality and to the same penalties for misuse or improper disclosure of the information
1414 as employees of the division.
- 1415 (b) Use of private information obtained from the department by a person, or for a
1416 purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).
- 1417 Section 22. Section **41-1a-405** is amended to read:
- 1418 **41-1a-405. License plate slogan -- Purpose -- Selection.**
- 1419 (1) The slogan required by Section 41-1a-402 shall be a brief slogan designed to
1420 promote the recreational, scenic, historic, or tourist attractions of the state.
- 1421 (2) (a) The slogan shall be selected by the commission pursuant to its procedures.
- 1422 (b) The commission in selecting the slogan shall consult with all interested state

1423 agencies including:

1424 (i) the Utah Highway Patrol;

1425 [~~(ii) the Division of Travel Development;~~]

1426 [~~(iii) (ii) the [Department of Community and] Governor's Office of Economic~~

1427 Development; and

1428 (iv) the Division of Parks and Recreation.

1429 Section 23. Section **46-4-503** is amended to read:

1430 **46-4-503. Government products and services provided electronically.**

1431 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers

1432 one or more of the following transactions shall allow those transactions to be conducted

1433 electronically:

1434 (a) an application for or renewal of a professional or occupational license issued under

1435 Title 58, Occupations and Professions;

1436 (b) the renewal of a drivers license;

1437 (c) an application for a hunting or fishing license;

1438 (d) the filing of:

1439 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use

1440 Tax Act;

1441 (ii) a court document, as defined by the Judicial Council; or

1442 (iii) a document under Title 70A, Uniform Commercial Code;

1443 (e) a registration for:

1444 (i) a product; or

1445 (ii) a brand;

1446 (f) a renewal of a registration of a motor vehicle;

1447 (g) a registration under:

1448 (i) Title 16, Corporations;

1449 (ii) Title 42, Names; or

1450 (iii) Title 48, Partnership; or

1451 (h) submission of an application for benefits:

1452 (i) under Title 35A, Chapter 3, Employment Support Act;

1453 (ii) under Title 35A, Chapter 4, Employment Security Act; or

- 1454 (iii) related to accident and health insurance.
- 1455 (2) The state system of public education, in coordination with the Utah Education
1456 Network, shall make reasonable progress toward making the following services available
1457 electronically:
- 1458 (a) secure access by parents and students to student grades and progress reports;
 - 1459 (b) e-mail communications with:
 - 1460 (i) teachers;
 - 1461 (ii) parent-teacher associations; and
 - 1462 (iii) school administrators;
 - 1463 (c) access to school calendars and schedules; and
 - 1464 (d) teaching resources that may include:
 - 1465 (i) teaching plans;
 - 1466 (ii) curriculum guides; and
 - 1467 (iii) media resources.
- 1468 (3) A state governmental agency shall:
- 1469 (a) in carrying out the requirements of this section, take reasonable steps to ensure the
1470 security and privacy of records that are private or controlled as defined by Title 63, Chapter 2,
1471 Government Records Access and Management Act;
 - 1472 (b) in addition to those transactions listed in Subsections (1) and (2), determine any
1473 additional services that may be made available to the public through electronic means; and
 - 1474 (c) as part of the agency's information technology plan required by Section
1475 63D-1a-303, report on the progress of compliance with Subsections (1) through (3).
- 1476 (4) Notwithstanding the other provisions of this part, a state governmental agency is
1477 not required by this part to conduct a transaction electronically if:
- 1478 (a) conducting the transaction electronically is not required by federal law; and
 - 1479 (b) conducting the transaction electronically is:
 - 1480 (i) impractical;
 - 1481 (ii) unreasonable; or
 - 1482 (iii) not permitted by laws pertaining to privacy or security.
- 1483 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of
1484 access to diverse services and agencies at one location including virtual colocation.

1485 (b) State agencies that provide services or offer direct assistance to the business
1486 community shall participate in the establishment, maintenance, and enhancement of an
1487 integrated Utah business web portal known as Business.utah.gov. The purpose of the business
1488 web portal is to provide "one-stop shop" assistance to businesses.

1489 (c) State agencies shall partner with other governmental and nonprofit agencies whose
1490 primary mission is to provide services or offer direct assistance to the business community in
1491 Utah in fulfilling the requirements of this section.

1492 (d) The following state [~~agencies~~] entities shall comply with the provisions of this
1493 Subsection (5):

1494 (i) [~~Department of Community and~~] Governor's Office of Economic Development,
1495 which shall serve as the managing partner for the website;

1496 (ii) Department of Workforce Services;

1497 (iii) Department of Commerce;

1498 (iv) Tax Commission;

1499 (v) Department of Administrative Services - Division of Purchasing and General
1500 Services, including other state agencies operating under a grant of authority from the division
1501 to procure goods and services in excess of \$5,000;

1502 (vi) Department of Agriculture;

1503 (vii) Department of Natural Resources; and

1504 (viii) other state agencies that provide services or offer direct assistance to the business
1505 sector.

1506 (e) The business services available on the business web portal may include:

1507 (i) business life cycle information;

1508 (ii) business searches;

1509 (iii) employment needs and opportunities;

1510 (iv) motor vehicle registration;

1511 (v) permit applications and renewal;

1512 (vi) tax information;

1513 (vii) government procurement bid notifications;

1514 (viii) general business information;

1515 (ix) business directories; and

1516 (x) business news.

1517 Section 24. Section **53B-18-1002** is amended to read:

1518 **53B-18-1002. Establishment of the center -- Purpose -- Duties and**
1519 **responsibilities.**

1520 (1) There is established the Mormon Pioneer Heritage Center in connection with Utah
1521 State University.

1522 (2) The purpose of the center is to coordinate interdepartmental research and extension
1523 efforts in recreation, heritage tourism, and agricultural extension service and to enter into
1524 cooperative contracts with the United States Departments of Agriculture and Interior, state,
1525 county, and city officers, public and private organizations, and individuals to enhance Mormon
1526 pioneer heritage.

1527 (3) The center has the following duties and responsibilities:

1528 (a) to support U.S. Congressional findings that the landscape, architecture, traditions,
1529 products, and events in the counties convey the heritage of pioneer settlements and their role in
1530 agricultural development;

1531 (b) to coordinate with extension agents in the counties to assist in the enhancement of
1532 heritage businesses and the creation of heritage products;

1533 (c) to foster a close working relationship with all levels of government, the private
1534 sector, residents, business interests, and local communities;

1535 (d) to support U.S. Congressional findings that the historical, cultural, and natural
1536 heritage legacies of Mormon colonization and settlement are nationally significant;

1537 (e) to encourage research and studies relative to the variety of heritage resources along
1538 the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the
1539 All American Road, to the extent those resources demonstrate:

1540 (i) the colonization of the western United States; and

1541 (ii) the expansion of the United States as a major world power;

1542 (f) to demonstrate that the great relocation to the western United States was facilitated
1543 by:

1544 (i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers;

1545 and

1546 (ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho,

1547 the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern
1548 California, and areas along the eastern border of California; and

1549 (g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol
1550 Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area
1551 convey the compelling story of how early settlers:

1552 (i) interacted with Native Americans; and

1553 (ii) established towns and cities in a harsh, yet spectacular, natural environment.

1554 (4) The center, in collaboration with the U.S. Department of Interior, the National Park
1555 Service, the U.S. Department of Agriculture, the U.S. Forest Service, the Utah Department of
1556 Community and ~~[Economic Development]~~ Culture, the Utah Division of State History, and the
1557 alliance and its intergovernmental local partners, shall:

1558 (a) assist in empowering communities in the counties to conserve, preserve, and
1559 enhance the heritage of the communities while strengthening future economic opportunities;

1560 (b) help conserve, interpret, and develop the historical, cultural, natural, and
1561 recreational resources within the counties; and

1562 (c) expand, foster, and develop heritage businesses and products relating to the cultural
1563 heritage of the counties.

1564 (5) The center, in collaboration with the U.S. Department of the Interior, the National
1565 Park Service, and with funding from the alliance, shall develop a heritage management plan.

1566 Section 25. Section **59-7-610** is amended to read:

1567 **59-7-610. Recycling market development zones tax credit.**

1568 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
1569 recycling market development zone as defined in Section ~~[9-2-1602]~~ 63-38f-1102 may claim a
1570 tax credit as provided in this section.

1571 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price
1572 paid for machinery and equipment used directly in:

1573 (A) commercial composting; or

1574 (B) manufacturing facilities or plant units that:

1575 (I) manufacture, process, compound, or produce recycled items of tangible personal
1576 property for sale; or

1577 (II) reduce or reuse postconsumer waste material.

1578 (ii) The [~~Department of Community and~~] Governor's Office of Economic Development
1579 shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to
1580 the composting or recycling process:

1581 (A) on a form provided by the commission; and

1582 (B) before a taxpayer is allowed a tax credit under this section.

1583 (iii) The [~~Department of Community and~~] Governor's Office of Economic
1584 Development shall provide a taxpayer seeking to claim a tax credit under this section with a
1585 copy of the form described in Subsection (1)(a)(ii).

1586 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
1587 received under Subsection (1)(a)(iii).

1588 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
1589 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
1590 by the taxpayer for establishing and operating recycling or composting technology in Utah,
1591 with an annual maximum tax credit of \$2,000.

1592 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
1593 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
1594 purchase prior to claiming the tax credit authorized by this section.

1595 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1596 composting or recycling machinery and equipment was paid may be carried over for credit
1597 against the business' income taxes in the three succeeding taxable years until the total tax credit
1598 amount is used.

1599 (b) Tax credits not claimed by a business on the business' state income tax return
1600 within three years are forfeited.

1601 (4) The commission shall make rules governing what information shall be filed with
1602 the commission to verify the entitlement to and amount of a tax credit.

1603 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1604 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
1605 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1606 Section [~~9-2-413~~] 63-38f-413.

1607 (b) For a taxable year other than a taxable year during which the taxpayer may not
1608 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim

1609 or carry forward a tax credit described in Subsection (1)(a):

1610 (i) if the taxpayer may claim or carry forward the tax credit in accordance with

1611 Subsections (1) and (2); and

1612 (ii) subject to Subsections (3) and (4).

1613 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January

1614 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year

1615 during which the taxpayer claims or carries forward a tax credit under Section [~~9-2-413~~]

1616 63-38f-413.

1617 (7) A taxpayer may not claim or carry forward a tax credit available under this section

1618 for a taxable year during which the taxpayer has claimed the targeted business income tax

1619 credit available under Section [~~9-2-1803~~] 63-38f-503.

1620 Section 26. Section **59-10-108.7** is amended to read:

1621 **59-10-108.7. Recycling market development zones tax credit.**

1622 (1) For taxable years beginning on or after January 1, 1996, an individual in a recycling

1623 market development zone as defined in Section [~~9-2-1602~~] 63-38f-1102 may claim a tax credit

1624 as provided in this section.

1625 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price

1626 paid for machinery and equipment used directly in:

1627 (A) commercial composting; or

1628 (B) manufacturing facilities or plant units that:

1629 (I) manufacture, process, compound, or produce recycled items of tangible personal

1630 property for sale; or

1631 (II) reduce or reuse postconsumer waste material.

1632 (ii) The [~~Department of Community and~~] Governor's Office of Economic Development

1633 shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to

1634 the composting or recycling process:

1635 (A) on a form provided by the commission; and

1636 (B) before a taxpayer is allowed a tax credit under this section.

1637 (iii) The [~~Department of Community and~~] Governor's Office of Economic

1638 Development shall provide a taxpayer seeking to claim a tax credit under this section with a

1639 copy of the form described in Subsection (1)(a)(ii).

1640 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
1641 received under Subsection (1)(a)(iii).

1642 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
1643 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
1644 by the taxpayer for establishing and operating recycling or composting technology in Utah,
1645 with an annual maximum tax credit of \$2,000.

1646 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
1647 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
1648 purchase prior to claiming the tax credit authorized by this section.

1649 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1650 composting or recycling machinery and equipment was paid may be carried over for credit
1651 against the individual's income taxes in the three succeeding taxable years until the total tax
1652 credit amount is used.

1653 (b) Tax credits not claimed by an individual on the individual's state income tax return
1654 within three years are forfeited.

1655 (4) The commission shall make rules governing what information shall be filed with
1656 the commission to verify the entitlement to and amount of a tax credit.

1657 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1658 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
1659 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1660 Section [~~9-2-413~~] 63-38f-413.

1661 (b) For a taxable year other than a taxable year during which the taxpayer may not
1662 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
1663 or carry forward a tax credit described in Subsection (1)(a):

1664 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
1665 Subsections (1) and (2); and

1666 (ii) subject to Subsections (3) and (4).

1667 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1668 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
1669 during which the taxpayer claims or carries forward a tax credit under Section [~~9-2-413~~]
1670 63-38f-413.

1671 (7) A taxpayer may not claim or carry forward a tax credit available under this section
1672 for a taxable year during which the taxpayer has claimed the targeted business income tax
1673 credit available under Section [~~9-2-1803~~] 63-38f-503.

1674 Section 27. Section **59-21-2** is amended to read:

1675 **59-21-2. Definitions -- Mineral Bonus Account created -- Contents -- Use of**
1676 **Mineral Bonus Account money -- Mineral Lease Account created -- Contents --**
1677 **Appropriation of monies from Mineral Lease Account.**

1678 (1) As used in this section:

1679 (a) "Acquired lands" is as defined in Section 53C-3-201.

1680 (b) "Acquired mineral interests" is as defined in Section 53C-3-201.

1681 (2) (a) The Mineral Bonus Account is created within the General Fund.

1682 (b) The Mineral Bonus Account consists of federal mineral lease bonus payments
1683 deposited pursuant to Subsection 59-21-1(3).

1684 (c) The Legislature shall make appropriations from the Mineral Bonus Account in
1685 accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

1686 (d) The state treasurer shall:

1687 (i) invest the money in the Mineral Bonus Account by following the procedures and
1688 requirements of Title 51, Chapter 7, State Money Management Act; and

1689 (ii) deposit all interest or other earnings derived from the account into the Mineral
1690 Bonus Account.

1691 (3) (a) The Mineral Lease Account is created within the General Fund.

1692 (b) The Mineral Lease Account consists of:

1693 (i) federal mineral lease money deposited pursuant to Subsection 59-21-1(1); and

1694 (ii) rentals and royalties from the lease of the following deposited pursuant to Section
1695 53C-3-202:

1696 (A) minerals on acquired lands; or

1697 (B) acquired mineral interests.

1698 (c) The Legislature shall make appropriations from the Mineral Lease Account as
1699 provided in Subsection 59-21-1(1) and this Subsection (3).

1700 (d) The Legislature shall annually appropriate 32.5% of all deposits made to the
1701 Mineral Lease Account to the Permanent Community Impact Fund established by Section

1702 9-4-303.

1703 (e) The Legislature shall annually appropriate 2.25% of all deposits made to the
1704 Mineral Lease Account to the State Board of Education, to be used for education research and
1705 experimentation in the use of staff and facilities designed to improve the quality of education in
1706 Utah.

1707 (f) The Legislature shall annually appropriate 2.25% of all deposits made to the
1708 Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by
1709 the survey having as a purpose the development and exploitation of natural resources in the
1710 state.

1711 (g) The Legislature shall annually appropriate 2.25% of all deposits made to the
1712 Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used
1713 for activities carried on by the laboratory having as a purpose the development and exploitation
1714 of water resources in the state.

1715 (h) (i) The Legislature shall annually appropriate to the Department of Transportation
1716 40% of all deposits made to the Mineral Lease Account to be distributed as provided in
1717 Subsection (3)(h)(ii) to:

1718 (A) counties;

1719 (B) special service districts established:

1720 (I) by counties;

1721 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

1722 (III) for the purpose of constructing, repairing, or maintaining roads; or

1723 (C) special service districts established:

1724 (I) by counties;

1725 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

1726 (III) for other purposes authorized by statute.

1727 (ii) The Department of Transportation shall allocate the funds specified in Subsection
1728 (3)(h)(i):

1729 (A) in amounts proportionate to the amount of mineral lease money generated by each
1730 county; and

1731 (B) to a county or special service district established by a county under Title 17A,
1732 Chapter 2, Part 13, Utah Special Service District Act, as determined by the county legislative

1733 body.

1734 (i) (i) The Legislature shall annually appropriate 5% of all deposits made to the
1735 Mineral Lease Account to the Department of Community and [~~Economic Development~~]
1736 Culture to be distributed to:

1737 (A) special service districts established:

1738 (I) by counties;

1739 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

1740 (III) for the purpose of constructing, repairing, or maintaining roads; or

1741 (B) special service districts established:

1742 (I) by counties;

1743 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

1744 (III) for other purposes authorized by statute.

1745 (ii) The Department of Community and [~~Economic Development~~] Culture may
1746 distribute the amounts described in Subsection (3)(i)(i) only to special service districts
1747 established under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, by counties:

1748 (A) of the third, fourth, fifth, or sixth class;

1749 (B) in which 4.5% or less of the mineral lease moneys within the state are generated;

1750 and

1751 (C) that are significantly socially or economically impacted as provided in Subsection
1752 (3)(i)(iii) by the development of:

1753 (I) minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.;

1754 (II) minerals on acquired lands; or

1755 (III) acquired mineral interests.

1756 (iii) The significant social or economic impact required under Subsection (3)(i)(ii)(C)
1757 shall be as a result of:

1758 (A) the transportation within the county of hydrocarbons, including solid hydrocarbons
1759 as defined in Section 59-5-101;

1760 (B) the employment of persons residing within the county in hydrocarbon extraction,
1761 including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

1762 (C) a combination of Subsections (3)(i)(iii)(A) and (B).

1763 (iv) For purposes of distributing the appropriations under this Subsection (3)(i) to

1764 special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah
1765 Special Service District Act, the Department of Community and [~~Economic Development~~]
1766 Culture shall:

1767 (A) (I) allocate 50% of the appropriations equally among the counties meeting the
1768 requirements of Subsections (3)(i)(ii) and (iii); and

1769 (II) allocate 50% of the appropriations based on the ratio that the population of each
1770 county meeting the requirements of Subsections (3)(i)(ii) and (iii) bears to the total population
1771 of all of the counties meeting the requirements of Subsections (3)(i)(ii) and (iii); and

1772 (B) after making the allocations described in Subsection (3)(i)(iv)(A), distribute the
1773 allocated revenues to special service districts established by the counties under Title 17A,
1774 Chapter 2, Part 13, Utah Special Service District Act, as determined by the executive director
1775 of the Department of Community and [~~Economic Development~~] Culture after consulting with
1776 the county legislative bodies of the counties meeting the requirements of Subsections (3)(i)(ii)
1777 and (iii).

1778 (v) The executive director of the Department of Community and [~~Economic~~
1779 ~~Development~~] Culture:

1780 (A) shall determine whether a county meets the requirements of Subsections (3)(i)(ii)
1781 and (iii);

1782 (B) shall distribute the appropriations under Subsection (3)(i)(i) to special service
1783 districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service
1784 District Act, that meet the requirements of Subsections (3)(i)(ii) and (iii); and

1785 (C) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1786 may make rules:

1787 (I) providing a procedure for making the distributions under this Subsection (3)(i) to
1788 special service districts; and

1789 (II) defining the term "population" for purposes of Subsection (3)(i)(iv).

1790 (j) (i) The Legislature shall annually make the following appropriations from the
1791 Mineral Lease Account:

1792 (A) an amount equal to 52 cents multiplied by the number of acres of school or
1793 institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned
1794 by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each

1795 county in which those lands are located;

1796 (B) to each county in which school or institutional trust lands are transferred to the
1797 federal government after December 31, 1992, an amount equal to the number of transferred
1798 acres in the county multiplied by a payment per acre equal to the difference between 52 cents
1799 per acre and the per acre payment made to that county in the most recent payment under the
1800 federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal
1801 payment was equal to or exceeded the 52 cents per acre, in which case a payment under this
1802 Subsection (3)(j)(i)(B) may not be made for the transferred lands;

1803 (C) to each county in which federal lands, which are entitlement lands under the federal
1804 in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to
1805 the number of transferred acres in the county multiplied by a payment per acre equal to the
1806 difference between the most recent per acre payment made under the federal payment in lieu of
1807 taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52
1808 cents per acre, in which case a payment under this Subsection (3)(j)(i)(C) may not be made for
1809 the transferred land; and

1810 (D) to a county of the fifth or sixth class, an amount equal to the product of:

1811 (I) \$1,000; and

1812 (II) the number of residences described in Subsection (3)(j)(iv) that are located within
1813 the county.

1814 (ii) A county receiving money under Subsection (3)(j)(i) may, as determined by the
1815 county legislative body, distribute the money or a portion of the money to:

1816 (A) special service districts established by the county under Title 17A, Chapter 2, Part
1817 13, Utah Special Service District Act;

1818 (B) school districts; or

1819 (C) public institutions of higher education.

1820 (iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the
1821 Division of Finance shall increase or decrease the amounts per acre provided for in Subsections
1822 (3)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban
1823 consumers published by the Department of Labor.

1824 (B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance
1825 shall increase or decrease the amount described in Subsection (3)(j)(i)(D)(I) by the average

1826 annual change in the Consumer Price Index for all urban consumers published by the
1827 Department of Labor.

1828 (iv) Residences for purposes of Subsection (3)(j)(i)(D)(II) are residences that are:

1829 (A) owned by:

1830 (I) the Division of Parks and Recreation; or

1831 (II) the Division of Wildlife Resources;

1832 (B) located on lands that are owned by:

1833 (I) the Division of Parks and Recreation; or

1834 (II) the Division of Wildlife Resources; and

1835 (C) are not subject to taxation under:

1836 (I) Chapter 2, Property Tax Act; or

1837 (II) Chapter 4, Privilege Tax.

1838 (k) The Legislature shall annually appropriate to the Permanent Community Impact
1839 Fund all deposits remaining in the Mineral Lease Account after making the appropriations
1840 provided for in Subsections (3)(d) through (j).

1841 (4) (a) Each agency, board, institution of higher education, and political subdivision
1842 receiving money under this chapter shall provide the Legislature, through the Office of the
1843 Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual
1844 basis.

1845 (b) The accounting required under Subsection (4)(a) shall:

1846 (i) include actual expenditures for the prior fiscal year, budgeted expenditures for the
1847 current fiscal year, and planned expenditures for the following fiscal year; and

1848 (ii) be reviewed by the Economic Development and Human Resources Appropriation
1849 Subcommittee as part of its normal budgetary process under Title 63, Chapter 38, Budgetary
1850 Procedures Act.

1851 Section 28. Section **63-5b-102** is amended to read:

1852 **63-5b-102. Definitions.**

1853 (1) (a) "Absent" means:

1854 (i) not physically present or not able to be communicated with for 48 hours; or

1855 (ii) for local government officers, as defined by local ordinances.

1856 (b) "Absent" does not include a person who can be communicated with via telephone,

1857 radio, or telecommunications.

1858 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action
1859 against the United States of America or this state.

1860 (3) "Department" means the Department of Administrative Services, the Department of
1861 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
1862 Commerce, the Department of Community and [~~Economic Development~~] Culture, the
1863 Department of Corrections, the Department of Environmental Quality, the Department of
1864 Financial Institutions, the Department of Health, the Department of Human Resource
1865 Management, the Department of Workforce Services, the Labor Commission, the National
1866 Guard, the Department of Insurance, the Department of Natural Resources, the Department of
1867 Public Safety, the Public Service Commission, the Department of Human Services, the State
1868 Tax Commission, the Department of Transportation, any other major administrative
1869 subdivisions of state government, the State Board of Education, the State Board of Regents, the
1870 Utah Housing Corporation, the Utah Technology Finance Corporation, the Workers'
1871 Compensation Fund, the State Retirement Board, and each institution of higher education
1872 within the system of higher education.

1873 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
1874 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
1875 natural phenomenon, or technological hazard.

1876 (5) "Division" means the Division of Emergency Services and Homeland Security
1877 established in Title 53, Chapter 2, Part 1, Emergency Services and Homeland Security Act.

1878 (6) "Emergency interim successor" means a person designated by this chapter to
1879 exercise the powers and discharge the duties of an office when the person legally exercising the
1880 powers and duties of the office is unavailable.

1881 (7) "Executive director" means the person with ultimate responsibility for managing
1882 and overseeing the operations of each department, however denominated.

1883 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

1884 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
1885 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

1886 (10) (a) "Office" includes all state and local offices, the powers and duties of which are
1887 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

1888 (b) "Office" does not include the office of governor or the legislative or judicial offices.

1889 (11) "Place of governance" means the physical location where the powers of an office
1890 are being exercised.

1891 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
1892 authorities, and other public corporations and entities whether organized and existing under
1893 charter or general law.

1894 (13) "Political subdivision officer" means a person holding an office in a political
1895 subdivision.

1896 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
1897 the executive director of each department.

1898 (15) "Technological hazard" means any hazardous materials accident, mine accident,
1899 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

1900 (16) "Unavailable" means:

1901 (a) absent from the place of governance during a disaster that seriously disrupts normal
1902 governmental operations, whether or not that absence or inability would give rise to a vacancy
1903 under existing constitutional or statutory provisions; or

1904 (b) as otherwise defined by local ordinance.

1905 Section 29. Section **63-38d-502** is amended to read:

1906 **63-38d-502. Membership -- Terms -- Chair -- Expenses.**

1907 (1) The Resource Development Coordinating Committee shall consist of the following
1908 25 members:

1909 (a) the state science advisor;

1910 (b) a representative from the Department of Agriculture and Food appointed by the
1911 executive director;

1912 (c) a representative from the Department of Community and [~~Economic Development~~]
1913 Culture appointed by the executive director;

1914 (d) a representative from the Department of Environmental Quality appointed by the
1915 executive director;

1916 (e) a representative from the Department of Natural Resources appointed by the
1917 executive director;

1918 (f) a representative from the Department of Transportation appointed by the executive

- 1919 director;
- 1920 (g) a representative from the [~~Division of Business and~~] Governor's Office of
- 1921 Economic Development appointed by the director;
- 1922 (h) a representative from the Division of Housing and Community Development
- 1923 appointed by the director;
- 1924 (i) a representative from the Division of State History appointed by the director;
- 1925 (j) a representative from the Division of Air Quality appointed by the director;
- 1926 (k) a representative from the Division of Drinking Water appointed by the director;
- 1927 (l) a representative from the Division of Environmental Response and Remediation
- 1928 appointed by the director;
- 1929 (m) a representative from the Division of Radiation appointed by the director;
- 1930 (n) a representative from the Division of Solid and Hazardous Waste appointed by the
- 1931 director;
- 1932 (o) a representative from the Division of Water Quality appointed by the director;
- 1933 (p) a representative from the Division of Oil, Gas, and Mining appointed by the
- 1934 director;
- 1935 (q) a representative from the Division of Parks and Recreation appointed by the
- 1936 director;
- 1937 (r) a representative from the Division of Forestry, Fire and State Lands appointed by
- 1938 the director;
- 1939 (s) a representative from the Utah Geological Survey appointed by the director;
- 1940 (t) a representative from the Division of Water Resources appointed by the director;
- 1941 (u) a representative from the Division of Water Rights appointed by the director;
- 1942 (v) a representative from the Division of Wildlife Resources appointed by the director;
- 1943 (w) a representative from the School and Institutional Trust Lands Administration
- 1944 appointed by the director;
- 1945 (x) a representative from the Division of Facilities Construction and Management
- 1946 appointed by the director; and
- 1947 (y) a representative from the Division of Emergency Services and Homeland Security
- 1948 appointed by the director.
- 1949 (2) (a) As particular issues require, the committee may, by majority vote of the

1950 members present, and with the concurrence of the state planning coordinator, appoint
 1951 additional temporary members to serve as ex officio voting members.

1952 (b) Those ex officio members may discuss and vote on the issue or issues for which
 1953 they were appointed.

1954 (3) A chair shall be selected by a majority vote of committee members with the
 1955 concurrence of the state planning coordinator.

1956 (4) (a) (i) Members who are not government employees shall receive no compensation
 1957 or benefits for their services, but may receive per diem and expenses incurred in the
 1958 performance of the member's official duties at the rates established by the Division of Finance
 1959 under Sections 63A-3-106 and 63A-3-107.

1960 (ii) Members may decline to receive per diem and expenses for their service.

1961 (b) (i) State government officer and employee members who do not receive salary, per
 1962 diem, or expenses from their agency for their service may receive per diem and expenses
 1963 incurred in the performance of their official duties from the council at the rates established by
 1964 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1965 (ii) State government officer and employee members may decline to receive per diem
 1966 and expenses for their service.

1967 Section 30. Section **63-38f-101**, which is renumbered from Section 9-2-201 is
 1968 renumbered and amended to read:

1969 **CHAPTER 38f. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

1970 **Part 1. General Provisions**

1971 **~~[9-2-201].~~ 63-38f-101. Title.**

1972 This ~~[part] chapter~~ is known as the "~~[Business and]~~ Governor's Office of Economic
 1973 Development ~~[Act].~~"

1974 Section 31. Section **63-38f-102**, which is renumbered from Section 9-2-102 is
 1975 renumbered and amended to read:

1976 **~~[9-2-102].~~ 63-38f-102. Definitions.**

1977 As used in this chapter:

1978 (1) "Board" means the Board of Business and Economic Development.

1979 (2) "Director" means the director of the ~~[division]~~ office.

1980 (3) ~~["Division"]~~ "Office" means the ~~[Division of Business and]~~ Governor's Office of

1981 Economic Development.

1982 Section 32. Section **63-38f-201** is enacted to read:

1983 **63-38f-201. Creation of office.**

1984 (1) There is created the Governor's Office of Economic Development.

1985 (2) The office shall:

1986 (a) be responsible for economic development within the state;

1987 (b) perform economic development planning for the state;

1988 (c) administer and coordinate all state or federal grant programs which are, or become

1989 available, for economic development;

1990 (d) administer any other programs over which the office is given administrative

1991 supervision by the governor;

1992 (e) annually submit a report to the Legislature by October 1; and

1993 (f) perform any other duties as provided by the Legislature.

1994 (3) The office may solicit and accept contributions of moneys, services, and facilities

1995 from any other source, public or private, but may not use the moneys for publicizing the

1996 exclusive interest of the donor.

1997 (4) Moneys received under Subsection (3) shall be deposited in the General Fund as

1998 dedicated credits of the office.

1999 Section 33. Section **63-38f-202**, which is renumbered from Section 9-1-204 is

2000 renumbered and amended to read:

2001 ~~[9-1-204].~~ **63-38f-202. Director of office -- Appointment -- Removal --**

2002 **Compensation.**

2003 (1) The [~~department~~] office shall be administered, directed, controlled, organized, and

2004 managed by [~~an executive~~] a director appointed by the governor [~~with the consent of the~~

2005 ~~Senate~~].

2006 (2) The [~~executive~~] director [~~shall serve~~] serves at the pleasure of the governor [~~and is~~

2007 ~~subject to removal by the governor with or without cause~~].

2008 (3) The salary of the [~~executive~~] director shall be established by the governor within

2009 the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

2010 Section 34. Section **63-38f-203**, which is renumbered from Section 9-1-205 is

2011 renumbered and amended to read:

2012 **[9-1-205]. 63-38f-203. Powers and duties of director.**

2013 (1) The [executive] director, with the approval of the governor, may:

2014 (a) by following the procedures and requirements of Title 63, Chapter 38e, Federal
2015 Funds Procedures, seek federal grants, loans, or participation in federal programs;

2016 (b) enter into lawful contracts or agreements with other states, any chamber of
2017 commerce organization, and any service club; and

2018 (c) annually prepare and submit to the governor a budget of the [department's] office's
2019 financial requirements.

2020 (2) If any federal program requires the expenditure of state funds as a condition to
2021 participation by the state in any fund, property, or service, with the governor's approval, the
2022 [executive] director shall expend whatever funds are necessary out of the money provided by
2023 the Legislature for the use of the [department] office.

2024 Section 35. Section **63-38f-204**, which is renumbered from Section 9-1-206 is
2025 renumbered and amended to read:

2026 **[9-1-206]. 63-38f-204. Organization of office -- Jurisdiction of director.**

2027 [~~(1) The chief administrative officer of each division within the department shall be a
2028 director appointed by the executive director.~~]

2029 [~~(a) Each division director shall serve at the pleasure of the executive director and may
2030 be removed by the executive director after consultation with the respective board.~~]

2031 [~~(b) Each director shall receive compensation as provided in Title 67, Chapter 19, Utah
2032 State Personnel Management Act.~~]

2033 [(2)] (1) Unless otherwise expressly provided by statute, the [executive] director may
2034 organize the [department] office in any fashion [~~he considers~~] considered appropriate,
2035 including the appointment of deputy directors of the [~~department to act as division directors or
2036 as supervisors over two or more divisions~~] office.

2037 [~~(3) The executive director shall have administrative jurisdiction over each division
2038 director for the purpose of implementing the policy promulgated by the policy-making board of
2039 each division.~~]

2040 (2) The [executive] director may make consolidations of personnel and service
2041 functions [~~in the respective divisions~~] to effectuate efficiency and economy within the
2042 [department] office.

2043 Section 36. Section **63-38f-205**, which is renumbered from Section 9-1-207 is
2044 renumbered and amended to read:

2045 **[9-1-207]. 63-38f-205. Interface with Public Service Commission.**

2046 (1) The ~~[executive]~~ director or ~~[his]~~ the director's designee shall:

2047 (a) become generally informed of significant rate cases and policy proceedings before
2048 the Public Service Commission; and

2049 (b) monitor and study the potential economic development impact of these proceedings
2050 before the Public Service Commission.

2051 (2) In the discretion of the ~~[executive]~~ director or ~~[his]~~ the director's designee, the
2052 ~~[department]~~ office may appear in any proceeding before the Public Service Commission to
2053 testify, advise, or present argument regarding the economic development impact of any matter
2054 that is the subject of the proceeding.

2055 Section 37. Section **63-38f-301**, which is renumbered from Section 9-2-202 is
2056 renumbered and amended to read:

2057 **[9-2-202]. 63-38f-301. Board of Business and Economic Development.**

2058 ~~[(1)]~~ There is created within the ~~[department]~~ office the Board of Business and
2059 Economic Development which shall advise the ~~[division]~~ office.

2060 ~~[(2) The board shall assume all of the functions, powers, duties, rights, and
2061 responsibilities of the Utah State Industrial Promotion Commission together with all functions,
2062 powers, duties, rights, and responsibilities granted to the board by this part, except for those
2063 that are administrative in nature which the division shall assume.]~~

2064 Section 38. Section **63-38f-302**, which is renumbered from Section 9-2-203 is
2065 renumbered and amended to read:

2066 **[9-2-203]. 63-38f-302. Members -- Meetings -- Expenses.**

2067 (1) (a) The board shall consist of 15 members appointed by the governor to four-year
2068 terms of office with the consent of the Senate.

2069 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
2070 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2071 board members are staggered so that approximately half of the board is appointed every two
2072 years.

2073 (c) The members may not serve more than two full consecutive terms except where the

2074 governor determines that an additional term is in the best interest of the state.

2075 (2) Not more than eight members of the board may be from one political party.

2076 (3) The members shall be representative of all areas of the state.

2077 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
2078 appointed for the unexpired term.

2079 (5) Eight members of the board constitute a quorum for conducting board business and
2080 exercising board power.

2081 (6) The governor shall select one of the board members as its chair.

2082 (7) (a) Members shall receive no compensation or benefits for their services, but may
2083 receive per diem and expenses incurred in the performance of the member's official duties at
2084 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

2085 (b) Members may decline to receive per diem and expenses for their service.

2086 Section 39. Section ~~63-38f-303~~, which is renumbered from Section 9-2-204 is
2087 renumbered and amended to read:

2088 ~~[9-2-204]~~. **63-38f-303. Board duties and powers.**

2089 (1) The board shall:

2090 (a) promote and encourage the economic, commercial, financial, industrial,
2091 agricultural, and civic welfare of the state;

2092 (b) do all lawful acts for the development, attraction, and retention of businesses,
2093 industries, and commerce within the state;

2094 (c) promote and encourage the expansion and retention of businesses, industries, and
2095 commerce located in the state;

2096 (d) support the efforts of local government and regional nonprofit economic
2097 development organizations to encourage expansion or retention of businesses, industries, and
2098 commerce located in the state;

2099 (e) do other acts not specifically enumerated in this ~~[part]~~ chapter, if the acts are for the
2100 betterment of the economy of the state;

2101 (f) work in conjunction with companies and individuals located or doing business
2102 within the state to secure favorable rates, fares, tolls, charges, and classification for
2103 transportation of persons or property by:

2104 (i) railroad;

2105 (ii) motor carrier; or
 2106 (iii) other common carriers;
 2107 (g) recommend policies, priorities, and objectives to the ~~[division]~~ office regarding the
 2108 assistance, retention, or recruitment of business, industries, and commerce in the state; and
 2109 (h) ~~[ensure that]~~ recommend how any money or program administered by the
 2110 ~~[department]~~ office or its divisions for the assistance, retention, or recruitment of businesses,
 2111 industries, and commerce in the state shall be administered, so that the money or program is
 2112 equitably available to all areas of the state unless federal or state law requires or authorizes the
 2113 geographic location of a recipient of the money or program to be considered in the distribution
 2114 of the money or administration of the program.

2115 (2) The board may~~[(a)]~~, in furtherance of the authority granted under Subsection
 2116 (1)(f), appear as a party litigant on behalf of individuals or companies located or doing business
 2117 within the state in proceedings before regulatory commissions of the state, other states, or the
 2118 federal government having jurisdiction over such matters~~[-and]~~.

2119 ~~[(b) make, amend, or revoke rules for the conduct of its business not inconsistent with
 2120 this part and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

2121 Section 40. Section ~~63-38f-304~~, which is renumbered from Section 9-2-205 is
 2122 renumbered and amended to read:

2123 ~~[9-2-205].~~ **63-38f-304. Governor's Office of Economic Development -- Powers**
 2124 **and duties of office -- Consulting with board on funds or services provided by office.**

2125 (1) For the purposes of this section:

2126 (a) "National recruitment" means the recruitment to the state of business, industry, or
 2127 commerce if, at the time of the recruitment, the business, industry, or commerce is principally
 2128 located in the United States.

2129 (b) "Private entity" means a private person, corporation, company, or organization.

2130 ~~[(2) There is created within the department the Division of Business and Economic
 2131 Development under the administration and general supervision of the executive director or a
 2132 designee of the executive director.]~~

2133 ~~[(3)]~~ (2) (a) The ~~[division]~~ office shall obtain the advice ~~[and concurrence]~~ of the board
 2134 prior to an imposition of or change to a policy, priority, or objective~~[-or rule]~~ under which the
 2135 ~~[division]~~ office operates.

2136 (b) Subsection ~~[(3)]~~ (2)(a) does not apply to the routine administration by the
2137 ~~[department or division of]~~ office of funds or services related to assistance, retention, or
2138 recruitment of business, industry, or commerce in this state.

2139 ~~[(4)]~~ (3) The ~~[division]~~ office shall:

2140 (a) be the industrial promotion authority of the state;

2141 (b) promote and encourage the economic, commercial, financial, industrial,
2142 agricultural, and civic welfare of the state;

2143 (c) do all lawful acts to create, develop, attract, and retain business, industry, and
2144 commerce within the state; and

2145 (d) do other acts that enhance the economy of the state.

2146 ~~[(5)]~~ (4) The ~~[division]~~ office may~~[-, subject to Subsection (6) and the approval of the~~
2147 ~~board]:~~

2148 (a) enter into contracts or agreements with, or make grants to, public or private entities,
2149 including municipalities, in the furtherance of its duties where the contracts or agreements are
2150 not in violation of the Constitution or statutes of the state; and

2151 (b) receive and expend funds available from any source, public or private, in any
2152 manner and for any lawful purpose in the best interest of the state in the discharge of their
2153 obligations under this part.

2154 ~~[(6) (a) Beginning on May 3, 1999, the department or division may enter into or renew~~
2155 ~~a contract or agreement with or make a grant to a private entity under which the private entity~~
2156 ~~engages in national recruitment only if the sole activity of the private entity is national~~
2157 ~~recruitment.]~~

2158 ~~[(b) In determining whether a private entity engages in activity other than national~~
2159 ~~recruitment, the department or division shall consider all activities of the private entity~~
2160 ~~regardless of whether the activities are funded by the department or division.]~~

2161 ~~[(7)]~~ (5) The ~~[executive director and the]~~ director or the director's designee shall
2162 consult with the board at each meeting of the board regarding the administration by the
2163 ~~[department or the division]~~ office of funds or services related to assistance, retention, or
2164 recruitment of business, industry, or commerce in the state.

2165 Section 41. Section ~~63-38f-401~~, which is renumbered from Section 9-2-401 is
2166 renumbered and amended to read:

2167 **Part 4. Enterprise Zone Act**2168 **~~[9-2-401].~~ 63-38f-401. Title.**

2169 This part is known as the "Enterprise Zone Act."

2170 Section 42. Section **~~63-38f-402,~~** which is renumbered from Section 9-2-402 is

2171 renumbered and amended to read:

2172 **~~[9-2-402].~~ 63-38f-402. Definitions.**

2173 As used in this part:

2174 (1) "County applicant" means the governing authority of a county that meets the
2175 requirements for designation as an enterprise zone under Section ~~[9-2-404]~~ 63-38f-404.2176 (2) "Municipal applicant" means the governing authority of a city or town that meets
2177 the requirements for designation as an enterprise zone under Section ~~[9-2-404]~~ 63-38f-404.2178 (3) "Tax incentives" or "tax benefits" means the tax credits available under Section
2179 ~~[9-2-413]~~ 63-38f-413.2180 Section 43. Section **~~63-38f-403,~~** which is renumbered from Section 9-2-403 is

2181 renumbered and amended to read:

2182 **~~[9-2-403].~~ 63-38f-403. Powers of the office.**2183 The ~~[department]~~ office shall:2184 (1) monitor the implementation and operation of this part and conduct a continuing
2185 evaluation of the progress made in the enterprise zones;2186 (2) evaluate an application from a county applicant or a municipal applicant to be
2187 designated an enterprise zone and determine if the applicant qualifies for that designation;2188 (3) provide technical assistance to county applicants and municipal applicants in
2189 developing applications for designation as enterprise zones;2190 (4) assist county applicants and municipal applicants designated as enterprise zones in
2191 obtaining assistance from the federal government and agencies of the state;2192 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
2193 program authorized by this part; and2194 (6) prepare an annual evaluation based, in part, on data provided by the State Tax
2195 Commission:

2196 (a) evaluating the effectiveness of the program and any suggestions for legislation; and

2197 (b) that is available upon request to the governor and to the Revenue and Taxation

2198 Interim Committee of the Legislature [~~on or before~~] by November 1 of each year.

2199 Section 44. Section ~~63-38f-404~~, which is renumbered from Section 9-2-404 is
2200 renumbered and amended to read:

2201 ~~[9-2-404]~~. 63-38f-404. **Criteria for designation of enterprise zones --**
2202 **Application.**

2203 (1) A county applicant seeking designation as an enterprise zone shall file an
2204 application with the [~~department~~] office that, in addition to complying with other requirements
2205 of this part:

2206 (a) verifies that the entire county is not located in a metropolitan statistical area that is
2207 entirely located within Utah, except that this requirement does not apply to a third, fourth, fifth,
2208 or sixth class county as classified under Section 17-50-501;

2209 (b) verifies that the county has a population of 50,000 or less; and

2210 (c) provides clear evidence of the need for development in the county.

2211 (2) A municipal applicant seeking designation as an enterprise zone shall file an
2212 application with the [~~department~~] office that, in addition to complying with other requirements
2213 of this part:

2214 (a) verifies that the municipality is a city of the fifth class or a town;

2215 (b) verifies that the municipality is within a county that has a population of 50,000 or
2216 less; and

2217 (c) provides clear evidence of the need for development in the municipality.

2218 (3) An application filed under Subsection (1) or (2) shall be in a form and in
2219 accordance with procedures approved by the [~~department~~] office, and shall include the
2220 following information:

2221 (a) a plan developed by the county applicant or municipal applicant that identifies local
2222 contributions meeting the requirements of Section [~~9-2-405~~] 63-38f-405;

2223 (b) the county applicant or municipal applicant has a development plan that outlines:

2224 (i) the types of investment and development within the zone that the county applicant
2225 or municipal applicant expects to take place if the incentives specified in this part are provided;

2226 (ii) the specific investment or development reasonably expected to take place;

2227 (iii) any commitments obtained from businesses;

2228 (iv) the projected number of jobs that will be created and the anticipated wage level of

2229 those jobs;

2230 (v) any proposed emphasis on the type of jobs created, including any affirmative action
2231 plans; and

2232 (vi) a copy of the county applicant's or municipal applicant's economic development
2233 plan to demonstrate coordination between the zone and overall county or municipal goals;

2234 (c) the county applicant's or municipal applicant's proposed means of assessing the
2235 effectiveness of the development plan or other programs to be implemented within the zone
2236 once they have been implemented;

2237 (d) any additional information required by the [~~department~~] office; and

2238 (e) any additional information the county applicant or municipal applicant considers
2239 relevant to its designation as an enterprise zone.

2240 Section 45. Section **63-38f-405**, which is renumbered from Section 9-2-405 is
2241 renumbered and amended to read:

2242 ~~[9-2-405]~~. **63-38f-405. Qualifying local contributions.**

2243 (1) An area may be designated as an enterprise zone only if the county applicant or
2244 municipal applicant agrees to make a qualifying local contribution.

2245 (2) The qualifying local contribution may vary depending on available resources, and
2246 may include such elements as:

2247 (a) simplified procedures for obtaining permits;

2248 (b) dedication of available government grants;

2249 (c) dedication of training funds;

2250 (d) waiver of business license fees;

2251 (e) infrastructure improvements;

2252 (f) private contributions;

2253 (g) utility rate concessions;

2254 (h) small business incubator programs; or

2255 (i) management assistance programs.

2256 Section 46. Section **63-38f-406**, which is renumbered from Section 9-2-406 is
2257 renumbered and amended to read:

2258 ~~[9-2-406]~~. **63-38f-406. Eligibility review.**

2259 (1) (a) The [~~department~~] office shall review and evaluate the applications submitted

2260 under Section [~~9-2-404~~] 63-38f-404 and shall determine whether each county applicant or
2261 municipal applicant is eligible for designation as an enterprise zone.

2262 (b) In determining whether a county applicant or municipal applicant is eligible, if
2263 unemployment, income, population, or other necessary data are not available for the county
2264 applicant or municipal applicant from the federal departments of labor or commerce or a state
2265 agency, the [~~department~~] office may rely upon other data submitted by the applicant, if the
2266 [~~department~~] office determines that it is statistically reliable or accurate.

2267 (2) (a) The [~~department~~] office shall designate enterprise zones.

2268 (b) The [~~department~~] office shall consider and evaluate an application using the
2269 following criteria:

2270 [~~(a)~~] (i) the pervasiveness of poverty, unemployment, and general distress in the
2271 proposed zone;

2272 [~~(b)~~] (ii) the extent of chronic abandonment, deterioration, or reduction in value of
2273 commercial, industrial, or residential structures in the proposed zone, and the extent of property
2274 tax arrearages in the proposed zone;

2275 [~~(c)~~] (iii) the potential for new investment and economic development in the proposed
2276 zone;

2277 [~~(d)~~] (iv) the county applicant's or municipal applicant's proposed use of other state and
2278 federal development funds or programs to increase the probability of new investment and
2279 development occurring;

2280 [~~(e)~~] (v) the extent to which the projected development in the zone will provide
2281 employment to residents of the county and particularly individuals who are unemployed or who
2282 are economically disadvantaged;

2283 [~~(f)~~] (vi) the degree to which the county applicant's or municipal applicant's application
2284 promotes innovative solutions to economic development problems and demonstrates local
2285 initiative; and

2286 [~~(g)~~] (vii) other relevant factors that the [~~department~~] office specifies in its
2287 recommendation.

2288 Section 47. Section **63-38f-407**, which is renumbered from Section 9-2-407 is
2289 renumbered and amended to read:

2290 [~~9-2-407~~]. **63-38f-407. Quarterly consideration.**

2291 The [department] office shall consider designating enterprise zones quarterly.

2292 Section 48. Section **63-38f-408**, which is renumbered from Section 9-2-408 is
2293 renumbered and amended to read:

2294 **[9-2-408]. 63-38f-408. Duration of designation.**

2295 Each enterprise zone has a duration of five years, at the end of which the county may
2296 reapply for the designation.

2297 Section 49. Section **63-38f-409**, which is renumbered from Section 9-2-409 is
2298 renumbered and amended to read:

2299 **[9-2-409]. 63-38f-409. Contingent designations.**

2300 (1) The [department] office may accept applications for, and may at any time grant, a
2301 contingent designation of any county as an enterprise zone for purposes of seeking a
2302 designation of the county as a federally designated zone.

2303 (2) This designation does not entitle a business operating in that county to the tax
2304 incentives under this part.

2305 Section 50. Section **63-38f-410**, which is renumbered from Section 9-2-410 is
2306 renumbered and amended to read:

2307 **[9-2-410]. 63-38f-410. Revocation of designations.**

2308 (1) The [department] office may revoke the designation of an enterprise zone, if no
2309 businesses utilize the tax incentives during any calendar year.

2310 (2) Prior to that action, the [department] office shall conduct a public hearing to
2311 determine reasons for inactivity and explore possible alternative actions.

2312 Section 51. Section **63-38f-411**, which is renumbered from Section 9-2-411 is
2313 renumbered and amended to read:

2314 **[9-2-411]. 63-38f-411. Disqualifying transfers.**

2315 Except in counties of the first or second class, tax incentives provided by this part are
2316 not available to companies that close or permanently curtail operations in another part of the
2317 state in connection with a transfer of any part of its business operations to an enterprise zone, if
2318 the closure or permanent curtailment is reasonably expected to diminish employment in that
2319 part of the state.

2320 Section 52. Section **63-38f-412**, which is renumbered from Section 9-2-412 is
2321 renumbered and amended to read:

2322 **[9-2-412]. 63-38f-412. Businesses qualifying for tax incentives.**

2323 The tax incentives described in this part are available only to a business firm for which
2324 at least 51% of the employees employed at facilities of the firm located in the enterprise zone
2325 are individuals who, at the time of employment, reside in the county in which the enterprise
2326 zone is located.

2327 Section 53. Section **63-38f-413**, which is renumbered from Section 9-2-413 is
2328 renumbered and amended to read:

2329 **[9-2-413]. 63-38f-413. State tax credits.**

2330 (1) Subject to the limitations of Subsections (2) through (4), the following state tax
2331 credits against individual income taxes or corporate franchise and income taxes are applicable
2332 in an enterprise zone:

2333 (a) a tax credit of \$750 may be claimed by a business for each new full-time position
2334 filled for not less than six months during a given tax year;

2335 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%
2336 of:

2337 (i) the county average monthly nonagricultural payroll wage for the respective industry
2338 as determined by the Department of Workforce Services; or

2339 (ii) if the county average monthly nonagricultural payroll wage is not available for the
2340 respective industry, the total average monthly nonagricultural payroll wage in the respective
2341 county where the enterprise zone is located;

2342 (c) an additional credit of \$750 may be claimed if the new position is in a business that
2343 adds value to agricultural commodities through manufacturing or processing;

2344 (d) an additional credit of \$200 may be claimed for two consecutive years for each new
2345 employee who is insured under an employer-sponsored health insurance program if the
2346 employer pays at least 50% of the premium cost for two consecutive years;

2347 (e) a credit of 50% of the value of a cash contribution to a private nonprofit
2348 corporation, except that the credit claimed may not exceed \$100,000:

2349 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
2350 Revenue Code;

2351 (ii) whose primary purpose is community and economic development; and

2352 (iii) that has been accredited by the board of directors of the Utah Rural Development

2353 Council;

2354 (f) a credit of 25% of the first \$200,000 spent on rehabilitating a building in the
2355 enterprise zone that has been vacant for two years or more; and

2356 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
2357 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
2358 property.

2359 (2) (a) Subject to the limitations of Subsection (2)(b), a business claiming a credit
2360 under Subsections (1)(a) through (d) may claim a credit for 30 full-time employee positions or
2361 less in each of its taxable years.

2362 (b) A business that received a credit for its full-time employee positions under
2363 Subsections (1)(a) through (d) may claim an additional credit for a full-time employee position
2364 under Subsections (1)(a) through (d) if:

2365 (i) the business creates a new full-time employee position;

2366 (ii) the total number of full-time employee positions at the business is greater than the
2367 number of full-time employee positions previously claimed by the business under Subsections
2368 (1)(a) through (d); and

2369 (iii) the total number of credits the business has claimed for its current taxable year,
2370 including the new full-time employee position for which the business is claiming a credit, is
2371 less than or equal to 30.

2372 (c) A business existing in an enterprise zone on the date of its designation shall
2373 calculate the number of full-time positions based on the average number of employees reported
2374 to the Department of Workforce Services.

2375 (d) Construction jobs are not eligible for the tax credit under Subsections (1)(a)
2376 through (d).

2377 (3) If the amount of a tax credit under this section exceeds a business entity's tax
2378 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
2379 may be carried forward for a period that does not exceed the next three taxable years.

2380 (4) (a) If a business entity is located in a county that met the requirements of
2381 Subsections [~~9-2-404(1)(b) and (c)~~] 63-38f-404(1)(b) and (c) but did not qualify as an
2382 enterprise zone prior to January 1, 1998, because the county was located in a metropolitan
2383 statistical area in more than one state, the business entity:

2384 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,
2385 but beginning before December 31, 1997;

2386 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
2387 on or after January 1, 1997, but beginning before December 31, 1997; and

2388 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,
2389 1998, if the county is designated as an enterprise zone in accordance with this part.

2390 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business
2391 entity:

2392 (i) may claim the tax credit by filing for the taxable year beginning on or after January
2393 1, 1997, but beginning before December 31, 1997:

2394 (A) an individual income tax return;

2395 (B) an amended individual income tax return;

2396 (C) a corporate franchise and income tax return; or

2397 (D) an amended corporate franchise and income tax return; and

2398 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
2399 1998, in accordance with Subsection (3).

2400 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a
2401 business engaged in retail trade or by a public utilities business.

2402 (6) A business may not claim or carry forward a tax credit available under this part for
2403 a taxable year during which the business has claimed the targeted business income tax credit
2404 available under Section ~~[9-2-1803]~~ 63-38f-503.

2405 Section 54. Section ~~63-38f-414~~, which is renumbered from Section 9-2-414 is
2406 renumbered and amended to read:

2407 ~~[9-2-414]~~. 63-38f-414. **Annual report.**

2408 (1) Each county applicant or municipal applicant designated as an enterprise zone shall
2409 annually report to the ~~[department]~~ office regarding the economic activity that has occurred in
2410 the zone following the designation.

2411 (2) This information shall include:

2412 (a) the number of jobs created in the zone[;];

2413 (b) the number of economically disadvantaged individuals receiving public job training
2414 assistance in the zone[;];

2415 (c) the average wage level of the jobs created[;];

2416 (d) descriptions of any affirmative action programs undertaken by the county applicant
2417 or municipal applicant in connection with the enterprise zone[;];

2418 (e) the amount of the county applicant's or municipal applicant's local contribution[;];
2419 and

2420 (f) the number of businesses qualifying for, or directly benefiting from, the local
2421 contribution.

2422 Section 55. Section **63-38f-415**, which is renumbered from Section 9-2-415 is
2423 renumbered and amended to read:

2424 **[9-2-415]. 63-38f-415. Indian tribes -- Application.**

2425 (1) For purposes of this section:

2426 (a) "Indian reservation" is as defined in Section 9-9-210.

2427 (b) "Indian tribe" is as defined in Subsection 9-9-402(4).

2428 (c) "Tribal applicant" means the governing authority of a tribe that meets the
2429 requirements for designation as an enterprise zone under Subsection (3).

2430 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
2431 enterprise zone.

2432 (3) The tribal applicant shall follow the application procedure for a municipal applicant
2433 in this part except for the population requirement in Subsections ~~[9-2-404(2)(a) and (b)]~~
2434 63-38f-404(2)(a) and (b).

2435 Section 56. Section **63-38f-416**, which is renumbered from Section 9-2-416 is
2436 renumbered and amended to read:

2437 **[9-2-416]. 63-38f-416. Technology-based service contracts within enterprise**
2438 **zones.**

2439 (1) For purposes of this section:

2440 (a) "Smart site enterprise" means a technology-based entity located within an enterprise
2441 zone that is eligible to receive financial support under the ~~[department's]~~ office's smart site
2442 program.

2443 (b) "Smart site program" means a program of the ~~[department]~~ office dedicated to the
2444 development of technology-based industry in rural Utah in which services that might otherwise
2445 be performed by state agencies are outsourced to a smart site enterprise.

- 2446 (c) "State agency" means the:
- 2447 (i) Department of Commerce;
- 2448 (ii) Department of Workforce Services;
- 2449 (iii) Department of Transportation;
- 2450 (iv) Department of Health;
- 2451 (v) Department of Administrative Services;
- 2452 (vi) Department of Public Safety;
- 2453 (vii) Utah State Tax Commission; and
- 2454 (viii) [~~Department of Community and~~] Governor's Office of Economic Development.
- 2455 (d) "Technology-based contract" means a contract between a state agency and a smart
- 2456 site enterprise for the smart site enterprise to provide the following services:
- 2457 (i) software development and computer programming;
- 2458 (ii) website design;
- 2459 (iii) systems integration;
- 2460 (iv) AutoCad/GIS mapping;
- 2461 (v) help desk support, customer relationship management, and telephone or Internet
- 2462 surveys;
- 2463 (vi) computer graphics, animation, or illustration;
- 2464 (vii) medical billing, coding, transcription, and related medical informatics services;
- 2465 (viii) data entry, data conversion, and imaging;
- 2466 (ix) information technology training and e-learning;
- 2467 (x) network development, management, service, and support;
- 2468 (xi) telecommunications technologies;
- 2469 (xii) database development and applications;
- 2470 (xiii) multimedia and digital technologies, including DVD;
- 2471 (xiv) technical writing;
- 2472 (xv) insurance and benefits administration;
- 2473 (xvi) data warehousing and storage or web hosting;
- 2474 (xvii) billing services; and
- 2475 (xviii) information technology consulting.
- 2476 (2) The [~~department~~] office has the following responsibilities for the smart site

2477 program authorized under this section:

2478 (a) to provide market incentives identified in Subsection (4) to eligible state agencies
2479 and provide technical assistance as appropriate;

2480 (b) to administer funding and initiate interagency transfers consistent with the
2481 provisions of this section;

2482 (c) to provide state agencies with a listing of smart site enterprises; and

2483 (d) to designate a smart site program director and notify state agencies of the
2484 designation[~~;~~ and].

2485 [~~(e) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2486 make rules necessary to administer this section.~~]

2487 (3) A state agency has the following responsibilities if participating in the smart site
2488 program offered under this section:

2489 (a) to enter into a memorandum of understanding with the [~~department~~] office
2490 indicating the steps the agency shall take to encourage smart site enterprises to submit bids for
2491 technology-based contracts; and

2492 (b) to submit to the [~~department~~] office by no later than July 30, an accounting of all
2493 technology-based contracts awarded to smart site enterprises by the agency in the prior fiscal
2494 year.

2495 (4) (a) A state agency is eligible for an interagency transfer from the [~~department~~]
2496 office for up to 10% of all technology-based contracts awarded to a smart site enterprise under
2497 the [~~department's~~] office's smart site program.

2498 (b) The [~~department~~] office shall determine the amount of the interagency transfer as
2499 follows:

2500 (i) if the total number of requests for interagency transfers under the program does not
2501 exceed the legislative appropriation for the fiscal year, each eligible agency shall receive a full
2502 10% transfer; or

2503 (ii) if the total number of requests for interagency transfers under the program exceeds
2504 the appropriation for the fiscal year, the [~~department~~] office shall prorate the amount of each
2505 transfer based on the respective percentage of all technology-based contracts submitted to the
2506 [~~department~~] office by all eligible state agencies.

2507 (c) (i) After determining the amount of each agency's interagency transfer as required

2508 under Subsection (4)(b), the [department] office shall transfer the amount to each agency's
2509 budget.

2510 (ii) The [department] office shall make the transfer no later than August 15 to
2511 supplement the agency's budget for the fiscal year beginning just prior to the interagency
2512 transfer.

2513 (iii) An agency may use the interagency transfer it receives under this Subsection (4)(c)
2514 for any purpose related to the agency's mission or its duties and responsibilities, including the
2515 payment of incentives and award bonuses for participating in the smart site program.

2516 (d) Funding for the interagency transfer under Subsection (4)(c) shall come from the
2517 prior fiscal year appropriation to the [department] office.

2518 (e) The appropriation to fund this section is nonlapsing to provide for the distribution
2519 process outlined in this Subsection (4).

2520 Section 57. Section **63-38f-501**, which is renumbered from Section 9-2-1801 is
2521 renumbered and amended to read:

2522 **Part 5. Targeted Business Income Tax Credits Within an Enterprise Zone**

2523 **~~[9-2-1801].~~ 63-38f-501. Definitions.**

2524 ~~[(1)]~~ As used in this part:

2525 ~~[(a)]~~ (1) "Allocated cap amount" means the total amount of the targeted business
2526 income tax credit that a business applicant is allowed to claim for a taxable year that represents
2527 a pro rata share of the total amount of \$300,000 for each fiscal year allowed under Subsection
2528 ~~[9-2-1803]~~ 63-38f-503(2).

2529 ~~[(b)]~~ (2) "Business applicant" means a business that meets the criteria established in
2530 Section ~~[9-2-1802]~~ 63-38f-502.

2531 ~~[(c)]~~ (3) "Community investment project" means a project that includes one or more of
2532 the following criteria in addition to the normal operations of the business applicant:

2533 ~~[(i)]~~ (a) substantial new employment;

2534 ~~[(ii)]~~ (b) new capital development; or

2535 ~~[(iii)]~~ (c) a combination of both Subsections ~~[(1)(c)(i) and (ii)]~~ (3)(a) and (b).

2536 ~~[(d)]~~ (4) "Community investment project period" means the total number of years that
2537 the [department] office determines a business applicant is eligible for a targeted business
2538 income tax credit for each community investment project.

2539 ~~[(e)]~~ (5) "Enterprise zone" means an area within a county or municipality that has been
 2540 designated as an enterprise zone by the ~~[department]~~ office under Part 4, Enterprise ~~[Zones]~~
 2541 Zone Act.

2542 ~~[(f)]~~ (6) "Local zone administrator" means a person:

2543 ~~[(i)]~~ (a) designated by the governing authority of the county or municipal applicant as
 2544 the local zone administrator in an enterprise zone application; and

2545 ~~[(ii)]~~ (b) approved by the ~~[department]~~ office as the local zone administrator.

2546 ~~[(g)]~~ (7) "Targeted business income tax credit " means an income tax credit available
 2547 under Section ~~[9-2-1803]~~ 63-38f-503.

2548 ~~[(h)]~~ (8) "Targeted business income tax credit eligibility form" means a document
 2549 provided annually to the business applicant by the ~~[department]~~ office that complies with the
 2550 requirements of Subsection ~~[9-2-1803]~~ 63-38f-503(8).

2551 ~~[(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
 2552 ~~for purposes of Subsection (1), the department shall make rules:]~~

2553 ~~[(a) to define what constitutes:]~~

2554 ~~[(i) substantial new employment;]~~

2555 ~~[(ii) new capital development; and]~~

2556 ~~[(iii) a project; and]~~

2557 ~~[(b) to establish a formula for determining the allocated cap amount for each business~~
 2558 ~~applicant.]~~

2559 Section 58. Section **63-38f-502**, which is renumbered from Section 9-2-1802 is
 2560 renumbered and amended to read:

2561 ~~[9-2-1802].~~ **63-38f-502. Application for targeted business income tax credits.**

2562 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
 2563 may elect to claim a targeted business income tax credit available under Section ~~[9-2-1803]~~
 2564 63-38f-503 if the business applicant:

2565 (i) is located in:

2566 (A) an enterprise zone; and

2567 (B) a county with:

2568 (I) a population of less than 25,000; and

2569 (II) an unemployment rate that for six months or more of each calendar year is at least

2570 one percentage point higher than the state average;

2571 (ii) meets the requirements of Section [~~9-2-412~~] 63-38f-412;

2572 (iii) provides:

2573 (A) a community investment project within the enterprise zone; and

2574 (B) a portion of the community investment project during each taxable year for which

2575 the business applicant claims the targeted business tax incentive; and

2576 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is

2577 not engaged in the following, as defined by the State Tax Commission by rule:

2578 (A) construction;

2579 (B) retail trade; or

2580 (C) public utility activities.

2581 (b) For a taxable year for which a business applicant claims a targeted business income

2582 tax credit available under this part, the business applicant may not claim or carry forward a tax

2583 credit available under Section [~~9-2-413~~] 63-38f-413, 59-7-610, or 59-10-108.7.

2584 (2) (a) A business applicant seeking to claim a targeted business income tax credit

2585 under this part shall file an application as provided in Subsection (2)(b) with the local zone

2586 administrator by no later than June 1 of the year in which the business applicant is seeking to

2587 claim a targeted business income tax credit.

2588 (b) The application described in Subsection (2)(a) shall include:

2589 (i) any documentation required by the local zone administrator to demonstrate that the

2590 business applicant meets the requirements of Subsection (1);

2591 (ii) a plan developed by the business applicant that outlines:

2592 (A) if the community investment project includes substantial new employment, the

2593 projected number and anticipated wage level of the jobs that the business applicant plans to

2594 create as the basis for qualifying for a targeted business income tax credit;

2595 (B) if the community investment project includes new capital development, a

2596 description of the capital development the business applicant plans to make as the basis for

2597 qualifying for a targeted business income tax credit; and

2598 (C) a description of how the business applicant's plan coordinates with:

2599 (I) the goals of the enterprise zone in which the business applicant is providing a

2600 community investment project; and

2601 (II) the overall economic development goals of the county or municipality in which the
2602 business applicant is providing a community investment project; and

2603 (iii) any additional information required by the local zone administrator.

2604 (3) (a) The local zone administrator shall:

2605 (i) evaluate an application filed under Subsection (2); and

2606 (ii) determine whether the business applicant is eligible for a targeted business income
2607 tax credit.

2608 (b) If the local zone administrator determines that the business applicant is eligible for
2609 a targeted business income tax credit, the local zone administrator shall:

2610 (i) certify that the business applicant is eligible for the targeted business income tax
2611 credit;

2612 (ii) structure the targeted business income tax credit for the business applicant in
2613 accordance with Section [~~9-2-1803~~] 63-38f-503; and

2614 (iii) monitor a business applicant to ensure compliance with this section.

2615 (4) A local zone administrator shall report to the [~~department~~] office by no later than
2616 June 30 of each year:

2617 (a) (i) any application approved by the local zone administrator during the last fiscal
2618 year; and

2619 (ii) the information established in Subsections [~~9-2-1803(4)(a) through (d)~~]
2620 63-38f-503(4)(a) through (d) for each new business applicant; and

2621 (b) (i) the status of any existing business applicants that the local zone administrator
2622 monitors; and

2623 (ii) any information required by the [~~department~~] office to determine the status of an
2624 existing business applicant.

2625 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
2626 of the allocated cap amount that each business applicant that the local zone administrator
2627 monitors is eligible to claim.

2628 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
2629 each business applicant that the local zone administrator monitors of the allocated cap amount
2630 determined by the [~~department~~] office under Subsection (5)(a) that the business applicant is
2631 eligible to claim for a taxable year.

2632 Section 59. Section ~~63-38f-503~~, which is renumbered from Section 9-2-1803 is
2633 renumbered and amended to read:

2634 ~~[9-2-1803]~~. **63-38f-503. Targeted business income tax credit structure -- Duties**
2635 **of the local zone administrator -- Duties of the State Tax Commission.**

2636 (1) For taxable years beginning on or after January 1, 2002, a business applicant that is
2637 certified under Subsection ~~[9-2-1802]~~ 63-38f-502(3) and issued a targeted business tax credit
2638 eligibility form by the department under Subsection (8) may claim a refundable income tax
2639 credit:

2640 (a) against the business applicant's tax liability under:

2641 (i) Title 59, Chapter 10, Individual Income Tax Act; or

2642 (ii) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and

2643 (b) subject to requirements and limitations provided by this part.

2644 (2) The total amount of the targeted business income tax credits allowed under this part
2645 for all business applicants may not exceed \$300,000 in any fiscal year.

2646 (3) (a) A targeted business income tax credit allowed under this part for each
2647 community investment project provided by a business applicant may not:

2648 (i) be claimed by a business applicant for more than seven consecutive taxable years
2649 from the date the business applicant first qualifies for a targeted business income tax credit on
2650 the basis of a community investment project;

2651 (ii) be carried forward or carried back;

2652 (iii) exceed \$100,000 in total amount for the community investment project period
2653 during which the business applicant is eligible to claim a targeted business income tax credit;
2654 or

2655 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser
2656 of:

2657 (A) 50% of the maximum amount allowed by the local zone administrator; or

2658 (B) the allocated cap amount determined by the ~~[department]~~ office under Subsection
2659 ~~[9-2-1802]~~ 63-38f-502(5).

2660 (b) A business applicant may apply to the local zone administrator to claim a targeted
2661 business income tax credit allowed under this part for each community investment project
2662 provided by the business applicant as the basis for its eligibility for a targeted business income

2663 tax credit.

2664 (4) Subject to other provisions of this section, the local zone administrator shall
2665 establish for each business applicant that qualifies for a targeted business income tax credit:

2666 (a) criteria for maintaining eligibility for the targeted business income tax credit that
2667 are reasonably related to the community investment project that is the basis for the business
2668 applicant's targeted business income tax credit;

2669 (b) the maximum amount of the targeted business income tax credit the business
2670 applicant is allowed for the community investment project period;

2671 (c) the time period over which the total amount of the targeted business income tax
2672 credit may be claimed;

2673 (d) the maximum amount of the targeted business income tax credit that the business
2674 applicant will be allowed to claim each year; and

2675 (e) requirements for a business applicant to report to the local zone administrator
2676 specifying:

2677 (i) the frequency of the business applicant's reports to the local zone administrator,
2678 which shall be made at least quarterly; and

2679 (ii) the information needed by the local zone administrator to monitor the business
2680 applicant's compliance with this Subsection (4) or Section ~~[9-2-1802]~~ 63-38f-502 that shall be
2681 included in the report.

2682 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
2683 business income tax credit under this part shall report to the local zone administrator.

2684 (6) The amount of a targeted business income tax credit that a business applicant is
2685 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the
2686 ~~[department]~~ office or the local zone administrator determines that the business applicant has
2687 failed to comply with a requirement of Subsection (3) or Section ~~[9-2-1802]~~ 63-38f-502.

2688 (7) The ~~[department]~~ office or local zone administrator may audit a business applicant
2689 to ensure:

2690 (a) eligibility for a targeted business income tax credit; or

2691 (b) compliance with Subsection (3) or Section ~~[9-2-1802]~~ 63-38f-502.

2692 (8) The department shall issue a targeted business income tax credit eligibility form in
2693 a form jointly developed by the State Tax Commission and the ~~[department]~~ office no later

2694 than 30 days after the last day of the business applicant's taxable year showing:

2695 (a) the maximum amount of the targeted business income tax credit that the business
2696 applicant is eligible for that taxable year;

2697 (b) any reductions in the maximum amount of the targeted business income tax credit
2698 because of failure to comply with a requirement of Subsection (3) or Section [~~9-2-1802~~]
2699 63-38f-502;

2700 (c) the allocated cap amount that the business applicant may claim for that taxable
2701 year; and

2702 (d) the actual amount of the targeted business income tax credit that the business
2703 applicant may claim for that taxable year.

2704 (9) (a) A business applicant shall retain the targeted business income tax credit
2705 eligibility form provided by the [~~department~~] office under this Subsection (9).

2706 (b) The State Tax Commission may audit a business applicant to ensure:

2707 (i) eligibility for a targeted business income tax credit; or

2708 (ii) compliance with Subsection (3) or Section [~~9-2-1802~~] 63-38f-502.

2709 Section 60. Section **63-38f-601**, which is renumbered from Section 9-2-501 is
2710 renumbered and amended to read:

2711 **Part 6. State Advisory Council on Science and Technology**

2712 [~~9-2-501~~]. **63-38f-601. Purpose.**

2713 The purpose of this part is to establish an advisory council on science and technology to
2714 assist in the development of programs, communication, and use of science and technology in
2715 governmental organizations in the state [~~of Utah~~].

2716 Section 61. Section **63-38f-602**, which is renumbered from Section 9-2-502 is
2717 renumbered and amended to read:

2718 [~~9-2-502~~]. **63-38f-602. Definition of terms.**

2719 As used in this part:

2720 (1) "Adviser" means the state science adviser appointed under this part.

2721 (2) "Council" means the State Advisory Council on Science and Technology created
2722 under this part.

2723 (3) "Director" means the governor's director for economic development.

2724 Section 62. Section **63-38f-603**, which is renumbered from Section 9-2-503 is

2725 renumbered and amended to read:

2726 **[9-2-503]. 63-38f-603. Creation.**

2727 There is created the State Advisory Council on Science and Technology within the
2728 [~~Division of Business and~~] Governor's Office of Economic Development, which shall perform
2729 the functions and duties provided in this part.

2730 Section 63. Section **63-38f-604**, which is renumbered from Section 9-2-504 is
2731 renumbered and amended to read:

2732 **[9-2-504]. 63-38f-604. Members -- Appointment -- Terms -- Qualifications --**
2733 **Vacancies -- Chair and vice chair -- Executive secretary -- Executive committee --**
2734 **Quorum -- Expenses.**

2735 (1) The council comprises the following nonvoting members or their designees:

2736 (a) the adviser;

2737 (b) the executive director of the Department of Natural Resources;

2738 (c) the executive director of the Department of Community and Economic
2739 Development;

2740 (d) the executive director of the Department of Health;

2741 (e) the executive director of the Department of Environmental Quality;

2742 (f) the commissioner of agriculture and food;

2743 (g) the commissioner of higher education;

2744 (h) the state planning coordinator; and

2745 (i) the executive director of the Department of Transportation.

2746 (2) The governor may appoint other voting members, not to exceed 12.

2747 (3) (a) Except as required by Subsection (b), as terms of current council members
2748 expire, the governor shall appoint each new member or reappointed member to a four-year
2749 term.

2750 (b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time
2751 of appointment or reappointment, adjust the length of terms to ensure that the terms of council
2752 members are staggered so that approximately half of the council is appointed every two years.

2753 (4) The governor shall consider all institutions of higher education in the state in the
2754 appointment of council members.

2755 (5) The voting members of the council shall be experienced or knowledgeable in the

2756 application of science and technology to business, industry, or public problems and have
2757 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of
2758 this part.

2759 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
2760 appointed for the unexpired term.

2761 (7) (a) Each year the council shall select from its membership a chair and a vice chair.

2762 (b) The chair and vice chair shall hold office for one year or until a successor is
2763 appointed and qualified.

2764 (8) The adviser [~~shall serve~~] serves as executive secretary of the council.

2765 (9) An executive committee shall be established consisting of the chair, vice chair, and
2766 the adviser.

2767 (10) (a) In order to conduct business matters of the council at regularly convened
2768 meetings, a quorum consisting of a simple majority of the total voting membership of the
2769 council is required.

2770 (b) All matters of business affecting public policy require not less than a simple
2771 majority of affirmative votes of the total membership.

2772 (11) (a) (i) Members who are not government employees shall receive no
2773 compensation or benefits for their services, but may receive per diem and expenses incurred in
2774 the performance of the member's official duties at the rates established by the Division of
2775 Finance under Sections 63A-3-106 and 63A-3-107.

2776 (ii) Members may decline to receive per diem and expenses for their service.

2777 (b) (i) State government officer and employee members who do not receive salary, per
2778 diem, or expenses from their agency for their service may receive per diem and expenses
2779 incurred in the performance of their official duties from the council at the rates established by
2780 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

2781 (ii) State government officer and employee members may decline to receive per diem
2782 and expenses for their service.

2783 (c) (i) Higher education members who do not receive salary, per diem, or expenses
2784 from the entity that they represent for their service may receive per diem and expenses incurred
2785 in the performance of their official duties from the committee at the rates established by the
2786 Division of Finance under Sections 63A-3-106 and 63A-3-107.

2787 (ii) Higher education members may decline to receive per diem and expenses for their
2788 service.

2789 Section 64. Section **63-38f-605**, which is renumbered from Section 9-2-505 is
2790 renumbered and amended to read:

2791 **9-2-505**. **63-38f-605**. **Duties and powers.**

2792 (1) The council shall:

2793 (a) encourage the use of science and technology in the administration of state and local
2794 government;

2795 (b) develop programs whereby state agencies and the several public and private
2796 institutions of higher education and technical colleges within the state may assist business and
2797 industry in the utilization of science and technology;

2798 (c) further communication between agencies of federal, state, and local government
2799 who wish to utilize science and technology;

2800 (d) develop programs of cooperation on matters of science and technology between:

2801 (i) state and local government agencies;

2802 (ii) the several public and private institutions of higher education and technical
2803 colleges within the state; and

2804 (iii) business and industry within the state; or

2805 (iv) between any combination of these;

2806 (e) provide a means whereby government, business, industry, and higher education
2807 may be represented in the formulation and implementation of state policies and programs on
2808 matters of science and technology;

2809 (f) review, catalog, and compile the research and development uses by the state
2810 universities of the revenue derived from mineral lease funds on state and federal lands;

2811 (g) provide to the Legislature an annual report on the expenditure and utilization of
2812 these mineral lease funds;

2813 (h) make recommendations to the Legislature on the further uses of these mineral lease
2814 funds in order to stimulate research and development directed toward the more effective
2815 utilization of the state's natural resources; and

2816 (i) prepare and lodge an annual report with the governor and with the Legislature.

2817 (2) The council may:

2818 (a) in accordance with Title 63, Chapter 40, Federal Assistance Management Program,
2819 apply for, receive, and disburse funds, contributions, or grants from whatever source for the
2820 purposes set forth in this part;

2821 (b) employ, compensate, and prescribe the duties and powers of those individuals,
2822 subject to the provisions of this part relating to the adviser, necessary to execute the duties and
2823 powers of the council; and

2824 (c) enter into contracts for the purposes of this part.

2825 Section 65. Section ~~63-38f-606~~, which is renumbered from Section 9-2-506 is
2826 renumbered and amended to read:

2827 ~~[9-2-506]~~. 63-38f-606. **Adviser -- Duties and powers.**

2828 (1) The adviser shall be appointed by the governor.

2829 (2) The adviser shall be experienced or knowledgeable in the application of science
2830 and technology to business, industry, or public problems and shall have demonstrated ~~[his]~~
2831 interest in or ability to contribute to the accomplishment of the purposes of this part.

2832 (3) The adviser shall be compensated pursuant to the wage and salary classification
2833 plan for appointed officers of the state ~~[of Utah]~~ currently in effect.

2834 (4) (a) The adviser shall have those duties and powers the council assigns.

2835 (b) The adviser, ~~[subject to the supervision]~~ with the advice of the council, may enter
2836 into contracts and agreements and may incur expenses necessary to fulfill the purposes of this
2837 part.

2838 (5) The ~~[council]~~ adviser shall be administratively responsible to the director of the
2839 ~~[Division of Business and Economic Development]~~ office.

2840 Section 66. Section ~~63-38f-607~~, which is renumbered from Section 9-2-507 is
2841 renumbered and amended to read:

2842 ~~[9-2-507]~~. 63-38f-607. **Request for information.**

2843 All departments, divisions, boards, commissions, agencies, institutions, and all other
2844 instrumentalities of the state shall, upon request of the council, provide the council with any
2845 information that these instrumentalities have concerning research in science and technology.

2846 Section 67. Section ~~63-38f-701~~, which is renumbered from Section 9-2-601 is
2847 renumbered and amended to read:

2848 **Part 7. Centers of Excellence**

2849 **[9-2-601]. 63-38f-701. Purpose.**

2850 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
2851 existing industry requires a strong technology base, new ideas, concepts, innovations, and
2852 prototypes.

2853 (b) These generally come from strong research colleges and universities.

2854 (c) Technical research in Utah's colleges and universities should be enhanced and
2855 expanded, particularly in those areas targeted by the state for economic development.

2856 (d) Most states are enhancing their research base by direct funding, usually on a
2857 matching basis.

2858 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
2859 by encouraging interdisciplinary research activities in targeted areas.

2860 (f) The Legislature recognizes that one source of funding is in matching state funds
2861 with federal funds and industrial support to provide the needed new technologies.

2862 (2) The Legislature recommends that the governor consider the allocation of economic
2863 development funds for Centers of Excellence to be matched by industry and federal grants on at
2864 least a two-for-one basis.

2865 (3) (a) The Legislature recommends that [~~such~~] the funds be allocated on a competitive
2866 basis to the various colleges and universities in the state.

2867 (b) The funds made available should be used to support interdisciplinary research in
2868 specialized Centers of Excellence in technologies that are considered to have potential for
2869 economic development in this state.

2870 Section 68. Section **63-38f-702**, which is renumbered from Section 9-2-602 is
2871 renumbered and amended to read:

2872 **[9-2-602]. 63-38f-702. Title.**

2873 [(+) This part is known as the "Centers of Excellence Act."

2874 [(2) ~~As used in this part, "Centers of Excellence" means university-based,
2875 industry-supported, cooperative research and development programs.]~~

2876 Section 69. Section **63-38f-703** is enacted to read:

2877 **63-38f-703. Definitions.**

2878 As used in this part, "centers of excellence" means university-based,
2879 industry-supported, cooperative research and development programs.

2880 Section 70. Section **63-38f-704**, which is renumbered from Section 9-2-603 is
2881 renumbered and amended to read:

2882 **[9-2-603]. 63-38f-704. Administration -- Grants.**

2883 (1) This part shall be administered by the [~~Division of Business and~~] Governor's Office
2884 of Economic Development.

2885 (2) The [~~department~~] office may award grants to the various colleges and universities
2886 in the state for the purposes of this part.

2887 (3) (a) [~~Recommendations for funding~~] Funding allocations shall be made by the
2888 [~~division~~] office with the advice of the State Advisory Council for Science and Technology[;
2889 ~~with the approval of~~] and the board.

2890 (b) Each proposal shall receive the best available outside review.

2891 (4) (a) In considering each proposal, the [~~division~~] office shall weigh technical merit,
2892 the level of matching funds from private and federal sources, and the potential for job creation
2893 and economic development.

2894 (b) Proposals or consortia that combine and coordinate related research at two or more
2895 colleges and universities shall be encouraged.

2896 (5) The State Advisory Council on Science and Technology shall review the activities
2897 and progress of individual centers on a regular basis and assist the [~~division~~] office in preparing
2898 an annual report on the accomplishments and direction of the Centers of Excellence Program.

2899 Section 71. Section **63-38f-801**, which is renumbered from Section 9-2-901 is
2900 renumbered and amended to read:

2901 **Part 8. Shared Foreign Sales Corporations**

2902 **[9-2-901]. 63-38f-801. Creation of shared foreign sales corporations.**

2903 The [~~department~~] office may create one or more shared foreign sales corporations,
2904 qualifying as such under Section 927(g), Internal Revenue Code of 1986, and may name
2905 directors or managers of these corporations at its discretion.

2906 Section 72. Section **63-38f-802**, which is renumbered from Section 9-2-902 is
2907 renumbered and amended to read:

2908 **[9-2-902]. 63-38f-802. Management fees.**

2909 (1) All expenses incurred in establishing and maintaining shared foreign sales
2910 corporations shall be initially paid for by the [~~department~~] office but shall be reimbursed to the

2911 [department] office by the participants in each shared foreign sales corporation created under
 2912 Section ~~[9-2-901]~~ 63-38f-801 on a pro rata basis determined by the [department] office.

2913 (2) The [department] office may charge the participants management fees that are
 2914 reasonable to maintain and manage each of the shared foreign sales corporations.

2915 (3) All monies obtained by the [department] office in excess of [department] office
 2916 expenditures in connection with the management of shared foreign sales corporations may be
 2917 used at the discretion of the [department] office for the [department's] office's other activities in
 2918 promoting exporting.

2919 (4) The fees collected and the expenditures made shall be reported to the Legislature
 2920 each year.

2921 Section 73. Section **63-38f-901**, which is renumbered from Section 9-2-1201 is
 2922 renumbered and amended to read:

2923 **Part 9. Industrial Assistance Fund**

2924 **~~[9-2-1201].~~ 63-38f-901. Purpose statement.**

2925 The Legislature finds and declares that the fostering and development of industry in
 2926 Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its
 2927 economy, and adequate employment for its citizens.

2928 Section 74. Section **63-38f-902**, which is renumbered from Section 9-2-1202 is
 2929 renumbered and amended to read:

2930 **~~[9-2-1202].~~ 63-38f-902. Definitions.**

2931 As used in this part:

2932 (1) "Administrator" means the [executive] director [~~of the Department of Community~~
 2933 ~~and Economic Development]~~ or the [executive] director's designee.

2934 (2) "Board" means the Board of Business and Economic Development.

2935 (3) "Company creating an economic impediment" means a company that discourages
 2936 economic development within a reasonable radius of its location because of:

2937 (a) odors;

2938 (b) noise;

2939 (c) pollution;

2940 (d) health hazards; or

2941 (e) other activities similar to those described in Subsections (3)(a) through (d).

2942 (4) "Economic opportunities" means unique business situations or community
2943 circumstances which lend themselves to the furtherance of the economic interests of the state
2944 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and
2945 industry in the state.

2946 (5) "Economically disadvantaged rural area" means a geographic area designated by the
2947 ~~[board]~~ administrator under Section ~~[9-2-1207]~~ 63-38f-909.

2948 (6) "Fund" means the restricted account known as the Industrial Assistance Fund
2949 created in Section ~~[9-2-1203]~~ 63-38f-903.

2950 (7) "Replacement company" means a company locating its business or part of its
2951 business in a location vacated by a company creating an economic impediment.

2952 (8) "Targeted industry" means an industry or group of industries targeted by the
2953 administrator with the advice of the board, under Section ~~[9-2-1207]~~ 63-38f-909, for economic
2954 development in the state.

2955 Section 75. Section **63-38f-903**, which is renumbered from Section 9-2-1203 is
2956 renumbered and amended to read:

2957 ~~[9-2-1203]~~. **63-38f-903. Industrial Assistance Fund created.**

2958 (1) There is created within the General Fund a restricted account known as the
2959 Industrial Assistance Fund of which:

2960 (a) up to 50% shall be used in economically disadvantaged rural areas; and

2961 (b) up to 20% may be used to take timely advantage of economic opportunities as they
2962 arise.

2963 (2) The fund shall be administered by the administrator ~~[under the policy direction of]~~
2964 with advice from the board.

2965 (3) The administrator may hire appropriate support staff.

2966 (4) The cost of administering the fund shall be paid from monies in the fund.

2967 (5) Interest accrued from investment of monies in the fund shall remain in the fund.

2968 Section 76. Section **63-38f-904**, which is renumbered from Section 9-2-1204 is
2969 renumbered and amended to read:

2970 ~~[9-2-1204]~~. **63-38f-904. Loans, grants, and assistance -- Repayment -- Earned**
2971 **credits.**

2972 (1) (a) A company that qualifies under Section ~~[9-2-1205]~~ 63-38f-905 may receive

2973 loans, grants, or other financial assistance from the fund for expenses related to establishment,
2974 relocation, or development of industry in Utah.

2975 (b) A company creating an economic impediment that qualifies under Section
2976 ~~[9-2-1205.5]~~ 63-38f-907 may in accordance with this part receive loans, grants, or other
2977 financial assistance from the fund for the expenses of the company creating an economic
2978 impediment related to:

2979 (i) relocation to a rural area in Utah of the company creating an economic impediment;
2980 and

2981 (ii) the siting of a replacement company.

2982 (c) An entity offering an economic opportunity that qualifies under Section
2983 ~~[9-2-1205.8]~~ 63-38f-908 may:

2984 (i) receive loans, grants, or other financial assistance from the fund for expenses related
2985 to the establishment, relocation, retention, or development of industry in the state; and

2986 (ii) include infrastructure or other economic development precursor activities that act
2987 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
2988 enlargement of the state's tax base.

2989 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
2990 structure, amount, and nature of any loan, grant, or other financial assistance from the fund.

2991 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
2992 or return to the state, including cash or credit, equals at least the amount of the assistance
2993 together with an annual interest charge as negotiated by the administrator.

2994 (c) Payments resulting from grants awarded from the fund shall be made only after the
2995 administrator has determined that the company has satisfied the conditions upon which the
2996 payment or earned credit was based.

2997 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
2998 system of earned credits that may be used to support grant payments or in lieu of cash
2999 repayment of a fund loan obligation.

3000 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
3001 determined by the administrator, including:

3002 (A) the number of Utah jobs created;

3003 (B) the increased economic activity in Utah; or

3004 (C) other events and activities that occur as a result of the fund assistance.
3005 (b) (i) The administrator shall provide for a system of credits to be used to support
3006 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company
3007 creating an economic impediment.
3008 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
3009 determined by the administrator, including:
3010 (A) the number of Utah jobs created;
3011 (B) the increased economic activity in Utah; or
3012 (C) other events and activities that occur as a result of the fund assistance.
3013 (4) (a) A cash loan repayment or other cash recovery from a company receiving
3014 assistance under this section, including interest, shall be deposited into the fund.
3015 (b) The administrator and the Division of Finance shall determine the manner of
3016 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
3017 grant payments as provided in Subsection (3).
3018 (5) (a) At the end of each fiscal year, after the transfer of surplus General Fund
3019 revenues has been made to the General Fund Budget Reserve Account as provided in Section
3020 63-38-2.5, any additional unrestricted, undesignated General Fund balance shall be earmarked
3021 to the Industrial Assistance Fund in an amount equal to any credit that has accrued under this
3022 part.
3023 (b) These credit amounts may not be used for purposes of the fund as provided in this
3024 part until appropriated by the Legislature.
3025 Section 77. Section **63-38f-905**, which is renumbered from Section 9-2-1205 is
3026 renumbered and amended to read:
3027 **[9-2-1205]. 63-38f-905. Qualification for assistance.**
3028 (1) Except as provided in Section [9-2-1205.5] 63-38f-907 or Section [9-2-1205.8]
3029 63-38f-908, the administrator shall determine which industries, companies, and individuals
3030 qualify to receive monies from the fund. Except as provided by Subsection (2), to qualify for
3031 financial assistance from the fund, an applicant shall:
3032 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
3033 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
3034 proportional with monies provided from the fund at a minimum ratio of 2 to 1 per year or other

3035 more stringent requirements as established from time to time by the board for a minimum
3036 period of five years beginning with the date the loan or grant was approved;

3037 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
3038 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
3039 loan provided by the fund; and

3040 (c) satisfy other criteria the administrator considers appropriate.

3041 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
3042 (1)(a) or ~~(1)(b)~~ if:

3043 (i) the financial assistance is provided to an applicant for the purpose of locating all or
3044 any portion of its operations to an economically disadvantaged rural area;

3045 (ii) the applicant is part of a targeted industry;

3046 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
3047 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
3048 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
3049 significant economic stimulus to the growth of commerce and industry in the state; or

3050 (iv) the applicant is an entity offering an economic opportunity under Section
3051 ~~[9-2-1205.8]~~ 63-38f-908.

3052 (b) The administrator may not exempt the applicant from the requirement under
3053 Subsection ~~[9-2-1204]~~ 63-38f-904(2)(b) that the loan be structured so that the repayment or
3054 return to the state equals at least the amount of the assistance together with an annual interest
3055 charge.

3056 (3) The administrator shall:

3057 (a) for applicants not described in Subsection (2)(a):

3058 (i) make findings as to whether or not each applicant has satisfied each of the
3059 conditions set forth in Subsection (1); and

3060 (ii) monitor the continued compliance by each applicant with each of the conditions set
3061 forth in Subsection (1) for five years;

3062 (b) for applicants described in Subsection (2)(a), make findings as to whether the
3063 economic activities of each applicant has resulted in the creation of new jobs on a per capita
3064 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
3065 located;

3066 (c) monitor the compliance by each applicant with the provisions of any contract or
3067 agreement entered into between the applicant and the state as provided in Section [~~9-2-1205.1~~
3068 63-38f-906]; and

3069 (d) make funding decisions based upon appropriate findings and compliance.

3070 Section 78. Section **63-38f-906**, which is renumbered from Section 9-2-1205.1 is
3071 renumbered and amended to read:

3072 ~~[9-2-1205.1]~~. **63-38f-906. Agreements.**

3073 The administrator shall enter into agreements with each successful applicant that have
3074 specific terms and conditions for each loan or assistance, including:

3075 (1) repayment schedules;

3076 (2) interest rates;

3077 (3) specific economic activity required to qualify for the loan or assistance or for
3078 repayment credits;

3079 (4) collateral or security, if any; and

3080 (5) other terms and conditions considered appropriate by the administrator.

3081 Section 79. Section **63-38f-907**, which is renumbered from Section 9-2-1205.5 is
3082 renumbered and amended to read:

3083 ~~[9-2-1205.5]~~. **63-38f-907. Financial assistance to companies that create**
3084 **economic impediments.**

3085 (1) (a) The administrator may provide monies from the fund to a company creating an
3086 economic impediment if that company:

3087 (i) applies to the administrator;

3088 (ii) relocates to a rural area in Utah; and

3089 (iii) meets the qualifications of Subsection (1)(b).

3090 (b) Except as provided by Subsection (2), to qualify for financial assistance from the
3091 fund, a company creating an economic impediment shall:

3092 (i) demonstrate to the satisfaction of the administrator that the company creating an
3093 economic impediment, its replacement company, or in the aggregate the company creating the
3094 economic impediment and its replacement company:

3095 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
3096 businesses in an amount proportional with monies provided from the fund at a minimum ratio

3097 of 2 to 1 per year or other more stringent requirements as established from time to time by the
3098 board for a minimum period of five years beginning with the date the loan or grant was
3099 approved; and

3100 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
3101 appropriate credits, the loan provided by the fund; and

3102 (ii) satisfy other criteria the administrator considers appropriate.

3103 (2) (a) The administrator may exempt a company creating an economic impediment
3104 from the requirements of Subsection (1)(b)(i)(A) if:

3105 (i) the financial assistance is provided to a company creating an economic impediment
3106 for the purpose of locating all or any portion of its operations to an economically disadvantaged
3107 rural area; or

3108 (ii) its replacement company is part of a targeted industry.

3109 (b) The administrator may not exempt a company creating an economic impediment
3110 from the requirement under Subsection [~~9-2-1204~~] 63-38f-904(2)(b) that the loan be structured
3111 so that the repayment or return to the state equals at least the amount of the assistance together
3112 with an annual interest charge.

3113 (3) The administrator shall:

3114 (a) make findings as to whether or not a company creating an economic impediment,
3115 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
3116 (1);

3117 (b) monitor the compliance by a company creating an economic impediment, its
3118 replacement company, or both, with:

3119 (i) each of the conditions set forth in Subsection (1); and

3120 (ii) any contract or agreement under Section [~~9-2-1205.1~~] 63-38f-906 entered into
3121 between:

3122 (A) the company creating an economic impediment; and

3123 (B) the state; and

3124 (c) make funding decisions based upon appropriate findings and compliance.

3125 Section 80. Section **63-38f-908**, which is renumbered from Section 9-2-1205.8 is
3126 renumbered and amended to read:

3127 [~~9-2-1205.8~~]. **63-38f-908**. **Financial assistance to entities offering economic**

3128 **opportunities.**

3129 (1) Subject to the duties and powers of the board under Section [~~9-2-204~~] 63-38f-303,
3130 the administrator may provide monies from the fund to an entity offering an economic
3131 opportunity if that entity:

- 3132 (a) applies to the administrator; and
- 3133 (b) meets the qualifications of Subsection (2).

3134 (2) The applicant shall:

3135 (a) demonstrate to the satisfaction of the administrator the nature of the economic
3136 opportunity and the related benefit to the economic well-being of the state by providing
3137 evidence documenting the logical and compelling linkage, either direct or indirect, between the
3138 expenditure of monies necessitated by the economic opportunity and the likelihood that the
3139 state's tax base will be maintained or enlarged;

3140 (b) demonstrate how the funding request will act in concert with other state, federal, or
3141 local agencies to achieve the economic benefit;

3142 (c) demonstrate how the funding request will act in concert with free market principles;

3143 (d) satisfy other criteria the administrator considers appropriate; and

3144 (e) be either:

3145 (i) an entity whose purpose is to exclusively or substantially promote, develop, or
3146 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or
3147 specific components of the state; or

3148 (ii) a company or individual that does not otherwise qualify under Section [~~9-2-1205~~]
3149 63-38f-905.

3150 (3) Subject to the duties and powers of the board under Section [~~9-2-204~~] 63-38f-303,
3151 the administrator shall:

3152 (a) make findings as to whether an applicant has satisfied each of the conditions set
3153 forth in Subsection (2);

3154 (b) establish benchmarks and timeframes in which progress toward the completion of
3155 the agreed upon activity is to occur;

3156 (c) monitor compliance by an applicant with any contract or agreement entered into by
3157 the applicant and the state as provided by Section [~~9-2-1205.1~~] 63-38f-906; and

3158 (d) make funding decisions based upon appropriate findings and compliance.

3159 Section 81. Section **63-38f-909**, which is renumbered from Section 9-2-1207 is
 3160 renumbered and amended to read:

3161 **[9-2-1207]. 63-38f-909. Annual policy considerations.**

3162 (1) The administrator, with the advice of the board, shall determine annually which
 3163 industries or groups of industries shall be targeted industries as defined in Section ~~[9-2-1202]~~
 3164 63-38f-902.

3165 (2) In designating an economically disadvantaged rural area, the administrator, with the
 3166 advice of the board, shall consider the average agricultural and nonagricultural wage, personal
 3167 income, unemployment, and employment in the area.

3168 (3) In evaluating the economic impact of applications for assistance, the administrator,
 3169 with the advice of the board, shall use an econometric cost-benefit model or models adopted by
 3170 the Governor's Office of Planning and Budget.

3171 (4) The administrator, with the advice of the board, may establish:

3172 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
 3173 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
 3174 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
 3175 such as the rate of unemployment; and

3176 (b) minimum applicant expense ratios, as long as they are at least equal to those
 3177 required under Subsection ~~[9-2-1205]~~ 63-38f-905(1)(a) or ~~[9-2-1205.5]~~ 63-38f-907(1)(b)(i)(A).

3178 Section 82. Section **63-38f-1001**, which is renumbered from Section 9-2-1401 is
 3179 renumbered and amended to read:

3180 **Part 10. Biotechnology Regulation**

3181 **[9-2-1401]. 63-38f-1001. Definitions.**

3182 As used in this part, "biotechnology" is:

3183 (1) the modification of living organisms by recombinant DNA techniques; and
 3184 (2) a means to accomplish, through genetic engineering, the same kinds of
 3185 modifications accomplished through traditional genetic techniques such as crossbreeding.

3186 Section 83. Section **63-38f-1002**, which is renumbered from Section 9-2-1402 is
 3187 renumbered and amended to read:

3188 **[9-2-1402]. 63-38f-1002. Confidential information.**

3189 (1) A state agency having access under federal law to biotechnology trade secrets and

3190 related confidential information shall manage the trade secrets and related confidential records
3191 as protected records under Title 63, Chapter 2, Government Records Access and Management
3192 Act.

3193 (2) The records described in this section may be disclosed under the balancing
3194 provisions of Title 63, Chapter 2, Government Records Access and Management Act, when a
3195 determination is made that disclosure is essential for the protection of the public's health or
3196 environment.

3197 Section 84. Section **63-38f-1003**, which is renumbered from Section 9-2-1403 is
3198 renumbered and amended to read:

3199 **[9-2-1403]. 63-38f-1003. Preemption of local regulation.**

3200 (1) A county, city, town, or other political subdivision may not regulate the
3201 technological processes relating to the development and use of biotechnologically created
3202 materials and organisms.

3203 (2) This preemption does not affect the powers of a county, city, town, or other
3204 political subdivision, including [~~but not limited to~~] the power to regulate land use, business,
3205 industry, construction, and public utilities, to protect the public health or environment, or to
3206 provide fire protection and other public safety services.

3207 Section 85. Section **63-38f-1101**, which is renumbered from Section 9-2-1601 is
3208 renumbered and amended to read:

3209 **Part 11. Recycling Market Development Zone Act**

3210 **[9-2-1601]. 63-38f-1101. Title.**

3211 This part is known as the "Recycling Market Development Zone Act."

3212 Section 86. Section **63-38f-1102**, which is renumbered from Section 9-2-1602 is
3213 renumbered and amended to read:

3214 **[9-2-1602]. 63-38f-1102. Definitions.**

3215 As used in this part:

3216 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
3217 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
3218 organisms.

3219 (2) "Postconsumer waste material" means any product generated by a business or
3220 consumer that has served its intended end use, and that has been separated from solid waste for

3221 the purposes of collection, recycling, and disposition and that does not include secondary waste
3222 material.

3223 (3) (a) "Recovered materials" means waste materials and by-products that have been
3224 recovered or diverted from solid waste.

3225 (b) "Recovered materials" does not include those materials and by-products generated
3226 from, and commonly reused within, an original manufacturing process.

3227 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
3228 the beneficial use of the materials and includes a series of activities by which materials that
3229 would become or otherwise remain waste are diverted from the waste stream for collection,
3230 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
3231 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
3232 the materials as substitutes for goods made from virgin materials.

3233 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

3234 (5) "Recycling market development zone" or "zone" means an area designated by the
3235 [department] office as meeting the requirements of this part.

3236 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
3237 facilities and waste generated after completion of a manufacturing process.

3238 (b) "Secondary waste material" does not include internally generated scrap commonly
3239 returned to industrial or manufacturing processes, such as home scrap and mill broke.

3240 (7) "State tax incentives," "tax incentives," or "tax benefits" means the tax credits
3241 available under Sections 59-7-608 and 59-10-108.7.

3242 Section 87. Section **63-38f-1103**, which is renumbered from Section 9-2-1603 is
3243 renumbered and amended to read:

3244 **[9-2-1603]. 63-38f-1103. Duties of the office.**

3245 The [department] office shall:

3246 (1) facilitate recycling development zones through state support of county incentives
3247 which encourage development of manufacturing enterprises that use recycling materials
3248 currently collected;

3249 (2) evaluate an application from a county or municipality executive authority to be
3250 designated as a recycling market development zone and determine if the county or municipality
3251 qualifies for that designation;

- 3252 (3) provide technical assistance to municipalities and counties in developing
3253 applications for designation as a recycling market development zone;
- 3254 (4) assist counties and municipalities designated as recycling market development
3255 zones in obtaining assistance from the federal government and agencies of the state;
- 3256 (5) assist any qualified business in obtaining the benefits of any incentive or
3257 inducement program authorized by this part;
- 3258 (6) monitor the implementation and operation of this part and conduct a continuing
3259 evaluation of the progress made in the recycling market development zone; and
- 3260 (7) submit an annual written report evaluating the effectiveness of the program and
3261 providing recommendations for legislation to the Workforce Services and Economic
3262 Development Interim Committee and Natural Resources, Agriculture, and Environment Interim
3263 Committee not later than November 1 of each year.

3264 Section 88. Section **63-38f-1104**, which is renumbered from Section 9-2-1604 is
3265 renumbered and amended to read:

3266 **[9-2-1604]. 63-38f-1104. Criteria for recycling market development zone --**
3267 **Application process and fees.**

3268 (1) An area may be designated as a recycling market development zone only if:

3269 (a) the county or municipality agrees to make a qualifying local contribution under
3270 Section ~~[9-2-1605]~~ 63-38f-1105; and

3271 (b) the county or municipality provides for postconsumer waste collection for recycling
3272 within the county or municipality.

3273 (2) The executive authority of any municipality or county desiring to be designated as a
3274 recycling market development zone shall:

3275 (a) obtain the written approval of the municipality or county's legislative body; and

3276 (b) file an application with the ~~[department]~~ office demonstrating the county or
3277 municipality meets the requirements of this part.

3278 (3) The application shall be in a form prescribed by the ~~[department]~~ office, and shall
3279 include:

3280 (a) a plan developed by the county or municipality that identifies local contributions
3281 meeting the requirements of Section ~~[9-2-1605]~~ 63-38f-1105;

3282 (b) a county or municipality development plan that outlines:

- 3283 (i) the specific investment or development reasonably expected to take place;
- 3284 (ii) any commitments obtained from businesses to participate, and in what capacities
- 3285 regarding recycling markets;
- 3286 (iii) the county's or municipality's economic development plan and demonstration of
- 3287 coordination between the zone and the county or municipality in overall development goals;
- 3288 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
- 3289 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
- 3290 businesses;
- 3291 (v) the county's or municipality's long-term waste management plan and evidence that
- 3292 the zone will be adequately served by the plan; and
- 3293 (vi) the county or municipality postconsumer waste collection infrastructure;
- 3294 (c) the county's or municipality's proposed means of assessing the effectiveness of the
- 3295 development plan or other programs implemented within the zone;
- 3296 (d) state whether within the zone either of the following will be established:
- 3297 (i) commercial manufacturing or industrial processes that will produce end products
- 3298 that consist of not less than 50% recovered materials, of which not less than 25% is
- 3299 postconsumer waste material; or
- 3300 (ii) commercial composting;
- 3301 (e) any additional information required by the [department] office; and
- 3302 (f) any additional information the county or municipality considers relevant to its
- 3303 designation as a recycling market development zone.
- 3304 (4) A county or municipality applying for designation as a recycling market
- 3305 development zone shall pay to the [department] office an application fee determined under
- 3306 Section 63-38-3.2.

3307 Section 89. Section **63-38f-1105**, which is renumbered from Section 9-2-1605 is

3308 renumbered and amended to read:

3309 **[9-2-1605]. 63-38f-1105. Qualifying local contributions.**

3310 Qualifying local contributions to the recycling market development zone may vary

3311 depending on available resources, and may include:

- 3312 (1) simplified procedures for obtaining permits;
- 3313 (2) dedication of available government grants;

- 3314 (3) waiver of business license or permit fees;
- 3315 (4) infrastructure improvements;
- 3316 (5) private contributions;
- 3317 (6) utility rate concessions;
- 3318 (7) suspension or relaxation of locally originated zoning laws or general plans; and
- 3319 (8) other proposed local contributions as the [department] office finds promote the
- 3320 purposes of this part.

3321 Section 90. Section **63-38f-1106**, which is renumbered from Section 9-2-1606 is

3322 renumbered and amended to read:

3323 **~~[9-2-1606].~~ 63-38f-1106. Eligibility review.**

3324 (1) The [department] office shall:

3325 (a) review and evaluate an application submitted under Section [~~9-2-1604~~]

3326 63-38f-1104; and

3327 (b) determine whether the municipality or county is eligible for designation as a

3328 recycling market development zone.

3329 (2) In designating recycling market development zones, the [department] office shall

3330 consider:

3331 (a) whether the current waste management practices and conditions of the county or

3332 municipality are favorable to the development of postconsumer waste material markets;

3333 (b) whether the creation of the zone is necessary to assist in attracting private sector

3334 recycling investments to the area; and

3335 (c) the amount of available landfill capacity to serve the zone.

3336 Section 91. Section **63-38f-1107**, which is renumbered from Section 9-2-1607 is

3337 renumbered and amended to read:

3338 **~~[9-2-1607].~~ 63-38f-1107. Quarterly consideration.**

3339 The [department] office shall take action quarterly on any application requesting

3340 designation as a recycling market development zone.

3341 Section 92. Section **63-38f-1108**, which is renumbered from Section 9-2-1608 is

3342 renumbered and amended to read:

3343 **~~[9-2-1608].~~ 63-38f-1108. Duration of designation.**

3344 A recycling market development zone designation ends five years from the date the

3345 [department] office designates the area as a recycling market development zone, at the end of
 3346 which the county or municipality may reapply for the designation.

3347 Section 93. Section **63-38f-1109**, which is renumbered from Section 9-2-1609 is
 3348 renumbered and amended to read:

3349 **[9-2-1609]. 63-38f-1109. Revocation of designations.**

3350 (1) The [department] office may revoke the designation of a recycling market
 3351 development zone if no businesses utilize the tax incentives during any calendar year.

3352 (2) Before revocation of the zone, the [department] office shall conduct a public
 3353 hearing within a reasonable distance of the zone to determine reasons for inactivity and explore
 3354 possible alternative actions.

3355 Section 94. Section **63-38f-1110**, which is renumbered from Section 9-2-1610 is
 3356 renumbered and amended to read:

3357 **[9-2-1610]. 63-38f-1110. Recycling market development zones credit.**

3358 For a taxpayer within a recycling market development zone, there are allowed the
 3359 credits against tax as provided by Sections 59-7-610 and 59-10-108.7.

3360 Section 95. Section **63-38f-1111**, which is renumbered from Section 9-2-1611 is
 3361 renumbered and amended to read:

3362 **[9-2-1611]. 63-38f-1111. Annual report -- Rulemaking.**

3363 (1) A county or municipality designated as a recycling market development zone shall
 3364 report by no later than July 31 of each year to the [department] office regarding the economic
 3365 activity that has occurred in the zone following the designation.

3366 (2) ~~[In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
 3367 ~~the department may make rules providing for] The office shall prescribe the form[;] and~~
 3368 ~~content[, and submittal] of the annual reports.~~

3369 Section 96. Section **63-38f-1112**, which is renumbered from Section 9-2-1612 is
 3370 renumbered and amended to read:

3371 **[9-2-1612]. 63-38f-1112. Centers of excellence.**

3372 In accordance with Part 6, the [department] office may award grants to the Centers of
 3373 Excellence, as defined by Section ~~[9-2-602]~~ **63-38f-703**, to fund development of new
 3374 technology for recycling if the program funded is a cooperative effort between the Centers of
 3375 Excellence and one or more recycling market development zones created under this part.

3376 Section 97. Section **63-38f-1201**, which is renumbered from Section 9-2-1901 is
3377 renumbered and amended to read:

3378 **Part 12. Utah Venture Capital Enhancement Act**

3379 **[9-2-1901]. 63-38f-1201. Title.**

3380 This part is known as the "Utah Venture Capital Enhancement Act."

3381 Section 98. Section **63-38f-1202**, which is renumbered from Section 9-2-1902 is
3382 renumbered and amended to read:

3383 **[9-2-1902]. 63-38f-1202. Findings -- Purpose.**

3384 (1) The Legislature finds that:

3385 (a) fundamental changes have occurred in national and international financial markets
3386 and in the state's financial markets;

3387 (b) a critical shortage of seed and venture capital resources exists in the state, and that
3388 shortage is impairing the growth of commerce in the state;

3389 (c) a need exists to increase the availability of venture equity capital for emerging,
3390 expanding, and restructuring enterprises in Utah, including enterprises in the life sciences,
3391 advanced manufacturing, and information technology;

3392 (d) increased venture equity capital investments in emerging, expanding, and
3393 restructuring enterprises in Utah will:

3394 (i) create new jobs in the state; and

3395 (ii) help to diversify the state's economic base; and

3396 (e) a well-trained work force is critical for the maintenance and development of Utah's
3397 economy.

3398 (2) This part is enacted to:

3399 (a) mobilize private investment in a broad variety of venture capital partnerships in
3400 diversified industries and locales;

3401 (b) retain the private-sector culture of focusing on rate of return in the investing
3402 process;

3403 (c) secure the services of the best managers in the venture capital industry, regardless
3404 of location;

3405 (d) facilitate the organization of the Utah fund of funds to seek private investments and
3406 to serve as a catalyst in those investments by offering state incentives for private persons to

3407 make investments in the Utah fund of funds;

3408 (e) enhance the venture capital culture and infrastructure in the state so as to increase
3409 venture capital investment within the state and to promote venture capital investing within the
3410 state; and

3411 (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner
3412 that would maximize the direct economic impact for the state.

3413 Section 99. Section **63-38f-1203**, which is renumbered from Section 9-2-1903 is
3414 renumbered and amended to read:

3415 **[9-2-1903]. 63-38f-1203. Definitions.**

3416 As used in this part:

3417 (1) "Board" means the Utah Capital Investment Board.

3418 (2) "Certificate" means a contract between the board and a designated investor under
3419 which a contingent tax credit is available and issued to the designated investor.

3420 (3) "Commitment" means a written commitment by a designated purchaser to purchase
3421 from the board certificates presented to the board for redemption by a designated investor.

3422 Each commitment shall state the dollar amount of contingent tax credits that the designated
3423 purchaser has committed to purchase from the board.

3424 (4) "Contingent tax credit" means a contingent tax credit issued under this part that is
3425 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
3426 Income Taxes, and Chapter 10, Individual Income Tax Act, if there are insufficient funds in the
3427 redemption reserve and the board has not exercised other options for redemption under
3428 Subsection ~~[9-2-1920]~~ 63-38f-1220(3)(b).

3429 (5) "Corporation" means the Utah Capital Investment Corporation created under
3430 Section ~~[9-2-1907]~~ 63-38f-1207.

3431 (6) "Designated investor" means:

3432 (a) a person who purchases an equity interest in the Utah fund of funds; or

3433 (b) a transferee of a certificate or contingent tax credit.

3434 (7) "Designated purchaser" means:

3435 (a) a person who enters into a written undertaking with the board to purchase a
3436 commitment; or

3437 (b) a transferee who assumes the obligations to make the purchase described in the

3438 commitment.

3439 (8) "Person" means an individual, partnership, limited liability company, corporation,
3440 association, organization, business trust, estate, trust, or any other legal or commercial entity.

3441 (9) "Redemption reserve" means the reserve established by the corporation to facilitate
3442 the cash redemption of certificates.

3443 (10) "Utah fund of funds" means a limited partnership or limited liability company
3444 established under Section [~~9-2-1913~~] 63-38f-1213 in which a designated investor purchases an
3445 equity interest.

3446 Section 100. Section **63-38f-1204**, which is renumbered from Section 9-2-1904 is
3447 renumbered and amended to read:

3448 **~~[9-2-1904]~~. 63-38f-1204. Utah Capital Investment Board.**

3449 (1) There is created within the [~~department~~] office the Utah Capital Investment Board
3450 to exercise the powers conferred by this part.

3451 (2) The purpose of the board is to mobilize venture equity capital for investment in a
3452 manner that will result in a significant potential to create jobs and to diversify and stabilize the
3453 economy of the state.

3454 (3) In the exercise of its powers and duties, the board is considered to be performing an
3455 essential public purpose.

3456 Section 101. Section **63-38f-1205**, which is renumbered from Section 9-2-1905 is
3457 renumbered and amended to read:

3458 **~~[9-2-1905]~~. 63-38f-1205. Board members -- Meetings -- Expenses.**

3459 (1) (a) The board shall consist of five members.

3460 (b) Of the five members:

3461 (i) one shall be the state treasurer;

3462 (ii) one shall be the director or the director's designee; and

3463 (iii) three shall be appointed by the governor and confirmed by the Senate.

3464 (c) The three members appointed by the governor shall serve four-year staggered terms
3465 with the initial terms of the first three members to be four years for one member, three years for
3466 one member, and two years for one member.

3467 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
3468 shall be:

- 3469 (a) filled in the same manner as the appointment of the original member; and
3470 (b) for the unexpired term of the board member being replaced.
- 3471 (3) Appointed members of the board may not serve more than two full consecutive
3472 terms except where the governor determines that an additional term is in the best interest of the
3473 state.
- 3474 (4) Three members of the board constitute a quorum for conducting business and
3475 exercising board power, provided that a minimum of three affirmative votes is required for
3476 board action and at least one of the affirmative votes is cast by either the director or the
3477 director's designee or the state treasurer.
- 3478 (5) (a) Members of the board may not receive compensation or benefits for their
3479 services, but may receive per diem and expenses incurred in the performance of the members'
3480 official duties at rates established by the Division of Finance under Sections 63A-3-106 and
3481 63A-3-107.
- 3482 (b) Members of the board may decline to receive per diem and expenses for their
3483 services.
- 3484 (6) Members of the board shall be selected on the basis of demonstrated expertise and
3485 competence in:
- 3486 (a) the supervision of investment managers;
3487 (b) the fiduciary management of investment funds; or
3488 (c) the management and administration of tax credit allocation programs.
- 3489 (7) The board and its members are considered to be a governmental entity with all of
3490 the rights, privileges, and immunities of a governmental entity of the state, including all of the
3491 rights and benefits conferred under Title 63, Chapter [~~30, Utah~~] 30d, Governmental Immunity
3492 Act of Utah.
- 3493 (8) Meetings of the board, except to the extent necessary to protect confidential
3494 information with respect to investments in the Utah fund of funds, are subject to Title 52,
3495 Chapter 4, Open and Public Meetings.
- 3496 Section 102. Section **63-38f-1206**, which is renumbered from Section 9-2-1906 is
3497 renumbered and amended to read:
- 3498 **[9-2-1906]. 63-38f-1206. Board duties and powers.**
- 3499 (1) The board shall:

3500 (a) establish criteria and procedures for the allocation and issuance of contingent tax
3501 credits to designated investors by means of certificates issued by the board, provided that a
3502 contingent tax credit may not be issued unless the Utah fund of funds:

3503 (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from
3504 the state to the Utah fund of funds; and

3505 (ii) agrees to repay the loan upon terms and conditions established by the board;

3506 (b) establish criteria and procedures for assessing the likelihood of future certificate
3507 redemptions by designated investors, including:

3508 (i) criteria and procedures for evaluating the value of investments made by the Utah
3509 fund of funds; and

3510 (ii) the returns from the Utah fund of funds;

3511 (c) establish criteria and procedures for registering and redeeming contingent tax
3512 credits by designated investors holding certificates issued by the board;

3513 (d) establish a target rate of return or range of returns on venture capital investments of
3514 the Utah fund of funds;

3515 (e) establish criteria and procedures governing commitments obtained by the board
3516 from designated purchasers including:

3517 (i) entering into commitments with designated purchasers; and

3518 (ii) drawing on commitments to redeem certificates from designated investors; and

3519 (f) have power to:

3520 (i) expend funds;

3521 (ii) invest funds;

3522 (iii) enter into contracts;

3523 (iv) insure against loss; and

3524 (v) perform any other act necessary to carry out its purpose[; ~~and~~].

3525 [~~(g)(i) make, amend, and revoke rules for the conduct of its affairs, consistent with this~~
3526 ~~part and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;~~]

3527 [~~(ii) all rules made by the board under Subsection (1)(g)(i) are subject to review by the~~
3528 ~~Legislative Management Committee;~~]

3529 [~~(A) whenever made, modified, or revoked; and~~]

3530 [~~(B) in each even-numbered year; and~~]

3531 ~~[(iii) Subsection (1)(g)(ii) does not preclude the Legislature's Administrative Rules~~
3532 ~~Review Committee from reviewing and taking appropriate action on any rule made, amended,~~
3533 ~~or revoked by the board.]~~

3534 (2) (a) The criteria and procedures established by the board for the allocation and
3535 issuance of contingent tax credits shall:

3536 (i) include the contingencies that must be met for a certificate and its related tax credits
3537 to be:

3538 (A) issued by the board;

3539 (B) transferred by a designated investor; and

3540 (C) redeemed by a designated investor in order to receive a contingent tax credit; and

3541 (ii) tie the contingencies for redemption of certificates to the targeted rates of return
3542 and scheduled redemptions of equity interests purchased by designated investors in the Utah
3543 fund of funds.

3544 (b) The board may not issue contingent tax credits under this part prior to July 1, 2004.

3545 (3) (a) The board may charge a placement fee to the Utah fund of funds for the
3546 issuance of a certificate and related contingent tax credit to a designated investor.

3547 (b) The fee shall:

3548 (i) be charged only to pay for reasonable and necessary costs of the board; and

3549 (ii) not exceed .5% of the equity investment of the designated investor.

3550 (4) The board's criteria and procedures for redeeming certificates:

3551 (a) shall give priority to the redemption amount from the available funds in the
3552 redemption reserve; and

3553 (b) to the extent there are insufficient funds in the redemption reserve to redeem
3554 certificates, shall grant the board the option to redeem certificates:

3555 (i) by certifying a contingent tax credit to the designated investor; or

3556 (ii) by making demand on designated purchasers consistent with the requirements of
3557 Section ~~[9-2-192]~~ 63-38f-1221.

3558 (5) (a) The board shall, in consultation with the corporation, publish an annual report
3559 of the activities conducted by the Utah fund of funds, and present the report to the governor and
3560 the Executive Appropriations Committee of the Legislature.

3561 (b) The annual report shall:

3562 (i) include a copy of the audit of the Utah fund of funds and a valuation of the assets of
3563 the Utah fund of funds;

3564 (ii) review the progress of the investment fund allocation manager in implementing its
3565 investment plan; and

3566 (iii) describe any redemption or transfer of a certificate issued under this part.

3567 (c) The annual report may not identify any specific designated investor who has
3568 redeemed or transferred a certificate.

3569 (d) (i) Beginning July 1, [~~2005~~] 2006, and thereafter every two years, the board shall
3570 publish a progress report which shall evaluate the progress of the state in accomplishing the
3571 purposes stated in Section [~~9-2-1902~~] 63-38f-1202.

3572 (ii) The board shall give a copy of the report to the Legislature.

3573 Section 103. Section **63-38f-1207**, which is renumbered from Section 9-2-1907 is
3574 renumbered and amended to read:

3575 [~~9-2-1907~~]. **63-38f-1207. Utah Capital Investment Corporation -- Powers and**
3576 **purposes.**

3577 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
3578 Utah Capital Investment Corporation.

3579 (b) The corporation:

3580 (i) may exercise all powers conferred on independent corporations under Section
3581 63E-2-106;

3582 (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

3583 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
3584 Corporations Act, except as otherwise provided in this part.

3585 (c) The corporation shall file with the Division of Corporations and Commercial Code:

3586 (i) articles of incorporation; and

3587 (ii) any amendment to its articles of incorporation.

3588 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
3589 operational policies that are consistent with this chapter.

3590 (e) Except as otherwise provided in this part, this part does not exempt the corporation
3591 from the requirements under state law which apply to other corporations organized under Title
3592 63E, Chapter 2, Independent Corporations Act.

- 3593 (2) The purposes of the corporation are to:
- 3594 (a) organize the Utah fund of funds;
- 3595 (b) select a venture capital investment fund allocation manager to make venture capital
3596 fund investments by the Utah fund of funds;
- 3597 (c) negotiate the terms of a contract with the venture capital investment fund allocation
3598 manager;
- 3599 (d) execute the contract with the selected venture capital investment fund manager on
3600 behalf of the Utah fund of funds;
- 3601 (e) receive funds paid by designated investors for the issuance of certificates by the
3602 board for investment in the Utah fund of funds;
- 3603 (f) receive investment returns from the Utah fund of funds; and
- 3604 (g) establish the redemption reserve to be used by the corporation to redeem
3605 certificates.
- 3606 (3) The corporation may not:
- 3607 (a) exercise governmental functions;
- 3608 (b) have members;
- 3609 (c) pledge the credit or taxing power of the state or any political subdivision of the
3610 state; or
- 3611 (d) make its debts payable out of any moneys except those of the corporation.
- 3612 (4) The obligations of the corporation are not obligations of the state or any political
3613 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
3614 but are obligations of the corporation payable solely and only from the corporation's funds.
- 3615 (5) The corporation may:
- 3616 (a) engage consultants and legal counsel;
- 3617 (b) expend funds;
- 3618 (c) invest funds;
- 3619 (d) enter into contracts;
- 3620 (e) insure against loss;
- 3621 (f) hire employees; and
- 3622 (g) perform any other act necessary to carry out its purposes.
- 3623 Section 104. Section **63-38f-1208**, which is renumbered from Section 9-2-1908 is

3624 renumbered and amended to read:

3625 ~~[9-2-1908]~~. **63-38f-1208. Incorporator -- Appointment committee.**

3626 (1) To facilitate the organization of the corporation, the director or the director's
3627 designee shall serve as the incorporator as provided in Section 16-6a-201.

3628 (2) To assist in the organization of the corporation, the Utah Board of Business and
3629 Economic Development shall appoint three individuals to serve on an appointment committee.

3630 (3) The appointment committee shall:

3631 (a) elect the initial board of directors of the corporation;

3632 (b) exercise due care to assure that persons elected to the initial board of directors have
3633 the requisite financial experience necessary in order to carry out the duties of the corporation as
3634 established in this part, including in areas related to:

3635 (i) venture capital investment;

3636 (ii) investment management; and

3637 (iii) supervision of investment managers and investment funds; and

3638 (c) terminate its existence upon the election of the initial board of directors of the
3639 corporation.

3640 (4) The ~~[division]~~ office shall assist the incorporator and the appointment committee in
3641 any manner determined necessary and appropriate by the incorporator and appointment
3642 committee in order to administer this section.

3643 Section 105. Section **63-38f-1209**, which is renumbered from Section 9-2-1909 is
3644 renumbered and amended to read:

3645 ~~[9-2-1909]~~. **63-38f-1209. Board of directors.**

3646 (1) The initial board of directors of the corporation shall consist of five members.

3647 (2) The persons elected to the initial board of directors by the appointment committee
3648 shall include persons who have an expertise, as considered appropriate by the appointment
3649 committee, in the areas of:

3650 (a) the selection and supervision of investment managers;

3651 (b) fiduciary management of investment funds; and

3652 (c) other areas of expertise as considered appropriate by the appointment committee.

3653 (3) After the election of the initial board of directors, vacancies in the board of
3654 directors of the corporation shall be filled by election by the remaining directors of the

3655 corporation.

3656 (4) (a) Board members shall serve four-year terms, except that of the five initial
3657 members:

3658 (i) two shall serve four-year terms;

3659 (ii) two shall serve three-year terms; and

3660 (iii) one shall serve a two-year term.

3661 (b) Board members shall serve until their successors are elected and qualified and may
3662 serve successive terms.

3663 (c) A majority of the board members may remove a board member for cause.

3664 (d) (i) The board shall select a chair by majority vote.

3665 (ii) The chair's term is for one year.

3666 (5) Three members of the board are a quorum for the transaction of business.

3667 (6) Members of the board of directors:

3668 (a) are subject to any restrictions on conflicts of interest specified in the organizational
3669 documents of the corporation; and

3670 (b) may have no interest in any:

3671 (i) venture capital investment fund allocation manager selected by the corporation
3672 under this part; or

3673 (ii) investments made by the Utah fund of funds.

3674 (7) Directors of the corporation:

3675 (a) shall be compensated for direct expenses and mileage; and

3676 (b) may not receive a director's fee or salary for service as directors.

3677 Section 106. Section **63-38f-1210**, which is renumbered from Section 9-2-1910 is
3678 renumbered and amended to read:

3679 **~~9-2-1910~~. 63-38f-1210. Investment manager.**

3680 (1) After incorporation, the corporation shall conduct a national solicitation for
3681 investment plan proposals from qualified venture capital investment fund allocation managers
3682 for the raising and investing of capital by the Utah fund of funds in accordance with the
3683 requirements of this part.

3684 (2) Any proposed investment plan shall address the applicant's:

3685 (a) level of:

- 3686 (i) experience; and
- 3687 (ii) quality of management;
- 3688 (b) investment philosophy and process;
- 3689 (c) probability of success in fund-raising;
- 3690 (d) prior investment fund results; and
- 3691 (e) plan for achieving the purposes of this part.

3692 (3) The selected venture capital investment fund allocation manager shall have
 3693 substantial, successful experience in the design, implementation, and management of seed and
 3694 venture capital investment programs and in capital formation.

3695 (4) The corporation shall only select a venture capital investment fund allocation
 3696 manager:

- 3697 (a) with demonstrated expertise in the management and fund allocation of investments
 3698 in venture capital funds; and
- 3699 (b) considered best qualified to:
 - 3700 (i) invest the capital of the Utah fund of funds; and
 - 3701 (ii) generate the amount of capital required by this part.

3702 Section 107. Section ~~63-38f-1211~~, which is renumbered from Section 9-2-1911 is
 3703 renumbered and amended to read:

3704 ~~[9-2-1911].~~ **63-38f-1211. Management fee -- Additional financial assistance.**

3705 (1) The corporation may charge a management fee on assets under management in the
 3706 Utah fund of funds.

3707 (2) The fee shall:

- 3708 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
 3709 investment fund allocation manager selected by the corporation; and
- 3710 (b) be charged only to pay for reasonable and necessary costs of the corporation.

3711 (3) The corporation may apply for and, when qualified, receive financial assistance
 3712 from the Industrial Assistance Fund under Title 9, Chapter 2, Part 12, Industrial Assistance
 3713 Fund, ~~[and under rules made by the Board of Business and Economic Development in~~
 3714 ~~accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,]~~ to help establish
 3715 the program authorized under this part.

3716 Section 108. Section ~~63-38f-1212~~, which is renumbered from Section 9-2-1912 is

3717 renumbered and amended to read:

3718 ~~[9-2-1912]~~. 63-38f-1212. **Dissolution.**

3719 (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated
3720 and dissolved.

3721 (2) Upon dissolution or privatization of the corporation, any assets owned by the
3722 corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
3723 designated by the Legislature for the purposes listed in Section ~~[9-2-1902]~~ 63-38f-1202 as
3724 provided in Title 63E, Chapter 1, Independent Entities Act.

3725 Section 109. Section **63-38f-1213**, which is renumbered from Section 9-2-1913 is
3726 renumbered and amended to read:

3727 ~~[9-2-1913]~~. 63-38f-1213. **Organization of Utah fund of funds.**

3728 (1) The corporation shall organize the Utah fund of funds.

3729 (2) The Utah fund of funds shall make investments in private seed and venture capital
3730 partnerships or entities in a manner and for the following purposes:

3731 (a) to encourage the availability of a wide variety of venture capital in the state;

3732 (b) to strengthen the economy of the state;

3733 (c) to help business in the state gain access to sources of capital;

3734 (d) to help build a significant, permanent source of capital available to serve the needs
3735 of businesses in the state; and

3736 (e) to accomplish all these benefits in a way that minimizes the use of contingent tax
3737 credits.

3738 (3) The Utah fund of funds shall be organized:

3739 (a) as a limited partnership or limited liability company under Utah law having the
3740 corporation as the general partner or manager; and

3741 (b) to provide for equity interests for designated investors which provide for a
3742 designated scheduled rate of return and a scheduled redemption in accordance with rules made
3743 by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

3744 (4) Public money may not be invested in the Utah fund of funds.

3745 Section 110. Section **63-38f-1214**, which is renumbered from Section 9-2-1914 is
3746 renumbered and amended to read:

3747 ~~[9-2-1914]~~. 63-38f-1214. **Compensation from the Utah fund of funds to the**

3748 **corporation -- Redemption reserve.**

3749 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
3750 through the payment of the management fee described in Section [~~9-2-1911~~] 63-38f-1211.

3751 (2) (a) Any returns in excess of those payable to designated investors shall be deposited
3752 in the redemption reserve and held by the corporation as a first priority reserve for the
3753 redemption of certificates.

3754 (b) Any returns received by the corporation from investment of amounts held in the
3755 redemption reserve shall be added to the redemption reserve until it has reached a total of
3756 \$100,000,000.

3757 (c) If at the end of any calendar year the redemption reserve exceeds the \$100,000,000
3758 limitation referred to in Subsection (2)(b), the excess shall be reinvested in the Utah fund of
3759 funds.

3760 (3) Funds held by the corporation in the redemption reserve shall be invested in
3761 accordance with Title 51, Chapter 7, State Money Management Act.

3762 Section 111. Section **63-38f-1215**, which is renumbered from Section 9-2-1915 is
3763 renumbered and amended to read:

3764 [~~9-2-1915~~]. **63-38f-1215. Investments by Utah fund of funds.**

3765 (1) The Utah fund of funds shall invest funds:

3766 (a) principally in high-quality venture capital funds managed by investment managers
3767 who have:

3768 (i) made a commitment to equity investments in businesses located within the state;
3769 and

3770 (ii) have committed to maintain a physical presence within the state;

3771 (b) in private venture capital funds and not in direct investments in individual
3772 businesses; and

3773 (c) in venture capital funds with experienced managers or management teams with
3774 demonstrated expertise and a successful history in the investment of venture capital funds.

3775 (2) (a) The Utah fund of funds shall give priority to investments in private seed and
3776 venture capital partnerships and entities that have demonstrated a commitment to the state as
3777 evidenced by:

3778 (i) the investments they have made in Utah-based entities;

3779 (ii) the correspondent relationships they have established with Utah-based venture
3780 capital funds; or

3781 (iii) the commitment they have made to expand the reach of expertise within the state
3782 by adding additional investment areas of expertise.

3783 (b) The manager of the Utah fund of funds may waive the priorities under Subsection
3784 (2)(a) only if necessary to achieve the targeted investment returns required to attract designated
3785 investors.

3786 (3) The Utah fund of funds may invest funds in a newly created venture capital fund
3787 only if the managers or management team of the fund have the experience, expertise, and a
3788 successful history in the investment of venture capital funds as described in Subsection (1)(c).

3789 (4) (a) An investment or investments by the fund of funds in any venture capital fund
3790 may comprise no more than 20% of the total committed capital in the venture capital fund.

3791 (b) (i) No more than 50% of the funds invested by the fund of funds may be made with
3792 venture capital entities with offices in the state established prior to July 1, 2002.

3793 (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three
3794 additional venture capital entities open new offices in the state.

3795 Section 112. Section **63-38f-1216**, which is renumbered from Section 9-2-1916 is
3796 renumbered and amended to read:

3797 **~~9-2-1916~~. 63-38f-1216. Powers of Utah fund of funds.**

3798 (1) The Utah fund of funds may:

3799 (a) engage consultants and legal counsel;

3800 (b) expend funds;

3801 (c) invest funds;

3802 (d) enter into contracts;

3803 (e) insure against loss;

3804 (f) hire employees;

3805 (g) issue equity interests to designated investors that have purchased certificates from
3806 the board; and

3807 (h) perform any other act necessary to carry out its purposes.

3808 (2) (a) The Utah fund of funds shall engage a venture capital investment fund
3809 allocation manager.

3810 (b) The compensation paid to the fund manager shall be in addition to the management
3811 fee paid to the corporation under Section [~~9-2-1911~~] 63-38f-1211.

3812 (3) The Utah fund of funds may:

3813 (a) issue debt and borrow the funds needed to accomplish its goals;

3814 (b) not secure its debt with contingent tax credits issued by the board;

3815 (c) open and manage bank and short-term investment accounts as considered necessary
3816 by the venture capital investment fund allocation manager; and

3817 (d) expend moneys to secure investment ratings for investments by designated
3818 investors in the Utah fund of funds.

3819 Section 113. Section **63-38f-1217**, which is renumbered from Section 9-2-1917 is
3820 renumbered and amended to read:

3821 ~~[9-2-1917]~~. **63-38f-1217**. **Annual audits.**

3822 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be
3823 made as described in this section.

3824 (2) (a) The audit shall be conducted by:

3825 (i) the state auditor; or

3826 (ii) an independent auditor engaged by the state auditor.

3827 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
3828 contractual, or other connection to:

3829 (i) the corporation; or

3830 (ii) the Utah fund of funds.

3831 (3) The corporation shall pay the costs associated with the annual audit.

3832 (4) The annual audit report shall:

3833 (a) be delivered to:

3834 (i) the corporation; and

3835 (ii) the board; and

3836 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
3837 the reporting year.

3838 Section 114. Section **63-38f-1218**, which is renumbered from Section 9-2-1918 is
3839 renumbered and amended to read:

3840 ~~[9-2-1918]~~. **63-38f-1218**. **Certificates and contingent tax credits.**

3841 (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3842 board, in consultation with the State Tax Commission, shall make rules governing the form,
3843 issuance, and redemption of certificates.

3844 (2) The board's issuance of certificates and related contingent tax credits to designated
3845 investors shall be subject to the following:

3846 (a) the aggregate outstanding certificates may not exceed a total of \$100,000,000 of
3847 contingent tax credits;

3848 (b) the certificates shall be issued contemporaneously with an investment in the Utah
3849 fund of funds by a designated investor;

3850 (c) contingent tax credits shall be issued in a manner that not more than \$20,000,000 of
3851 contingent tax credits may be initially redeemable in any fiscal year; and

3852 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
3853 make a cash redemption and the board does not exercise its other options under Subsection
3854 ~~[9-2-1920]~~ 63-38f-1220(3)(b).

3855 (3) In determining the \$100,000,000 maximum limit in Subsection (2)(a) and the
3856 \$20,000,000 limitation in Subsection (2)(c):

3857 (a) the board shall use the cumulative amount of scheduled aggregate returns on
3858 certificates issued by the board to designated investors;

3859 (b) certificates and related contingent tax credits which have expired may not be
3860 included; and

3861 (c) certificates and related contingent tax credits which have been redeemed shall be
3862 included only to the extent of tax credits actually allowed.

3863 (4) Contingent tax credits are subject to the following:

3864 (a) a contingent tax credit may not be redeemed except by a designated investor in
3865 accordance with the terms of a certificate from the board;

3866 (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
3867 funds receives full payment from the designated investor for the certificate;

3868 (c) a contingent tax credit shall be claimed for a tax year that begins during the
3869 calendar year maturity date stated on the certificate;

3870 (d) an investor who redeems a certificate and the related contingent tax credit shall
3871 allocate the amount of the contingent tax credit to the taxpayers of the investor based on the

3872 taxpayer's pro rata share of the investor's earnings; and
3873 (e) any contingent tax credit in excess of the taxpayer's tax liability for the tax year may
3874 be credited to the tax liability until the earlier of:
3875 (i) the depletion of the contingent tax credit; or
3876 (ii) a period not to exceed seven years.
3877 (5) In calculating the amount of a contingent tax credit:
3878 (a) a contingent tax credit shall be certified by the board only if the actual return to the
3879 designated investor is less than the return that was targeted at the issuance of the certificate;
3880 (b) the amount of the contingent tax credit may not exceed the difference between:
3881 (i) the sum of:
3882 (A) the initial equity investment of the designated investor in the Utah fund of funds;
3883 and
3884 (B) the scheduled aggregate return to the designated investor at rates of return
3885 authorized by the board at the issuance of the certificate; and
3886 (ii) the aggregate actual return received by the designated investor and any predecessor
3887 in interest of the initial equity investment and interest on the initial equity investment; and
3888 (c) the rates, whether fixed rates or variable rates, shall be determined by a formula
3889 stipulated in the certificate.
3890 (6) The board shall clearly indicate on the certificate:
3891 (a) the targeted return on the invested capital;
3892 (b) the amount of the initial equity investment;
3893 (c) the calculation formula for determining the scheduled aggregate return on the initial
3894 equity investment; and
3895 (d) the calculation formula for determining the amount of the contingent tax credit that
3896 may be claimed.
3897 (7) Once moneys are invested by a designated investor, the certificate:
3898 (a) shall be binding on the board; and
3899 (b) may not be modified, terminated, or rescinded.
3900 (8) Funds invested by a designated investor for a certificate shall be paid to the
3901 corporation for placement in the Utah fund of funds.
3902 (9) The State Tax Commission may, in accordance with Title 63, Chapter 46a, Utah

3903 Administrative Rulemaking Act, and in consultation with the board, make rules to help
3904 implement this section.

3905 Section 115. Section **63-38f-1219**, which is renumbered from Section 9-2-1919 is
3906 renumbered and amended to read:

3907 **~~9-2-1919~~. 63-38f-1219. Transfer and registration of certificates.**

3908 (1) A certificate and the related contingent tax credit may be transferred by the
3909 designated investor.

3910 (2) The board, in conjunction with the State Tax Commission, shall develop:

3911 (a) a system for registration of any certificate and related contingent tax credit issued or
3912 transferred under this part; and

3913 (b) a system that permits verification that:

3914 (i) any contingent tax credit claimed upon a tax return is valid; and

3915 (ii) any transfers of the certificate and related contingent tax credit are made in
3916 accordance with the requirements of this part.

3917 (3) A certificate or contingent tax credit issued or transferred under this part may not be
3918 considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

3919 Section 116. Section **63-38f-1220**, which is renumbered from Section 9-2-1920 is
3920 renumbered and amended to read:

3921 **~~9-2-1920~~. 63-38f-1220. Redemption of certificates.**

3922 (1) If a designated investor elects to redeem a certificate, the certificate shall be
3923 presented to the board for redemption no later than June 30 of the calendar year maturity date
3924 stated on the certificate.

3925 (2) Upon presentment to the board, it shall determine and certify the amount of the
3926 contingent tax credit that may be claimed by the designated investor based on:

3927 (a) the limitations in Section ~~9-2-1918~~ 63-38f-1218; and

3928 (b) rules made by the board in accordance with Title 63, Chapter 46a, Utah
3929 Administrative Rulemaking Act.

3930 (3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the
3931 corporation to make a cash redemption of the certificate.

3932 (b) If there are insufficient funds in the redemption reserve, the board may elect to
3933 redeem the certificate:

3934 (i) by certifying a contingent tax credit to the designated investor; or
3935 (ii) by making demand on designated purchasers to purchase certificates in accordance
3936 with Section [~~9-2-1921~~] 63-38f-1221.

3937 (4) The board shall certify to the State Tax Commission the contingent tax credit which
3938 can be claimed by the designated investor with respect to the redemption of the certificate.

3939 Section 117. Section **63-38f-1221**, which is renumbered from Section 9-2-1921 is
3940 renumbered and amended to read:

3941 ~~[9-2-1921]~~. **63-38f-1221**. **Use of commitments to redeem certificates.**

3942 (1) The board may elect to draw on a commitment to redeem a certificate from a
3943 designated investor.

3944 (2) If the board makes an election under Subsection (1), it shall:

3945 (a) inform the designated purchaser of the amount of the contingent tax credit that must
3946 be purchased from the board;

3947 (b) specify the date on which the purchase must be consummated; and

3948 (c) use the funds delivered to the board by the designated purchaser to redeem the
3949 certificate from the designated investor.

3950 (3) The board has discretion in determining which commitment or commitments and
3951 what portion of those commitments to use to redeem certificates.

3952 (4) The contingent tax credits acquired by a designated purchaser under this section are
3953 subject to Section [~~9-2-1918~~] 63-38f-1218.

3954 Section 118. Section **63-38f-1222**, which is renumbered from Section 9-2-1922 is
3955 renumbered and amended to read:

3956 ~~[9-2-1922]~~. **63-38f-1222**. **Powers and effectiveness.**

3957 (1) This part may not be construed as a restriction or limitation upon any power which
3958 the board might otherwise have under any other law of this state and the provisions of this part
3959 are cumulative to those powers.

3960 (2) This part shall be construed to provide a complete, additional, and alternative
3961 method for performing the duties authorized and shall be regarded as supplemental and
3962 additional powers to those conferred by any other laws.

3963 (3) The provisions of any contract entered into by the board or the Utah fund of funds
3964 may not be compromised, diminished, invalidated, or affected by the:

3965 (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
3966 in which the Utah fund of funds invests; or

3967 (b) extent to which the investment funds are:

3968 (i) invested in Utah venture capital projects; or

3969 (ii) successful in accomplishing any economic development objectives.

3970 Section 119. Section **63-38f-1223**, which is renumbered from Section 9-2-1923 is
3971 renumbered and amended to read:

3972 **[9-2-1923]. 63-38f-1223. Permissible investments.**

3973 Investments by designated investors in the Utah fund of funds are permissible
3974 investments under applicable laws of the state for:

3975 (1) state-chartered banks;

3976 (2) state-chartered savings and loan associations;

3977 (3) state-chartered credit unions;

3978 (4) state-chartered industrial banks; and

3979 (5) domestic insurance companies.

3980 Section 120. Section **63-38f-1224**, which is renumbered from Section 9-2-1924 is
3981 renumbered and amended to read:

3982 **[9-2-1924]. 63-38f-1224. Exemption from certain statutes.**

3983 (1) Except as otherwise provided in this part, the corporation is exempt from statutes
3984 governing state agencies, as provided in Section 63E-2-109.

3985 (2) The corporation shall be subject to:

3986 (a) Title 52, Chapter 4, Open and Public Meetings [~~Act~~]; and

3987 (b) Title 63, Chapter 2, Government Records Access and Management Act.

3988 Section 121. Section **63-38f-1301**, which is renumbered from Section 9-2-2001 is
3989 renumbered and amended to read:

3990 **Part 13. Aerospace and Aviation Zone**

3991 **[9-2-2001]. 63-38f-1301. Purpose.**

3992 (1) The Legislature finds that:

3993 (a) the fostering and development of industry in Utah is a state public purpose
3994 necessary to assure the welfare of its citizens, the growth of its economy, and adequate
3995 employment for its citizens; and

3996 (b) Utah loses prospective high paying jobs, economic impacts, and corresponding
3997 incremental new state revenues to competing states due to a wide variety of competing
3998 economic development incentives offered by those states.

3999 (2) This part is enacted to address the loss of new economic growth in Utah and the
4000 corresponding loss of incremental new state revenues by providing tax increment financial
4001 incentives to attract new commercial projects in development zones located on or contiguous to
4002 airports in the state.

4003 Section 122. Section **63-38f-1302**, which is renumbered from Section 9-2-2002 is
4004 renumbered and amended to read:

4005 **[9-2-2002]. 63-38f-1302. Definitions.**

4006 As used in this part:

4007 ~~[(2)]~~ (1) "Development zone" means the Aerospace and Aviation Development Zone
4008 created under Section ~~[9-2-2003]~~ 63-38f-1303.

4009 ~~[(3)]~~ (2) "Indirect state revenues" means the imputed use of a generally accepted
4010 indirect economic multiplier as defined by a fiscal impact model approved by the Governor's
4011 Office of Planning and Budget to quantify by estimate the indirect state tax revenues that are in
4012 addition to direct state tax revenues.

4013 ~~[(4)]~~ (3) "New state revenues" means incremental new state tax revenues that are
4014 generated as a result of new economic commercial projects in a development zone, to include
4015 the state's portion of sales taxes, and company and employee income taxes derived from the
4016 projects, together with indirect state revenues generated by the projects, but not to include any
4017 portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for
4018 sales tax revenues.

4019 ~~[(1)]~~ (4) ~~["Department"]~~ "Office" means the ~~[Department of Community and]~~
4020 Governor's Office of Economic Development acting through its ~~[executive]~~ director.

4021 (5) "Partial rebates" means returning a portion of the new state revenues generated by
4022 new commercial projects to companies or individuals that have created new economic growth
4023 within a development zone.

4024 Section 123. Section **63-38f-1303**, which is renumbered from Section 9-2-2003 is
4025 renumbered and amended to read:

4026 **[9-2-2003]. 63-38f-1303. Creation of development zones.**

4027 The [department] office, with [approval by] advice from the board, may create an
4028 Aerospace and Aviation Development Zone at or around any airport in the state that satisfies
4029 the following requirements:

- 4030 (1) the airport shall have an instrumental landing system;
4031 (2) the airport shall have a manned air traffic control tower;
4032 (3) the airport shall have land available for commercial development on, or contiguous
4033 to, the airport; and
4034 (4) Subsections (1) and (2) sunset on January 1, 2006, unless the Legislature
4035 determines otherwise.

4036 Section 124. Section **63-38f-1304**, which is renumbered from Section 9-2-2004 is
4037 renumbered and amended to read:

4038 ~~[9-2-2004].~~ **63-38f-1304. Development incentives.**

4039 (1) The [department] office, with ~~[the approval of]~~ advice from the board, may enter
4040 into agreements providing for partial rebates of new state revenues generated by new
4041 commercial projects to companies or individuals that create new economic growth within the
4042 development zone.

4043 (2) In no event may the partial rebates be in excess of 50% of the new state revenues in
4044 any given year.

4045 (3) (a) The partial rebates may not exceed 30% of the new state revenues generated
4046 over the life of a new commercial project.

4047 (b) For purposes of this part, the life of a new commercial project is limited to 20
4048 years.

4049 ~~[(4) Partial rebates are subject to any other limitations adopted by board rule made in
4050 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

4051 Section 125. Section **63-38f-1305**, which is renumbered from Section 9-2-2005 is
4052 renumbered and amended to read:

4053 ~~[9-2-2005].~~ **63-38f-1305. Qualifications for credits and rebates.**

4054 The [board] office shall set standards to qualify for partial rebates under this part,
4055 subject to the following:

4056 (1) no partial rebates may be paid prior to verification, by the [department] office, of
4057 the new state revenues upon which the tax rebate is based;

4058 (2) partial rebates can only be paid on projects that are within the development zone;

4059 (3) partial rebates can only be paid on projects that bring new, incremental jobs to the
4060 state;

4061 (4) qualifying projects must involve direct investment within the geographic
4062 boundaries of the development zone;

4063 (5) only aerospace and aviation industry projects~~[, as defined by board rule made in~~
4064 ~~accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,]~~ are eligible for
4065 partial rebates; and

4066 (6) in order to claim payments representing partial rebates of new state revenues, a
4067 person must:

4068 (a) enter into ~~[a board]~~ an office-approved agreement with the ~~[department]~~ office and
4069 affirm by contractual agreement to keep supporting records for at least four years after final
4070 payment of partial rebates under this part;

4071 (b) submit to audits for verification of the amounts claimed; and

4072 (c) comply with other conditions as are required by the ~~[department]~~ office.

4073 Section 126. Section **63-38f-1306**, which is renumbered from Section 9-2-2006 is
4074 renumbered and amended to read:

4075 ~~[9-2-2006].~~ **63-38f-1306. Payment procedure.**

4076 Any payment of partial rebates of new state revenues shall be made in accordance with
4077 procedures adopted by the ~~[department and approved by]~~ office with the advice of the board, to
4078 include the following:

4079 (1) within 90 days of the end of each calendar year, any company or individual that has
4080 entered into an agreement with the ~~[department]~~ office under this part shall provide the
4081 ~~[department]~~ office with documentation of the new state revenues it claims to have generated
4082 during that calendar year, the documentation to include the types of taxes and corresponding
4083 amounts of taxes paid directly to the Utah State Tax Commission, and sales taxes paid to Utah
4084 vendors and suppliers that are indirectly paid to the Utah State Tax Commission;

4085 (2) the ~~[department]~~ office shall audit or review the documentation, make a
4086 determination of the amount of partial rebates earned under the agreement, and forward ~~[a~~
4087 ~~board]~~ an office-approved request for payment of that amount to the Division of Finance,
4088 together with information regarding the name and address of the payee and any other

4089 information reasonably requested by the ~~[division]~~ office; and

4090 (3) the Division of Finance shall pay a partial rebate from the Economic Incentive
4091 Restricted Account created in Section ~~[9-2-2009]~~ 63-38f-1309 upon receipt of documentation
4092 and the ~~[board]~~ office-approved request from the ~~[department]~~ office under Subsection (2).

4093 Section 127. Section **63-38f-1307**, which is renumbered from Section 9-2-2007 is
4094 renumbered and amended to read:

4095 ~~[9-2-2007]~~. **63-38f-1307. Office's authority.**

4096 (1) The ~~[department]~~ office, with ~~[approval]~~ the advice of the board and within the
4097 limitations of this part, may determine:

4098 (a) the structure and amount of any partial rebates offered under this part;

4099 (b) the economic impacts and job creation necessary to qualify for the incentive; and

4100 (c) the other terms and conditions of any agreement entered into under this part.

4101 (2) In reviewing claims for partial rebates of new state revenues, the ~~[department]~~
4102 office may accept:

4103 (a) as the amount of employee income taxes paid, the amount of employee income
4104 taxes withheld and transmitted to the Utah State Tax Commission as evidenced by payroll
4105 records rather than adjusting for the difference between taxes withheld and taxes actually paid
4106 through filing by employees' annual income tax statements; and

4107 (b) as the amount of company income taxes paid, the amount of corporate franchise
4108 and income taxes estimated and transmitted to the Utah State Tax Commission as evidenced by
4109 quarterly payment records rather than adjusting for the difference between estimated taxes paid
4110 quarterly and taxes actually paid through the filing of the corporation's annual income tax
4111 statement.

4112 ~~[(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
4113 the board may make, amend, and revoke rules regarding the development zone and partial
4114 rebates offered within it, provided the rules are consistent with state and federal law.]~~

4115 ~~[(4) (a) The department shall make a report to the Legislature's Workforce and
4116 Community and Economic Development Interim Committee on:]~~

4117 ~~[(i) the success of attracting new commercial projects to development zones under this
4118 part and the corresponding increase in new, incremental jobs;]~~

4119 ~~[(ii) the period of time over which partial rebates of new state revenues shall be granted]~~

4120 under this part; and]

4121 ~~[(iii) the economic impact on the state related to generating new state revenues and~~
4122 ~~rebating a portion of those revenues under this part.]~~

4123 ~~[(b) The department shall make the reports prior to the 2005 General Session of the~~
4124 ~~Legislature to enable the committee to determine whether this part should be modified during~~
4125 ~~the 2005 General Session.]~~

4126 Section 128. Section **63-38f-1308**, which is renumbered from Section 9-2-2008 is
4127 renumbered and amended to read:

4128 ~~[9-2-2008].~~ **63-38f-1308. Coordination with Industrial Assistance Fund.**

4129 Projects that qualify for partial rebates of new state revenues under this part and enter
4130 into agreements with the ~~[department]~~ office under this part are ineligible to qualify for
4131 additional financial assistance from the Industrial Assistance Fund under Section ~~[9-2-1204]~~
4132 63-38f-904.

4133 Section 129. Section **63-38f-1309**, which is renumbered from Section 9-2-2009 is
4134 renumbered and amended to read:

4135 ~~[9-2-2009].~~ **63-38f-1309. Establishment of the Economic Incentive Restricted**
4136 **Account.**

4137 (1) There is created a restricted account in the General Fund known as the Economic
4138 Incentive Restricted Account.

4139 (2) The account shall be used to make payments as required under Section ~~[9-2-2006]~~
4140 63-38f-1306.

4141 (3) (a) The Division of Finance shall transfer from the General Fund the amount
4142 estimated by the ~~[department]~~ office from new state revenues needed to make the partial
4143 rebates as allowed in Section ~~[9-2-2006]~~ 63-38f-1306.

4144 (b) The amount transferred into the account shall be reduced by any unencumbered
4145 balances in the account.

4146 (4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving a
4147 request for payment, in accordance with Subsection ~~[9-2-2006]~~ 63-38f-1306(2), the Division of
4148 Finance shall pay the partial rebates as allowed in Section ~~[9-2-2006]~~ 63-38f-1306, from the
4149 account.

4150 (5) (a) Prior to the beginning of each fiscal year, the department shall notify the

4151 Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the
4152 Division of Finance of:

4153 (i) the estimated amount of new state revenues created from economic growth in the
4154 development zones, the estimate detailed by the amounts from:

4155 (A) sales tax;

4156 (B) income tax; and

4157 (C) corporate franchise and income tax; and

4158 (ii) the estimated amount partial rebates projected to be paid in the upcoming fiscal
4159 year, the estimates detailed by the amounts from:

4160 (A) sales tax;

4161 (B) income tax; and

4162 (C) corporate franchise and income tax.

4163 (b) The ~~[department]~~ office shall update the estimates required by Subsections (5)(a)(i)
4164 and (ii) within 30 days of the signing of each new agreement entered into under this part.

4165 Section 130. Section **63-38f-1401**, which is renumbered from Section 9-2-1701 is
4166 renumbered and amended to read:

Part 14. Tourism Performance Marketing Fund

4167 **~~[9-2-1701].~~ 63-38f-1401. Purpose.**

4168 The Legislature finds and declares that the development of travel and tourism in Utah is
4170 a state public purpose necessary to assure the welfare of its citizens, the growth of its economy,
4171 and adequate employment of its citizens.

4172 Section 131. Section **63-38f-1402**, which is renumbered from Section 9-2-1702 is
4173 renumbered and amended to read:

4174 **~~[9-2-1702].~~ 63-38f-1402. Definitions.**

4175 As used in this part:

4176 (1) [~~"Committee"~~] "Board" means the [~~Tourism Marketing Performance Fund~~
4177 ~~Committee as created in Section 9-2-1705]~~ Board of Tourism Development created in Section
4178 63-38f-1406.

4179 [~~(2) "Department" means the Department of Community and Economic Development.]~~

4180 [~~(3) "Division" means the Division of Travel Development created in Section 9-3-204.]~~

4181 (2) "Director" means the director of the Governor's Office for Economic Development.

4182 ~~[(4)]~~ (3) "Fund" means the restricted account known as the Tourism Marketing
4183 Performance Fund created in Section ~~[9-2-1703]~~ 63-38f-1403.

4184 ~~[(5)]~~ (4) "Industry" means the following travel and tourism industry groups:

- 4185 (a) retail/eating and drinking;
4186 (b) services/hotels and lodging;
4187 (c) services/automotive rental;
4188 (d) services/amusement and recreation; and
4189 (e) transportation.

4190 (5) "Office" means the Governor's Office of Economic Development.

4191 (6) "Tourism marketing" means an activity to develop, encourage, solicit, or promote
4192 tourism within this state that attracts transient guests to the state, including:

- 4193 (a) planning;
4194 (b) product development; and
4195 (c) advertising directed to out of state consumers that promotes leisure travel products
4196 or attractions specific to Utah.

4197 (7) "Tourism oriented sales and use taxes" means a state sales and use tax imposed
4198 under Section 59-12-103 for amounts paid or charged for taxable items or services:

- 4199 (a) described under Subsection 59-12-103(1); and
4200 (b) provided by a person described by the following SIC Codes of the 1987 Standard
4201 Industrial Classification Manual of the federal Executive Office of the President, Office of
4202 Management and Budget:
4203 (i) SIC Codes 4011 through 4789;
4204 (ii) SIC Codes 5812 and 5813;
4205 (iii) SIC Codes 7011 through 7041;
4206 (iv) SIC Codes 7513 through 7519; and
4207 (v) SIC Codes 7812 through 7999.

4208 ~~[(8) "Utah Tourism Industry Coalition" means the private nonprofit corporation created~~
4209 ~~under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, composed of~~
4210 ~~tourism-related businesses, organizations, and associations authorized to nominate committee~~
4211 ~~members under Section 9-2-1705.]~~

4212 Section 132. Section **63-38f-1403**, which is renumbered from Section 9-2-1703 is

4213 renumbered and amended to read:

4214 ~~[9-2-1703].~~ **63-38f-1403.** **Creation and administration of fund.**

4215 (1) (a) There is created within the General Fund a restricted account known as the
4216 "Tourism Marketing Performance Fund."

4217 (b) The fund shall be administered by the ~~[department]~~ office in accordance with
4218 Section ~~[9-2-1704]~~ 63-38f-1405.

4219 (2) The fund shall be funded by appropriations made to the fund by the Legislature in
4220 accordance with Section ~~[9-2-1703.5]~~ 63-38f-1404.

4221 (3) Any undistributed monies in the fund at the end of the fiscal year are nonlapsing
4222 ~~[except that any balance greater than \$200,000 at the end of the fiscal year shall lapse to the~~
4223 ~~General Fund].~~

4224 Section 133. Section **63-38f-1404**, which is renumbered from Section 9-2-1703.5 is
4225 renumbered and amended to read:

4226 ~~[9-2-1703.5].~~ **63-38f-1404.** **Appropriations to the fund.**

4227 (1) The Legislature shall appropriate \$200,000 to the fund each fiscal year for which
4228 the State Tax Commission finds that the industry growth for the prior fiscal year equals or
4229 exceeds 4%~~[-except that:].~~

4230 ~~[(a) the growth factor requirement does not apply to the \$2,000,000 appropriation to~~
4231 ~~the fund under Item 120 of S.B. 1, Appropriations Act, made for the fiscal year beginning July~~
4232 ~~1, 2002, only, and]~~

4233 ~~[(b) the growth factor requirement does not apply for the prior fiscal year beginning~~
4234 ~~July 1, 2001, and ending June 30, 2002, only, but the appropriation may be for less than~~
4235 ~~\$200,000 for the affected fiscal year only.]~~

4236 (2) To determine the prior fiscal year industry growth the State Tax Commission shall:

4237 (a) calculate the tourism-oriented sales and use taxes for the fiscal year two years
4238 preceding the fiscal year of appropriation;

4239 (b) calculate the tourism-oriented sales and use taxes for the fiscal year three years
4240 preceding the fiscal year of the appropriation; and

4241 (c) determine whether the tourism-oriented sales and use taxes calculated in Subsection
4242 (2)(a) increased from the tourism-oriented sales and use taxes calculated under Subsection
4243 (2)(b).

4244 (3) The State Tax Commission shall report its determination under Subsection (2) to
4245 the Governor's Office of Planning and Budget by no later than September 30 of each year.

4246 Section 134. Section **63-38f-1405**, which is renumbered from Section 9-2-1704 is
4247 renumbered and amended to read:

4248 **[9-2-1704]. 63-38f-1405. Distribution of fund monies -- Determination of**
4249 **recipients.**

4250 The appropriation to the fund required by Section ~~[9-2-1703.5]~~ 63-38f-1404 shall be
4251 distributed by the ~~[department]~~ office to the ~~[division]~~ program to be used to fund the tourism
4252 marketing plan ~~[developed in accordance with Section 9-2-1706]~~.

4253 Section 135. Section **63-38f-1406**, which is renumbered from Section 9-3-201 is
4254 renumbered and amended to read:

4255 **[9-3-201]. 63-38f-1406. Board of Tourism Development.**

4256 (1) There is created within the ~~[department]~~ office the Board of ~~[Travel]~~ Tourism
4257 Development.

4258 (2) The board shall advise the ~~[division]~~ office in the ~~[division's]~~ office's planning,
4259 policies, and strategies and on trends and opportunities for ~~[travel]~~ tourism development that
4260 may exist in the various areas of the state.

4261 Section 136. Section **63-38f-1407**, which is renumbered from Section 9-3-202 is
4262 renumbered and amended to read:

4263 **[9-3-202]. 63-38f-1407. Members -- Meetings -- Expenses.**

4264 (1) (a) The board shall consist of nine members appointed by the governor to four-year
4265 terms of office with the consent of the Senate.

4266 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
4267 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
4268 board members are staggered so that approximately half of the board is appointed every two
4269 years.

4270 (2) The members may not serve more than two full consecutive terms unless the
4271 governor determines that an additional term is in the best interest of the state.

4272 (3) Not more than five members of the board may be of the same political party.

4273 (4) (a) The members shall be representative of:

4274 (i) all areas of the state with six being appointed from separate geographical areas as

4275 provided in Subsection (4)(b); and

4276 (ii) a diverse mix of the travel and tourism related industries.

4277 (b) The geographical representatives shall be appointed as follows:

4278 (i) one member from Salt Lake, Tooele, or Morgan County;

4279 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

4280 (iii) one member from Utah, Summit, Juab, or Wasatch County;

4281 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

4282 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

4283 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

4284 (c) The travel and tourism industry representatives shall be appointed from among
4285 active participants in the ownership or management of travel and tourism related businesses.

4286 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
4287 appointed for the unexpired term from the same geographic area or industry representation as
4288 the member whose office was vacated.

4289 (6) Five members of the board constitutes a quorum for conducting board business and
4290 exercising board powers.

4291 (7) The governor shall select one of the board members as chair and one of the board
4292 members as vice chair, each for a two-year term.

4293 (8) (a) Members shall receive no compensation or benefits for their services, but may
4294 receive per diem and expenses incurred in the performance of the member's official duties at
4295 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

4296 (b) Members may decline to receive per diem and expenses for their service.

4297 (9) The board shall meet at least once each quarter at various locations throughout the
4298 state.

4299 (10) The board's office shall be in Salt Lake City.

4300 Section 137. Section **63-38f-1408**, which is renumbered from Section 9-3-203 is
4301 renumbered and amended to read:

4302 **[9-3-203]. 63-38f-1408. Board duties.**

4303 (1) The board shall:

4304 (a) review a program of information, advertising, and publicity relating to the
4305 recreational, scenic, historic, highway, and tourist attractions of the state at large; and

4306 (b) encourage and assist in the coordination of the activities of persons, firms,
 4307 associations, corporations, civic groups, and governmental agencies engaged in publicizing,
 4308 developing, and promoting the scenic attractions and tourist advantages of the state.

4309 (2) The board may solicit and accept contributions of moneys, services, and facilities
 4310 from any other sources, public or private and shall use these funds for promoting the general
 4311 interest of the state in travel and tourism.

4312 Section 138. Section **63-38f-1409**, which is renumbered from Section 9-3-204 is
 4313 renumbered and amended to read:

4314 **~~[9-3-204].~~ 63-38f-1409. Powers and duties of office related to tourism**
 4315 **development plan -- Annual report and survey.**

4316 ~~[(1) There is created within the department the Division of Travel Development under~~
 4317 ~~the administration and general supervision of the director.]~~

4318 ~~[(2) The division shall be under the policy direction of the director.]~~

4319 ~~[(3)]~~ (1) The ~~[division]~~ office shall:

4320 (a) be the ~~[travel]~~ tourism development authority of the state;

4321 (b) develop a ~~[travel]~~ tourism promotion program for the state;

4322 (c) develop a plan to increase the economic contribution by tourists visiting the state;

4323 (d) plan and conduct a program of information, advertising, and publicity relating to
 4324 the recreational, scenic, historic, highway, and tourist advantages and attractions of the state at
 4325 large; and

4326 (e) encourage and assist in the coordination of the activities of persons, firms,
 4327 associations, corporations, travel regions, counties, and governmental agencies engaged in
 4328 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
 4329 state~~[-and]~~.

4330 ~~[(4)]~~ (2) Any plan provided for under Subsection ~~[(3)]~~ (1) shall address, but not be
 4331 limited to, enhancing the state's image, promoting Utah as a year-round destination,
 4332 encouraging expenditures by visitors to the state, and expanding the markets where the state is
 4333 promoted.

4334 ~~[(5)]~~ (3) The ~~[division]~~ office is encouraged to:

4335 (a) conduct surveys on tourism promotion activities undertaken by cities and counties
 4336 within the state; and

4337 (b) in collaboration with the cities and counties surveyed, make an annual report to the
 4338 Legislature on the economic benefit of those activities to the state and the cities and counties
 4339 surveyed by the ~~[division]~~ office.

4340 Section 139. Section **63-38f-1410**, which is renumbered from Section 9-3-206 is
 4341 renumbered and amended to read:

4342 **~~[9-3-206].~~ 63-38f-1410. Agreements with other governmental entities.**

4343 The ~~[department, through the division,]~~ office may enter into agreements with ~~[other]~~
 4344 state or federal agencies to accept services, quarters, or facilities as a contribution in carrying
 4345 out the duties and functions of the ~~[department]~~ office.

4346 Section 140. Section **63-38f-1501**, which is renumbered from Section 9-8-901 is
 4347 renumbered and amended to read:

4348 **Part 15. Utah Pioneer Communities Program**

4349 **~~[9-8-901].~~ 63-38f-1501. Title.**

4350 This part shall be known as the "Utah Pioneer Communities Program Act."

4351 Section 141. Section **63-38f-1502**, which is renumbered from Section 9-8-902 is
 4352 renumbered and amended to read:

4353 **~~[9-8-902].~~ 63-38f-1502. Definitions.**

4354 As used in this part:

4355 (1) "Advisory board" means the Utah Pioneer Communities Program Advisory Board
 4356 created in Section ~~[9-8-903]~~ 63-38f-1503 within the ~~[department]~~ office.

4357 (2) "Community" means a city, county, town, or any combination of these.

4358 (3) "Revitalization" means the process of engaging in activities to increase economic
 4359 activity while preserving and building upon a location's historically significant characteristics.

4360 Section 142. Section **63-38f-1503**, which is renumbered from Section 9-8-903 is
 4361 renumbered and amended to read:

4362 **~~[9-8-903].~~ 63-38f-1503. Advisory board.**

4363 (1) (a) There is created within the ~~[department]~~ office the Utah Pioneer Communities
 4364 Advisory Board.

4365 (b) The Permanent Community Impact Fund Board created in Section 9-4-304 shall act
 4366 as the advisory board.

4367 (2) The advisory board shall have the powers and duties described in Section ~~[9-8-904]~~

4368 63-38f-1504 and shall operate the Utah Pioneer Communities Program in accordance with
4369 Section [~~9-8-905~~] 63-38f-1505.

4370 (3) The [~~executive~~] director shall designate an employee of the [~~department~~] office to
4371 serve as a nonvoting secretary for the advisory board.

4372 (4) (a) (i) Members who are not government employees shall receive no compensation
4373 or benefits for their services, but may receive per diem and expenses incurred in the
4374 performance of the member's official duties at the rates established by the Division of Finance
4375 under Sections 63A-3-106 and 63A-3-107.

4376 (ii) Members may decline to receive per diem and expenses for their service.

4377 (b) (i) State government officer and employee members who do not receive salary, per
4378 diem, or expenses from their agency for their service may receive per diem and expenses
4379 incurred in the performance of their official duties from the board at the rates established by the
4380 Division of Finance under Sections 63A-3-106 and 63A-3-107.

4381 (ii) State government officer and employee members may decline to receive per diem
4382 and expenses for their service.

4383 (c) (i) Higher education members who do not receive salary, per diem, or expenses
4384 from the entity that they represent for their service may receive per diem and expenses incurred
4385 in the performance of their official duties from the committee at the rates established by the
4386 Division of Finance under Sections 63A-3-106 and 63A-3-107.

4387 (ii) Higher education members may decline to receive per diem and expenses for their
4388 service.

4389 (d) (i) Local government members who do not receive salary, per diem, or expenses
4390 from the entity that they represent for their service may receive per diem and expenses incurred
4391 in the performance of their official duties at the rates established by the Division of Finance
4392 under Sections 63A-3-106 and 63A-3-107.

4393 (ii) Local government members may decline to receive per diem and expenses for their
4394 service.

4395 Section 143. Section **63-38f-1504**, which is renumbered from Section 9-8-904 is
4396 renumbered and amended to read:

4397 ~~[9-8-904]~~. **63-38f-1504**. **Advisory board duties.**

4398 (1) The advisory board shall:

4399 (a) establish and administer a Utah Pioneer Communities Program to assist
4400 communities in planning, managing, and implementing programs for the revitalization of
4401 business districts and the preservation of their distinct history, heritage, and culture as a basis
4402 for promoting stable, sustained economic growth through business expansion and tourism;

4403 (b) select, upon application by the community, communities to participate in the Utah
4404 Pioneer Communities Program;

4405 (c) enter into contracts to obtain services related to community preservation and
4406 tourism development;

4407 (d) with help from interested communities, individuals, and organizations, develop a
4408 plan describing the objectives of the Utah Pioneer Communities Program and the methods by
4409 which the advisory board shall:

4410 (i) coordinate the activities of that program with the private and public sector; and

4411 (ii) solicit and use private sector funding to revitalize business districts and provide
4412 services related to community preservation, tourism, and business development; and

4413 (e) coordinate and consult with other state and local or public and private entities that
4414 provide services to communities undertaking projects to provide services related to community
4415 preservation, tourism, and business development.

4416 (2) The advisory board shall provide training, technical assistance, and information on
4417 services related to community preservation, tourism, and business development.

4418 Section 144. Section **63-38f-1505**, which is renumbered from Section 9-8-905 is
4419 renumbered and amended to read:

4420 **[9-8-905]. 63-38f-1505. Criteria for participation -- Report.**

4421 (1) The advisory board shall develop objective criteria including the following:

4422 (a) a three year commitment by the applicant to provide a project manager with a travel
4423 and operating budget;

4424 (b) evidence that both the business community and the local government support the
4425 Utah Pioneer Communities Program approach philosophically and financially;

4426 (c) capacity for economic change as a result of being a participant in the program;

4427 (d) geographic location, population, and economic base diversity;

4428 (e) evidence of past preservation efforts; and

4429 (f) a population of less than 50,000.

4430 (2) The advisory board shall provide to the governor and to the presiding officer of
4431 each house of the Legislature an annual report on the effects of the Utah Pioneer Communities
4432 Program.

4433 Section 145. Section **63-38f-1601**, which is renumbered from Section 9-16-101 is
4434 renumbered and amended to read:

4435 **Part 16. Rural Development Act**

4436 **~~[9-16-101].~~ 63-38f-1601. Title -- Definitions.**

4437 (1) This chapter is known as the "~~[Office of]~~ Rural Development Act."

4438 (2) As used in this chapter[;]:

4439 (a) "Office" means the Governor's Office of [~~Rural~~] Economic Development.

4440 (b) "Program" means the Rural Development Program.

4441 Section 146. Section **63-38f-1602**, which is renumbered from Section 9-16-102 is
4442 renumbered and amended to read:

4443 **~~[9-16-102].~~ 63-38f-1602. Rural Development Program -- Supervision by office.**

4444 (1) There is created within the [~~department~~] office the [~~Office of~~] Rural Development
4445 Program.

4446 (2) The [~~office~~] program is under the administration and general supervision of the
4447 [~~department~~] office.

4448 Section 147. Section **63-38f-1603**, which is renumbered from Section 9-16-103 is
4449 renumbered and amended to read:

4450 **~~[9-16-103].~~ 63-38f-1603. Purpose of the program.**

4451 The [~~office shall~~] program is established to:

4452 (1) foster and support economic development programs and activities for the benefit of
4453 rural counties and communities;

4454 (2) foster and support community, county, and resource management planning
4455 programs and activities for the benefit of rural counties and communities;

4456 (3) foster and support leadership training programs and activities for the benefit of:

4457 (a) rural leaders in both the public and private sectors;

4458 (b) economic development and planning personnel; and

4459 (c) rural government officials;

4460 (4) foster and support efforts to coordinate and focus the technical and other resources

4461 of appropriate institutions of higher education, local governments, private sector interests,
4462 associations, nonprofit organizations, federal agencies, and others, in ways that address the
4463 economic development, planning, and leadership challenges and priorities of rural Utah as
4464 identified in the strategic plan required under Subsection 63C-10-103(2);

4465 (5) work to enhance the capacity of the office to address rural economic development,
4466 planning, and leadership training challenges and opportunities by establishing partnerships and
4467 positive working relationships with appropriate public and private sector entities, individuals,
4468 and institutions; and

4469 (6) foster government-to-government collaboration and good working relations
4470 between state and rural government regarding economic development and planning issues.

4471 Section 148. Section **63-38f-1604**, which is renumbered from Section 9-16-104 is
4472 renumbered and amended to read:

4473 **~~[9-16-104].~~ 63-38f-1604. Duties.**

4474 (1) The ~~[office]~~ program shall:

4475 (a) provide, in conjunction with the Rural Coordinating Committee, staff support to the
4476 Governor's Rural Partnership board;

4477 (b) facilitate within the department implementation of the strategic plan prepared under
4478 Subsection 63C-10-103(2);

4479 (c) work to enhance the capacity of the office to address rural economic development,
4480 planning, and leadership training challenges and opportunities by establishing partnerships and
4481 positive working relationships with appropriate public and private sector entities, individuals,
4482 and institutions;

4483 (d) work with the Rural Coordinating Committee to coordinate and focus available
4484 resources in ways that address the economic development, planning, and leadership training
4485 challenges and priorities in rural Utah; and

4486 (e) in accordance with economic development and planning policies set by state
4487 government, coordinate relations between:

4488 (i) the state;

4489 (ii) rural governments;

4490 (iii) other public and private groups engaged in rural economic planning and
4491 development; and

4492 (iv) federal agencies.

4493 (2) (a) The [office] program may:

4494 [~~(i) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
4495 ~~make rules necessary to carry out the duties of the office;~~]

4496 [~~(ii)~~] (i) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of
4497 rural Utah citizens; and

4498 [~~(iii)~~] (ii) use those gifts, grants, devises, and property received under Subsection
4499 (2)(a)[~~(ii)~~](i) for the use and benefit of rural citizens within the state.

4500 (b) All resources received under Subsection (2)(a)[~~(ii)~~] (i) shall be deposited in the
4501 General Fund as dedicated credits to be used as directed in Subsection (2)(a)[~~(iii)~~] (ii).

4502 (c) All funding for the benefit of rural Utah as defined in this section is nonlapsing.

4503 Section 149. Section **63-38f-1605**, which is renumbered from Section 9-16-105 is
4504 renumbered and amended to read:

4505 **[9-16-105]. 63-38f-1605. Program manager.**

4506 (1) The [executive] director of the [department] office shall appoint [~~the director of the~~
4507 ~~office~~] a manager for the program with the approval of the governor.

4508 (2) The [~~office director~~] manager shall be a person knowledgeable in the field of rural
4509 economic development and planning and experienced in administration.

4510 (3) Upon change of the [executive] director [~~of the department~~], the [~~office director~~]
4511 manager of the program may not be dismissed without cause for at least 180 days.

4512 (4) The [~~office director~~] manager shall be a member of the Rural Coordinating
4513 Committee's Steering Committee created in Subsection 63C-10-202(3).

4514 Section 150. Section **63-38f-1606**, which is renumbered from Section 9-16-106 is
4515 renumbered and amended to read:

4516 **[9-16-106]. 63-38f-1606. Annual report.**

4517 The office shall submit an annual report of [its] the program's operations and
4518 recommendations to:

4519 [~~(1) the department;~~]

4520 [~~(2)~~] (1) the governor; and

4521 [~~(3)~~] (2) the Rural Development Legislative Liaison Committee created in Section
4522 36-25-102.

4523 Section 151. Section **63-49a-1** is amended to read:

4524 **63-49a-1. Acquisition of easements -- Restrictions -- Resale.**

4525 (1) (a) The [~~Department of Community and~~ Governor's Office of Economic
4526 Development shall acquire, by purchase or condemnation, easements for the establishment,
4527 maintenance, and operation of a restrictive use area for the operation of aircraft to and from
4528 Hill Air Force Base because:

4529 (i) Hill Air Force Base is a military installation of vital importance to security of the
4530 United States of America and to the economic well-being of the citizens of Utah;

4531 (ii) there are certain portions of land around the entire base that are being developed for
4532 residential and other uses that are incompatible with current and future operations of the base
4533 because of noise, health, safety, and accident reasons; and

4534 (iii) it is the purpose of this chapter for the state to acquire those easements restricting
4535 the use of those lands and the air space above them in order to assure the continued operation
4536 of Hill Air Force Base as an active military base and to protect the health, safety, and economic
4537 well-being of the citizens of Utah.

4538 (b) The [~~Department of Community and~~ Governor's Office of Economic Development
4539 may delegate its power to purchase or condemn easements under this subsection to other state
4540 agencies if the department ensures that those agencies comply with the procedures and
4541 requirements of this chapter.

4542 (2) (a) The [~~Department of Community and~~ Governor's Office of Economic
4543 Development shall ensure that the easements restrict the land from those uses identified in the
4544 Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated
4545 October, 1982, as not being acceptable.

4546 (b) The [~~Department of Community and~~ Governor's Office of Economic Development
4547 may allow certain other uses not prohibited by those guidelines if those uses are consistent with
4548 the purpose of this chapter.

4549 (c) Nothing in this chapter may be construed to authorize the [~~Department of~~
4550 ~~Community and~~ Governor's Office of Economic Development or any other state agency to:

4551 (i) acquire any ownership interest in real property other than an easement restricting the
4552 land from future uses inconsistent with the Hill Air Force Base AICUZ Land Use
4553 Compatibility Guidelines Study, as amended, dated October 1982;

4554 (ii) purchase businesses; or

4555 (iii) require people to relocate or move from their property.

4556 (d) To calculate the purchase price for the easements, the [~~Department of Community~~
4557 ~~and~~] Governor's Office of Economic Development shall subtract the market value of the real
4558 property and its improvements after the acquisition of the easements from the market value of
4559 the real property and its improvements before the acquisition of the easements.

4560 (e) When the Hill Air Force Base runways have not been used for seven years to
4561 accommodate the arrival and departure of airplanes, the [~~Department of Community and~~]
4562 Governor's Office of Economic Development shall:

4563 (i) notify by certified mail each current owner of the property to which each easement
4564 is attached;

4565 (ii) inform that owner that the owner may purchase the easement from the state for the
4566 same price that the state paid for it originally or for the market value of the easement at the
4567 time of the buyback, whichever is smaller; and

4568 (iii) sell the easement to the owner of the property to which the easement is attached if
4569 the owner tenders the purchase price.

4570 (f) In addition to purchasing the easements required by this chapter, the [~~Department of~~
4571 ~~Community and~~] Governor's Office of Economic Development may provide reasonable
4572 relocation expenses to all churches, businesses, and schools that, as of March 1, 1994, were
4573 located either within the north Hill Air Force Base accident potential zone (APZ) identified in
4574 Subsection 63-49a-2(1)(a) or within the south Hill Air Force Base accident potential zone
4575 (APZ) identified in Subsection 63-49a-2(1)(b) if those churches, businesses, and schools can
4576 reasonably demonstrate that expansion of the use would have been permitted before acquisition
4577 of the easements but is now prohibited because of the easement.

4578 (3) (a) The [~~Department of Community and~~] Governor's Office of Economic
4579 Development may take action to enforce the provisions of this chapter.

4580 (b) The attorney general shall represent the [~~Department of Community and~~]
4581 Governor's Office of Economic Development in that action.

4582 Section 152. Section **63-49a-2** is amended to read:

4583 **63-49a-2. Location of easements.**

4584 (1) The [~~Department of Community and~~] Governor's Office of Economic Development

4585 or its designees may acquire easements on the land within the following boundaries:

4586 (a) beginning on the north Hill Air Force Base accident potential zone (APZ) at a point
4587 which is North 1,089,743.170 meters and East 459,346.946 meters based on the North zone,
4588 State of Utah, NAD 83 coordinates and runs north to North 63 degrees 10 minutes 44 seconds,
4589 East 457.109 meters, North 26 degrees 49 minutes 16 seconds, West 3,352.129 meters, South
4590 63 degrees 10 minutes 44 seconds, West 914.217 meters, South 26 degrees 49 minutes 16
4591 seconds, East 3,352.129 meters, North 63 degrees 10 minutes 44 seconds, East 457.109 meters
4592 back to the point of beginning; and

4593 (b) beginning on the south Hill Air Force Base APZ which is North 1,086,065.786
4594 meters and East 461,206.222 meters based on the North zone, State of Utah, NAD 83
4595 coordinates and runs South 63 degrees 10 minutes 44 seconds, West 457.109 meters, South 26
4596 degrees 49 minutes 16 seconds, East 502.179 meters, South 0 degrees 20 minutes 35 seconds,
4597 West 1,722.227 meters, South 89 degrees 39 minutes 25 seconds, East 883.743 meters, North
4598 63 degrees 10 minutes 44 seconds, East 914.217 meters, North 26 degrees 49 minutes 16
4599 seconds, West 2,437.912 meters, South 63 degrees 10 minutes 44 seconds, West 457.109
4600 meters back to the point of beginning.

4601 (2) The ~~[Department of Community and]~~ Governor's Office of Economic Development
4602 or its designees may acquire easements on the following land that is located inside the 75 and
4603 80 level day-night (LDN) noise contour as identified in the Hill Air Force Base AICUZ Land
4604 Use Compatibility Guidelines Study, as amended, dated October, 1982:

- 4605 (a) in the west half of Section 3, T4NR1W;
4606 (b) in the east half of Section 4, T4NR1W;
4607 (c) in the northeast quarter of Section 8, T4NR1W;
4608 (d) within all of Section 9, T4NR1W;
4609 (e) in the northwest quarter of Section 10, T4NR1W;
4610 (f) within the southwest quarter of Section 19, T5NR1W;
4611 (g) in the south half of Section 20, T5NR1W;
4612 (h) within the southwest quarter of Section 28, T5NR1W; and
4613 (i) within Section 29, T5NR1W.

4614 Section 153. Section **63-49a-3** is amended to read:

4615 **63-49a-3. Certain improvements, alterations, and expansions prohibited.**

4616 (1) A person or entity may not begin to develop, or authorize development, on any land
4617 identified in this chapter until [~~whichever of the following occurs first: (a) May 31, 1995; or~~
4618 ~~(b) the Department of Community and~~] the Governor's Office of Economic Development has
4619 affirmatively authorized the development of the land because the development is consistent
4620 with those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility
4621 Guidelines Study, as amended, dated October 1982.

4622 (2) Nothing in this chapter prohibits any property owner from improving, altering, or
4623 expanding any existing residential or commercial use of his property so long as the
4624 improvement, alteration, or expansion does not materially increase the human density of that
4625 present use.

4626 Section 154. Section **63-51-10** is amended to read:

4627 **63-51-10. Financial impact statement -- Alleviation plan -- Filing required --**
4628 **Contents -- Payments credited against tax -- Provisions neither exclusive nor mandatory.**

4629 (1) (a) [~~Any~~] A developer desiring to prepay ad valorem property taxes under Section
4630 63-51-3 shall first prepare and file with the [~~Department of Community and~~] Governor's Office
4631 of Economic Development and all units of local government likely to be affected with a
4632 significant financial impact due to a natural resource or industrial facility a financial impact
4633 statement together with a plan for alleviating these impacts.

4634 (b) The impact statement and the alleviation plan shall be prepared in cooperation with
4635 and after consultation with the [~~Department of Community and~~] Governor's Office of
4636 Economic Development and the affected units of local government.

4637 (c) The financial impact statement shall assess the projected financial impact on state
4638 agencies and units of local government, including[~~, but not limited to,~~] the impact on
4639 transportation systems, culinary water systems, waste treatment facilities, public safety,
4640 schools, public health, housing, planning and zoning, and general government administration.

4641 (d) The alleviation plan shall set out proposals for alleviating the impact and may
4642 include payments to local units of government or direct expenditures by the developer to
4643 alleviate the impact.

4644 (e) The impact statement and the alleviation plan may be amended by the developer in
4645 cooperation with and after consultation with the [~~Department of Community and~~] Governor's
4646 Office of Economic Development and those units of local government affected by the

4647 amendment.

4648 (2) At least 90 days prior to commencement of construction of an industrial facility or
4649 natural resources facility by a major developer, an impact statement and alleviation plan as
4650 described in Subsection (1) shall be filed by the major developer whether or not the major
4651 developer desires to prepay ad valorem property taxes.

4652 (3) (a) Upon the filing of the financial impact statement and alleviation plan, a
4653 developer may apply to the governing body of the affected unit of local government for
4654 authorization to prepay a portion of the anticipated ad valorem property taxes to be expended
4655 consistent with the alleviation plan.

4656 (b) This authorization may provide that only a portion of the amounts so prepaid can be
4657 applied against the ad valorem property taxes due in any given year.

4658 (c) In addition to payments directly to the affected unit of local government, an affected
4659 unit of local government may authorize a tax credit on anticipated ad valorem property taxes
4660 for expenditures made by the developer to other persons so long as the expenditure is
4661 consistent with the alleviation plan.

4662 (4) (a) This chapter is designed to provide an additional mechanism for the alleviation
4663 of impacts on units of local government and is not intended to discourage the use of other
4664 mechanisms as may be available. [~~Moreover, nothing~~]

4665 (b) Nothing in this chapter [~~shall require~~] requires a developer to prepay ad valorem
4666 property taxes or to make any other expenditure not otherwise required by law.

4667 Section 155. Section **63A-9-801** is amended to read:

4668 **63A-9-801. State surplus property program -- Definitions -- Administration.**

4669 (1) As used in this section:

4670 (a) "Agency" means:

4671 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
4672 Control, Commerce, Community and [~~Economic Development~~] Culture, Corrections,
4673 Workforce Services, Health, Human Resource Management, Human Services, Insurance,
4674 Natural Resources, Public Safety, and Transportation and the Labor Commission;

4675 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
4676 Victim Reparations, Rehabilitation, and Treasurer;

4677 (iii) the Public Service Commission and State Tax Commission;

- 4678 (iv) the State Boards of Education, Pardons and Parole, and Regents;
- 4679 (v) the Career Service Review Board;
- 4680 (vi) other state agencies designated by the governor;
- 4681 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
- 4682 (viii) an institution of higher education, its president, and its board of trustees for
- 4683 purposes of Section 63A-9-802.
- 4684 (b) "Division" means the Division of Fleet Operations.
- 4685 (c) "Information technology equipment" means any equipment that is designed to
- 4686 electronically manipulate, store, or transfer any form of data.
- 4687 (d) "Inventory property" means property in the possession of the division that is
- 4688 available for purchase by an agency or the public.
- 4689 (e) "Judicial district" means the geographic districts established by Section 78-1-2.1.
- 4690 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
- 4691 agency that the agency wishes to dispose of.
- 4692 (ii) "Surplus property" does not mean real property.
- 4693 (g) "Transfer" means transfer of surplus property without cash consideration.
- 4694 (2) (a) The division shall make rules establishing a state surplus property program that
- 4695 meets the requirements of this chapter by following the procedures and requirements of Title
- 4696 63, Chapter 46a, Utah Administrative Rulemaking Act.
- 4697 (b) Those rules shall include:
- 4698 (i) a requirement prohibiting the transfer of surplus property from one agency to
- 4699 another agency without written approval from the division;
- 4700 (ii) procedures and requirements governing division administration requirements that
- 4701 an agency must follow;
- 4702 (iii) requirements governing purchase priorities;
- 4703 (iv) requirements governing accounting, reimbursement, and payment procedures;
- 4704 (v) procedures for collecting bad debts;
- 4705 (vi) requirements and procedures for disposing of firearms;
- 4706 (vii) the elements of the rates or other charges assessed by the division for services and
- 4707 handling;
- 4708 (viii) procedures governing the timing and location of public sales of inventory

4709 property; and

4710 (ix) procedures governing the transfer of information technology equipment by state
4711 agencies directly to public schools.

4712 (c) The division shall report all transfers of information technology equipment by state
4713 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
4714 Education Committee at the end of each fiscal year.

4715 (3) In creating and administering the program, the division shall:

4716 (a) when conditions, inventory, and demand permit:

4717 (i) establish facilities to store inventory property at geographically dispersed locations
4718 throughout the state; and

4719 (ii) hold public sales of property at geographically dispersed locations throughout the
4720 state;

4721 (b) establish, after consultation with the agency requesting the sale of surplus property,
4722 the price at which the surplus property shall be sold; and

4723 (c) transfer proceeds arising from the sale of state surplus property to the agency
4724 requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an
4725 amount established by the division by rule to pay the costs of administering the surplus
4726 property program.

4727 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
4728 each state agency shall dispose of and acquire surplus property only by participating in the
4729 division's program.

4730 Section 156. Section **63B-5-201** is amended to read:

4731 **63B-5-201. Legislative intent statements.**

4732 (1) If the United [~~State~~] States Department of Defense has not provided matching funds
4733 to construct the National Guard Armory in Orem by December 31, 1997, the Division of
4734 Facilities Construction and Management shall transfer any funds received from issuance of a
4735 General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital
4736 improvements.

4737 (2) It is the intent of the Legislature that the University of Utah use institutional funds
4738 to plan, design, and construct:

4739 (a) the Health Science East parking structure under the supervision of the director of

4740 the Division of Facilities Construction and Management unless supervisory authority is
4741 delegated by the director;

4742 (b) the Health Science Office Building under the supervision of the director of the
4743 Division of Facilities Construction and Management unless supervisory authority is delegated
4744 by the director; and

4745 (c) the new Student Housing/Olympic Athletes Village under the supervision of the
4746 director of the Division of Facilities Construction and Management unless supervisory
4747 authority is delegated by the director.

4748 (3) It is the intent of the Legislature that Utah State University use institutional funds to
4749 plan, design, and construct a multipurpose facility under the supervision of the director of the
4750 Division of Facilities Construction and Management unless supervisory authority is delegated
4751 by the director.

4752 (4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal
4753 funding to plan, design, and construct a sample library facility under the supervision of the
4754 director of the Division of Facilities Construction and Management unless supervisory
4755 authority is delegated by the director.

4756 (5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State
4757 Park Club House does not pass, the State Building Ownership Authority, under authority of
4758 Title [63] 63B, Chapter [~~9a~~] 1, Part 3, State Building Ownership Authority Act, may issue or
4759 execute obligations, or enter into or arrange for a lease purchase agreement in which
4760 participation interests may be created, to provide up to \$1,500,000 for the remodel and
4761 expansion of the clubhouse at Wasatch Mountain State Park for the Division of Parks and
4762 Recreation, together with additional amounts necessary to:

4763 (i) pay costs of issuance;
4764 (ii) pay capitalized interest; and
4765 (iii) fund any debt service reserve requirements.

4766 (b) The State Building Ownership Authority shall work cooperatively with the
4767 Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase
4768 plan available.

4769 (6) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4770 Chapter [~~9a~~] 1, Part 3, State Building Ownership Authority Act, may issue or execute

4771 obligations, or enter into or arrange for a lease purchase agreement in which participation
4772 interests may be created, to provide up to \$835,300 for the construction of a liquor store in the
4773 Snyderville area, together with additional amounts necessary to:

- 4774 (i) pay costs of issuance;
- 4775 (ii) pay capitalized interest; and
- 4776 (iii) fund any debt service reserve requirements.

4777 (b) The State Building Ownership Authority shall work cooperatively with the
4778 Department of Alcoholic Beverage Control to seek out the most cost effective and prudent
4779 lease purchase plan available.

4780 (7) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4781 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute
4782 obligations, or enter into or arrange for a lease purchase agreement in which participation
4783 interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman
4784 Cancer Institute, together with additional amounts necessary to:

- 4785 (i) pay costs of issuance;
- 4786 (ii) pay capitalized interest; and
- 4787 (iii) fund any debt service reserve requirements.

4788 (b) The State Building Ownership Authority shall work cooperatively with the
4789 University of Utah to seek out the most cost effective and prudent lease purchase plan
4790 available.

4791 (c) It is the intent of the Legislature that the University of Utah lease land to the State
4792 Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

4793 (8) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4794 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute
4795 obligations, or enter into or arrange for a lease purchase agreement in which participation
4796 interests may be created, to provide up to \$857,600 for the construction of an addition to the
4797 Human Services facility in Vernal, Utah together with additional amounts necessary to:

- 4798 (i) pay costs of issuance;
- 4799 (ii) pay capitalized interest; and
- 4800 (iii) fund any debt service reserve requirements.

4801 (b) The State Building Ownership Authority shall work cooperatively with the

4802 Department of Human Services to seek out the most cost effective and prudent lease purchase
4803 plan available.

4804 (9) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4805 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute
4806 obligations, or enter into or arrange for a lease purchase agreement in which participation
4807 interests may be created, to provide up to \$3,470,200 for the construction of the Student
4808 Services Center, at the College of Eastern Utah, together with additional amounts necessary to:

- 4809 (i) pay costs of issuance;
- 4810 (ii) pay capitalized interest; and
- 4811 (iii) fund any debt service reserve requirements.

4812 (b) The State Building Ownership Authority shall work cooperatively with the College
4813 of Eastern Utah to seek out the most cost effective and prudent lease purchase plan available.

4814 (10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue
4815 Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations,
4816 the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue
4817 bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of
4818 the income and revenues, including legislative appropriations, of Dixie College, to finance the
4819 acquisition of the Dixie Center.

4820 (b) (i) The bonds or other evidences of indebtedness authorized by this section shall be
4821 issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions
4822 and in amounts that the board, by resolution, determines are reasonable and necessary and may
4823 not exceed \$6,000,000 together with additional amounts necessary to:

- 4824 (A) pay cost of issuance;
- 4825 (B) pay capitalized interest; and
- 4826 (C) fund any debt service reserve requirements.

4827 (ii) To the extent that future legislative appropriations will be required to provide for
4828 payment of debt service in full, the board shall ensure that the revenue bonds are issued
4829 containing a clause that provides for payment from future legislative appropriations that are
4830 legally available for that purpose.

4831 (11) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4832 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute

4833 obligations, or enter into or arrange for a lease purchase agreement in which participation
4834 interests may be created, to provide up to \$10,479,000 for the construction of a facility for the
4835 Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- 4836 (i) pay costs of issuance;
- 4837 (ii) pay capitalized interest; and
- 4838 (iii) fund any debt service reserve requirements.

4839 (b) The State Building Ownership Authority shall work cooperatively with the Office
4840 of the Court Administrator to seek out the most cost effective and prudent lease purchase plan
4841 available.

4842 (12) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4843 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute
4844 obligations, or enter into or arrange for a lease purchase agreement in which participation
4845 interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the
4846 Washington County Courthouse, together with additional amounts necessary to:

- 4847 (i) pay costs of issuance;
- 4848 (ii) pay capitalized interest; and
- 4849 (iii) fund any debt service reserve requirements.

4850 (b) The State Building Ownership Authority shall work cooperatively with the Office
4851 of the Court Administrator to seek out the most cost effective and prudent lease purchase plan
4852 available.

4853 (13) (a) The State Building Ownership Authority, under authority of Title [63] 63B,
4854 Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute
4855 obligations, or enter into or arrange for a lease purchase agreement in which participation
4856 interests may be created, to provide up to \$14,299,700 for the construction of a facility for the
4857 State Library and the Division of Services for the Blind and Visually Impaired, together with
4858 additional amounts necessary to:

- 4859 (i) pay costs of issuance;
- 4860 (ii) pay capitalized interest; and
- 4861 (iii) fund any debt service reserve requirements.

4862 (b) The State Building Ownership Authority shall work cooperatively with the Office
4863 of Education and the [~~Department of Community and~~] Governor's Office of Economic

4864 Development to seek out the most cost effective and prudent lease purchase plan available.

4865 Section 157. Section **63D-1a-203** is amended to read:

4866 **63D-1a-203. Utah Technology Industry Council.**

4867 (1) As used in this section:

4868 (a) "Council" means the Utah Technology Industry Council created by this section.

4869 (b) "Technology industry business in this state" means a business that has as a primary
4870 function the research, development, production, or marketing of technologies in technology
4871 sectors including:

4872 (i) aerospace;

4873 (ii) biotechnology or other technologies related to life sciences;

4874 (iii) information technologies or other technologies related to information technologies;

4875 or

4876 (iv) other key technology industries sectors as the technology industries develop.

4877 (2) (a) There is created a Utah Technology Industry Council to act as a body that
4878 recommends policy to the commission.

4879 (b) Subject to the requirements of this section, the council:

4880 (i) shall be organized by the steering committee created under Subsection (3); and

4881 (ii) operate in accordance with the charter that:

4882 (A) is initially adopted by the steering committee in accordance with Subsection (4);

4883 and

4884 (B) amended as provided in the charter.

4885 (c) A member of the council shall receive no compensation or benefits for the
4886 member's services including per diem or expenses incurred in the performance of the member's
4887 official duties on the council.

4888 (3) (a) The steering committee described in Subsection (2) shall consist of eight
4889 members:

4890 (i) the ~~[executive]~~ director of the ~~[Department of Community and]~~ Governor's Office
4891 of Economic Development or the ~~[executive]~~ director's designee, provided that the designee is
4892 a senior officer in the ~~[department]~~ office; and

4893 (ii) seven members appointed as follows:

4894 (A) the speaker of the House of Representatives shall appoint two members who are

4895 present or former senior:

4896 (I) officers of technology industry businesses in the state; or

4897 (II) executive directors of technology industry associations in this state;

4898 (B) the president of the Senate shall appoint two members who are present or former:

4899 (I) senior officers of technology industry businesses in the state; or

4900 (II) executive directors of technology industry associations in this state;

4901 (C) the governor shall appoint two members who are present or former:

4902 (I) senior officers in technology industry businesses in the state; or

4903 (II) executive directors of technology industry associations in this state; and

4904 (D) the chair of the steering committee shall appoint a representative of political

4905 subdivisions of the state who is an elected official in any Utah municipality or county.

4906 (b) (i) The members of the steering committee shall elect a chair of the steering

4907 committee from the steering committee by a majority vote.

4908 (ii) The chair of the steering committee shall act as chair of the council.

4909 (c) (i) Except as required by Subsection (3)(c)(ii), a member of the steering committee

4910 appointed under Subsection (3)(a)(ii) shall be appointed to a term of four years.

4911 (ii) Notwithstanding the requirements of Subsection (3)(c)(i), at the time of initial

4912 appointment of the steering committee, the members of the steering committee shall create a

4913 random process to adjust the length of terms of the initial members of the steering committee to

4914 ensure that the terms of members are staggered so that approximately half of the steering

4915 committee is appointed every two years.

4916 (d) The [~~Department of Community and~~] Governor's Office of Economic Development

4917 shall provide staff to:

4918 (i) the steering committee; and

4919 (ii) the council.

4920 (4) The steering committee appointed under Subsection (3) shall adopt a charter for the

4921 council by no later than July 1, 2003 that specifies:

4922 (a) the number, terms, and appointment of voting members of the council, except that

4923 the voting members of the council shall be:

4924 (i) present or former senior officers of technology industry businesses in the state;

4925 (ii) present or former executive directors of technology associations in the state; or

- 4926 (iii) representatives of:
- 4927 (A) state or local government; or
- 4928 (B) public or higher education;
- 4929 (b) the number, terms, and appointment of nonvoting members of the council;
- 4930 (c) the term of the chair of the council;
- 4931 (d) the process to be followed in creating any subcommittees of the council;
- 4932 (e) the quorum requirements for the council or for subcommittees of the council to take
- 4933 action;
- 4934 (f) the processes to be followed to call a meeting of the council or a subcommittee of
- 4935 the council, except that:
- 4936 (i) any meeting of the council or a subcommittee of the council is subject to Title 52,
- 4937 Chapter 4, Open and Public Meetings;
- 4938 (ii) members of the commission shall be provided notice of each meeting of the council
- 4939 or of a subcommittee of the council; and
- 4940 (iii) legislative members of the commission that attend a meeting of the council or a
- 4941 subcommittee of the council:
- 4942 (A) may not vote unless the legislator is a member of the council or the subcommittee;
- 4943 and
- 4944 (B) may receive a salary and expenses paid in accordance with Section 36-2-2 and
- 4945 Legislative Joint Rule 15.03; and
- 4946 (g) the process for amending the charter under which the council operates.
- 4947 (5) The council may:
- 4948 (a) conduct research or other studies to the extent that funding is available;
- 4949 (b) review practices in the worldwide private and public sectors that could foster
- 4950 technology business growth in the state;
- 4951 (c) prepare an assessment of the current status of technology industries in the state
- 4952 including:
- 4953 (i) the needs of technology industries in the state; and
- 4954 (ii) opportunities for future growth of technology industries in the state;
- 4955 (d) develop a strategic plan as to:
- 4956 (i) the future of technology industries in the state;

4957 (ii) the future economic value technology industries can bring to the state; and
4958 (iii) the future benefits technology industries can bring to the quality of life of the
4959 citizens in the state;

4960 (e) develop plans, including public and private sector initiatives, to meet any objectives
4961 included in the strategic plan statement described in Subsection (5)(d), including proposals to
4962 support the creation, retention, expansion, or attraction of technology industry businesses in the
4963 state; and

4964 (f) study other issues as directed by the commission related to economic development
4965 of technology industries.

4966 Section 158. Section **67-19-6.7** is amended to read:

4967 **67-19-6.7. Overtime policies for state employees.**

4968 (1) As used in this section:

4969 (a) "Accrued overtime hours" means:

4970 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
4971 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
4972 state employee who accrued them; and

4973 (ii) for exempt employees, overtime hours earned during an overtime year.

4974 (b) "Agreement" means the agreement authorized by the FLSA by which a nonexempt
4975 employee elects the form of compensation he will receive for overtime.

4976 (c) "Appointed official" means:

4977 (i) each department executive director and deputy director, each division director, and
4978 each member of a board or commission; and

4979 (ii) any other person employed by a department who is appointed by, or whose
4980 appointment is required by law to be approved by, the governor and who:

4981 (A) is paid a salary by the state [~~of Utah~~]; and

4982 (B) who exercises managerial, policy-making, or advisory responsibility.

4983 (d) "Department" means the Department of Administrative Services, the Department of
4984 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
4985 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
4986 the Department of Agriculture and Food, the Department of Human Services, the State Board
4987 of Education, the Department of Natural Resources, the Department of Transportation, the

4988 Department of Commerce, the Department of Workforce Services, the State Tax Commission,
4989 the Department of Community and [~~Economic Development~~] Culture, the Department of
4990 Health, the National Guard, the Department of Environmental Quality, the Department of
4991 Public Safety, the Department of Human Resource Management, the Commission on Criminal
4992 and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney
4993 General, merit employees in the Office of the State Treasurer, and merit employees in the
4994 Office of the State Auditor.

4995 (e) "Elected official" means any person who is an employee of the state [~~of Utah~~]
4996 because he was elected by the registered voters of Utah to a position in state government.

4997 (f) "Exempt employee" means a state employee who is exempt as defined by the FLSA.

4998 (g) "FLSA" means the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq.
4999 (1978).

5000 (h) "Human Resource Management" means the Department of Human Resource
5001 Management.

5002 (i) "Nonexempt employee" means a state employee who is nonexempt as defined by
5003 Human Resource Management applying FLSA requirements.

5004 (j) "Overtime" means actual time worked in excess of the employee's defined work
5005 period.

5006 (k) "Overtime year" means the year determined by a department under Subsection
5007 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

5008 (l) (i) "State employee" means every person employed by a department who is not an
5009 appointed official or an elected official.

5010 (ii) "State employee" does not mean:

5011 (A) certificated employees of the State Board of Education; and

5012 (B) employees of the Department of Community and [~~Economic Development~~] Culture
5013 or the Governor's Office of Economic Development, whose positions are designated as
5014 schedule AM exempt employees under Section 67-19-15.

5015 (m) "Uniform annual date" means the date when an exempt employee's accrued
5016 overtime lapses.

5017 (n) "Work period" means:

5018 (i) for all nonexempt employees, except law enforcement and hospital employees, a

5019 consecutive seven day 24 hour work period of 40 hours;

5020 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

5021 (iii) for nonexempt law enforcement and hospital employees, the period established by

5022 each department by rule for those employees according to the requirements of the FLSA.

5023 (2) Each department shall compensate each state employee who works overtime by

5024 complying with the requirements of this section.

5025 (3) (a) Each department shall negotiate and obtain a signed agreement from each

5026 nonexempt employee.

5027 (b) In the agreement, the nonexempt employee shall elect either to be compensated for

5028 overtime by:

5029 (i) taking time off work at the rate of one and one-half hour off for each overtime hour

5030 worked; or

5031 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per

5032 hour that the state employee receives for nonovertime work.

5033 (c) Any nonexempt employee who elects to take time off under this Subsection (3)

5034 shall be paid for any overtime worked in excess of the cap established by Human Resource

5035 Management.

5036 (d) Before working any overtime, each nonexempt employee shall obtain authorization

5037 to work overtime from the employee's immediate supervisor.

5038 (e) Each department shall:

5039 (i) for employees who elect to be compensated with time off for overtime, allow

5040 overtime earned during a fiscal year to be accumulated; and

5041 (ii) for employees who elect to be paid for overtime worked, pay them for overtime

5042 worked in the paycheck for the pay period in which the employee worked the overtime.

5043 (f) If the department pays a nonexempt employee for overtime, the department shall

5044 charge that payment to the department's budget.

5045 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued

5046 overtime hours for nonexempt employees and charge that total against the appropriate fund or

5047 subfund.

5048 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall

5049 compensate exempt employees who work overtime by granting them time off at the rate of one

5050 hour off for each hour of overtime worked.

5051 (ii) The director of Human Resource Management may grant limited exceptions to this
5052 requirement, where work circumstances dictate, by authorizing a department to pay employees
5053 for overtime worked at the rate per hour that the employee receives for nonovertime work, if
5054 the department has funds available.

5055 (b) (i) Each department shall:

5056 (A) establish in its written personnel policies a uniform annual date for each division
5057 that is at the end of any pay period; and

5058 (B) communicate the uniform annual date to its employees.

5059 (ii) If any department fails to establish a uniform annual date as required by this
5060 Subsection (4), the director of Human Resource Management, in conjunction with the director
5061 of the Division of Finance, shall establish the date for that department.

5062 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
5063 benefit, and is not a vested right.

5064 (ii) A court may not construe the overtime for exempt employees authorized by this
5065 Subsection (4) as an entitlement, a benefit, or as a vested right.

5066 (d) At the end of the overtime year, upon transfer to another department at any time,
5067 and upon termination, retirement, or other situations where the employee will not return to
5068 work before the end of the overtime year:

5069 (i) any of an exempt employee's overtime that is more than the maximum established
5070 by Human Resource Management rule lapses; and

5071 (ii) unless authorized by the director of Human Resource Management under
5072 Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed
5073 overtime by paying the employee for the overtime or by granting the employee time off for the
5074 lapsed overtime.

5075 (e) Before working any overtime, each exempt employee shall obtain authorization to
5076 work overtime from their immediate supervisor.

5077 (f) If the department pays an exempt employee for overtime under authorization from
5078 the director of the Department of Human Resource Management, the department shall charge
5079 that payment to the department's budget in the pay period earned.

5080 (5) Human Resource Management shall:

5081 (a) ensure that the provisions of the FLSA and this section are implemented throughout
5082 state government;

5083 (b) determine, for each state employee, whether that employee is exempt, nonexempt,
5084 law enforcement, or has some other status under the FLSA;

5085 (c) in coordination with modifications to the systems operated by the Division of
5086 Finance, make rules:

5087 (i) establishing procedures for recording overtime worked that comply with FLSA
5088 requirements;

5089 (ii) establishing requirements governing overtime worked while traveling and
5090 procedures for recording that overtime that comply with FLSA requirements;

5091 (iii) establishing requirements governing overtime worked if the employee is "on call"
5092 and procedures for recording that overtime that comply with FLSA requirements;

5093 (iv) establishing requirements governing overtime worked while an employee is being
5094 trained and procedures for recording that overtime that comply with FLSA requirements;

5095 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
5096 employee may accrue before a department is required to pay the employee for the overtime
5097 worked;

5098 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
5099 exempt employee that do not lapse; and

5100 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
5101 made by Human Resource Management as required by this section;

5102 (d) monitor departments for compliance with the FLSA; and

5103 (e) recommend to the Legislature and the governor any statutory changes necessary
5104 because of federal government action.

5105 (6) In coordination with the procedures for recording overtime worked established in
5106 rule by Human Resource Management, the Division of Finance shall modify its payroll and
5107 personnel systems to accommodate those procedures.

5108 (a) Notwithstanding the procedures and requirements of Title 63, Chapter 46b,
5109 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
5110 is aggrieved by the FLSA designation made by Human Resource Management as required by
5111 this section may appeal that determination to the executive director of Human Resource

5112 Management by following the procedures and requirements established in Human Resource
5113 Management rule.

5114 (b) Upon receipt of an appeal under this section, the director shall notify the executive
5115 director of the employee's department that the appeal has been filed.

5116 (c) If the employee is aggrieved by the decision of the executive director of Human
5117 Resource Management, he shall appeal that determination to the Department of Labor, Wage
5118 and Hour Division, according to the procedures and requirements of federal law.

5119 Section 159. Section **67-19-12** is amended to read:

5120 **67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of**
5121 **director.**

5122 (1) (a) This section, and the rules adopted by the department to implement this section,
5123 apply to each career and noncareer state employee not specifically exempted under Subsection
5124 (2).

5125 (b) If not exempted under Subsection (2), a state employee is considered to be in
5126 classified service.

5127 (2) The following state employees are exempt from this section:

5128 (a) members of the Legislature and legislative employees;

5129 (b) members of the judiciary and judicial employees;

5130 (c) elected members of the executive branch and their direct staff who meet career
5131 service exempt criteria as defined in Subsection 67-19-15(1)(k);

5132 (d) certificated employees of the State Board of Education;

5133 (e) officers, faculty, and other employees of state institutions of higher education;

5134 (f) employees in any position that is determined by statute to be exempt from this
5135 Subsection (2);

5136 (g) attorneys in the Office of the Attorney General;

5137 (h) department heads and other persons appointed by the governor pursuant to statute;

5138 (i) employees of the Department of Community and ~~[Economic Development]~~ Culture
5139 whose positions are designated as executive/professional positions by the executive director of
5140 the Department of Community and ~~[Economic Development]~~ Culture with the concurrence of
5141 the director; ~~[and]~~

5142 (j) employees of the Governor's Office of Economic Development whose positions are

5143 designated as executive/professional positions by the director of the office; and

5144 [~~(j)~~] (k) employees of the Medical Education Council.

5145 (3) (a) The director shall prepare, maintain, and revise a position classification plan for
5146 each employee position not exempted under Subsection (2) to provide equal pay for equal
5147 work.

5148 (b) Classification of positions shall be based upon similarity of duties performed and
5149 responsibilities assumed, so that the same job requirements and the same salary range may be
5150 applied equitably to each position in the same class.

5151 (c) The director shall allocate or reallocate the position of each employee in classified
5152 service to one of the classes in the classification plan.

5153 (d) (i) The department shall conduct periodic studies and desk audits to provide that the
5154 classification plan remains reasonably current and reflects the duties and responsibilities
5155 assigned to and performed by employees.

5156 (ii) The director shall determine the schedule for studies and desk audits after
5157 considering factors such as changes in duties and responsibilities of positions or agency
5158 reorganizations.

5159 (4) (a) With the approval of the governor, the director shall develop and adopt pay
5160 plans for each position in classified service.

5161 (b) The director shall design each pay plan to achieve, to the degree that funds permit,
5162 comparability of state salary ranges to salary ranges used by private enterprise and other public
5163 employment for similar work.

5164 (c) The director shall adhere to the following in developing each pay plan:

5165 (i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary
5166 differential among the various classes of positions in the classification plan.

5167 (ii) The director shall assign each class of positions in the classification plan to a salary
5168 range and shall set the width of the salary range to reflect the normal growth and productivity
5169 potential of employees in that class. The width of the ranges need not be uniform for all
5170 classes of positions in the plan, but each range shall contain merit steps in increments of 2.75%
5171 salary increases.

5172 (iii) The director shall issue rules for the administration of pay plans. The rules may
5173 provide for exceptional performance increases and for a program of incentive awards for

5174 cost-saving suggestions and other commendable acts of employees. The director shall issue
5175 rules providing for salary adjustments.

5176 (iv) Merit step increases shall be granted, if funds are available, to employees who
5177 receive a rating of "successful" or higher in an annual evaluation of their productivity and
5178 performance.

5179 (v) By October 15 of each year, the director shall submit market comparability
5180 adjustments to the director of the Governor's Office of Planning and Budget for consideration
5181 to be included as part of the affected agency's base budgets.

5182 (vi) By October 31 of each year, the director shall recommend a compensation package
5183 to the governor.

5184 (vii) Adjustments shall incorporate the results of a total compensation market survey of
5185 salary ranges and benefits of a reasonable cross section of comparable benchmark positions in
5186 private and public employment in the state. The survey may also study comparable unusual
5187 positions requiring recruitment outside Utah in the surrounding western states. The director
5188 may cooperate with other public and private employers in conducting the survey.

5189 (viii) The director shall establish criteria to assure the adequacy and accuracy of the
5190 survey and shall use methods and techniques similar to and consistent with those used in
5191 private sector surveys. Except as provided under Section 67-19-12.3, the survey shall include a
5192 reasonable cross section of employers. The director may cooperate with or participate in any
5193 survey conducted by other public and private employers.

5194 (ix) The establishing of a salary range is a nondelegable activity subject to Subsection
5195 67-19-8(1) and is not appealable under the grievance procedures of Sections 67-19-30 through
5196 67-19-32, Title 67, Chapter 19a, Grievance and Appeal Procedures, or otherwise.

5197 (x) The governor shall:

5198 (A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing
5199 the executive budget and shall recommend the method of distributing the adjustments;

5200 (B) submit compensation recommendations to the Legislature; and

5201 (C) support the recommendation with schedules indicating the cost to individual
5202 departments and the source of funds.

5203 (xi) If funding is approved by the Legislature in a general appropriations act, the
5204 adjustments take effect on the July 1 following the enactment.

5205 (5) (a) The director shall regularly evaluate the total compensation program of state
5206 employees in the classified service.

5207 (b) The department shall determine if employee benefits are comparable to those
5208 offered by other private and public employers using information from:

5209 (i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S.
5210 Chamber of Commerce Research Center; or

5211 (ii) the most recent edition of a nationally recognized benefits survey.

5212 (6) (a) The director shall submit proposals for a state employee compensation plan to
5213 the governor by October 31 of each year, setting forth findings and recommendations affecting
5214 state employee compensation.

5215 (b) The governor shall consider the director's proposals in preparing budget
5216 recommendations for the Legislature.

5217 (c) The governor's budget proposals to the Legislature shall include a specific
5218 recommendation on state employee compensation.

5219 Section 160. Section **67-19-15** is amended to read:

5220 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
5221 **positions -- Coverage of career service provisions.**

5222 (1) Except as otherwise provided by law or by rules and regulations established for
5223 federally aided programs, the following positions are exempt from the career service provisions
5224 of this chapter:

5225 (a) the governor, members of the Legislature, and all other elected state officers,
5226 designated as Schedule AA;

5227 (b) the agency heads enumerated in Section 67-22-2, and commissioners designated as
5228 Schedule AB;

5229 (c) all employees and officers in the office and at the residence of the governor,
5230 designated as Schedule AC;

5231 (d) employees who are in a confidential relationship to an agency head or
5232 commissioner and who report directly to, and are supervised by, a department head,
5233 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

5234 (e) unskilled employees in positions requiring little or no specialized skill or training,
5235 designated as Schedule AE;

5236 (f) part-time professional noncareer persons who are paid for any form of medical and
5237 other professional service and who are not engaged in the performance of administrative duties,
5238 designated as Schedule AF;

5239 (g) attorneys in the attorney general's office who are under their own career service pay
5240 plan, designated as Schedule AG;

5241 (h) teaching staff of all state institutions and patients and inmates employed in state
5242 institutions, designated as Schedule AH;

5243 (i) persons appointed to a position vacated by an employee who has a right to return
5244 under federal or state law or policy, designated as Schedule AI;

5245 (j) noncareer employees compensated for their services on a seasonal or contractual
5246 basis who are hired for limited periods of less than nine consecutive months or who are
5247 employed on less than 1/2 time basis, designated as Schedule AJ;

5248 (k) those employees in a personal and confidential relationship to elected officials,
5249 designated as Schedule AK;

5250 (l) employees appointed to perform work of a limited duration not exceeding two years
5251 or to perform work with time-limited funding, designated as Schedule AL;

5252 (m) employees of the Department of Community and [~~Economic Development~~]
5253 Culture whose positions are designated as executive/professional positions by the executive
5254 director of the Department of Community and [~~Economic Development~~] Culture with the
5255 concurrence of the director, and employees of the Governor's Office of Economic Development
5256 whose positions are designated as executive/professional positions by the director of the office,
5257 designated as Schedule AM;

5258 (n) employees of the Legislature, designated as Schedule AN;

5259 (o) employees of the judiciary, designated as Schedule AO;

5260 (p) all judges in the judiciary, designated as Schedule AP;

5261 (q) members of state and local boards and councils appointed by the governor and
5262 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
5263 faculty, and other employees of state universities and other state institutions of higher
5264 education, designated as Schedule AQ;

5265 (r) employees who make statewide policy, designated as Schedule AR; and

5266 (s) any other employee whose appointment is required by statute to be career service

5267 exempt, designated as Schedule AS.

5268 (2) The civil service shall consist of two schedules as follows:

5269 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

5270 (ii) Removal from any appointive position under Schedule A, unless otherwise
5271 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

5272 (b) Schedule B is the competitive career service schedule, consisting of all positions
5273 filled through competitive selection procedures as defined by the director.

5274 (3) (a) The director, after consultation with the heads of concerned executive branch
5275 departments and agencies and with the approval of the governor, shall allocate positions to the
5276 appropriate schedules under this section.

5277 (b) Agency heads shall make requests and obtain approval from the director before
5278 changing the schedule assignment and tenure rights of any position.

5279 (c) Unless the director's decision is reversed by the governor, when the director denies
5280 an agency's request, the director's decision is final.

5281 (4) (a) Compensation for employees of the Legislature shall be established by the
5282 directors of the legislative offices in accordance with Section 36-12-7.

5283 (b) Compensation for employees of the judiciary shall be established by the state court
5284 administrator in accordance with Section 78-3-24.

5285 (c) Compensation for officers, faculty, and other employees of state universities and
5286 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
5287 Governance, Powers, Rights and Responsibilities, and 2, Institutions of Higher Education.

5288 (d) Unless otherwise provided by law, compensation for all other Schedule A
5289 employees shall be established by their appointing authorities, within ranges approved by, and
5290 after consultation with the director of the Department of Human Resources.

5291 (5) All employees of the Office of State Auditor, the Office of State Treasurer, the
5292 Office of the Attorney General, excluding attorneys who are under their own career service
5293 system, and employees who are not exempt under this section are covered by the career service
5294 provisions of this chapter.

5295 Section 161. Section **67-19c-101** is amended to read:

5296 **67-19c-101. Department award program.**

5297 (1) As used in this section:

5298 (a) "Department" means the Department of Administrative Services, the Department of
5299 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of
5300 Commerce, the Department of Community and [~~Economic Development~~] Culture, the
5301 Department of Corrections, the Department of Workforce Services, the Department of
5302 Environmental Quality, the Department of Financial Institutions, the Department of Health, the
5303 Department of Human Resource Management, the Department of Human Services, the
5304 Insurance Department, the National Guard, the Department of Natural Resources, the
5305 Department of Public Safety, the Public Service Commission, the Labor Commission, the State
5306 Board of Education, the State Board of Regents, the State Tax Commission, and the
5307 Department of Transportation.

5308 (b) "Department head" means the individual or body of individuals in whom the
5309 ultimate legal authority of the department is vested by law.

5310 (2) There is created a department awards program to award an outstanding employee in
5311 each department of state government.

5312 (3) (a) By April 1 of each year, each department head shall solicit nominations for
5313 outstanding employee of the year for his department from the employees in his department.

5314 (b) By July 1 of each year, the department head shall:

5315 (i) select a person from the department to receive the outstanding employee of the year
5316 award using the criteria established in Subsection (3)(c); and

5317 (ii) announce the recipient of the award to his employees.

5318 (c) Department heads shall make the award to a person who demonstrates:

5319 (i) extraordinary competence in performing his function;

5320 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
5321 them;

5322 (iii) excellent relationships with the public and other employees;

5323 (iv) a commitment to serving the public as the client; and

5324 (v) a commitment to economy and efficiency in government.

5325 (4) (a) The Department of Human Resource Management shall divide any
5326 appropriation for outstanding department employee awards that it receives from the Legislature
5327 equally among the departments.

5328 (b) If the department receives monies from the Department of Human Resource

5329 Management or if the department budget allows, the department head shall provide the
 5330 employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

5331 (5) (a) The department head may name the award after an exemplary present or former
 5332 employee of the department.

5333 (b) A department head may not name the award for himself or for any relative as
 5334 defined in Section 52-3-1.

5335 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
 5336 be modified to conform to the requirements of this section.

5337 Section 162. Section **67-22-2** is amended to read:

5338 **67-22-2. Compensation -- Other state officers.**

5339 (1) The governor shall establish salaries for the following state officers within the
 5340 following salary ranges fixed by the Legislature:

5341	State Officer	Salary Range
5342	Commissioner of Agriculture and Food	\$65,200 - \$88,400
5343	Commissioner of Insurance	\$65,200 - \$88,400
5344	Commissioner of the Labor Commission	\$65,200 - \$88,400
5345	Director, Alcoholic Beverage Control	
5346	Commission	\$65,200 - \$88,400
5347	Commissioner, Department of	
5348	Financial Institutions	\$65,200 - \$88,400
5349	Members, Board of Pardons and Parole	\$65,200 - \$88,400
5350	Executive Director, Department	
5351	of Commerce	\$65,200 - \$88,400
5352	Executive Director, Commission on	
5353	Criminal and Juvenile Justice	\$65,200 - \$88,400
5354	Adjutant General	\$65,200 - \$88,400
5355	Chair, Tax Commission	\$70,600 - \$95,200
5356	Commissioners, Tax Commission	\$70,600 - \$95,200
5357	Executive Director, Department of	
5358	Community and [Economic]	
5359	[Development] <u>Culture</u>	[\$70,600 - \$95,200] <u>\$65,200 - \$88,400</u>

5360	Executive Director, Tax Commission	\$70,600 - \$95,200
5361	Chair, Public Service Commission	\$70,600 - \$95,200
5362	Commissioners, Public Service	
5363	Commission	\$70,600 - \$95,200
5364	Executive Director, Department	
5365	of Corrections	\$76,800 - \$103,600
5366	Commissioner, Department of Public Safety	\$76,800 - \$103,600
5367	Executive Director, Department of	
5368	Natural Resources	\$76,800 - \$103,600
5369	Director, Governor's Office of Planning	
5370	and Budget	\$76,800 - \$103,600
5371	Executive Director, Department of	
5372	Administrative Services	\$76,800 - \$103,600
5373	Executive Director, Department of	
5374	Human Resource Management	\$76,800 - \$103,600
5375	Executive Director, Department of	
5376	Environmental Quality	\$76,800 - \$103,600
5377	Executive Director, Department of	
5378	Workforce Services	\$83,600 - \$112,900
5379	Executive Director, Department of	
5380	Health	\$83,600 - \$112,900
5381	Executive Director, Department	
5382	of Human Services	\$83,600 - \$112,900
5383	Executive Director, Department	
5384	of Transportation	\$83,600 - \$112,900
5385	Chief Information Officer	\$83,600 - \$112,900
5386	<u>Director, Governor's Office</u>	
5387	<u>of Economic Development</u>	<u>\$76,800 - \$103,600</u>

5388 (2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as
 5389 follows:

5390 (i) the option of participating in a state retirement system established by Title 49, Utah

5391 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
5392 by the State Retirement Office in accordance with the Internal Revenue Code and its
5393 accompanying rules and regulations;

- 5394 (ii) health insurance;
- 5395 (iii) dental insurance;
- 5396 (iv) basic life insurance;
- 5397 (v) unemployment compensation;
- 5398 (vi) workers' compensation;
- 5399 (vii) required employer contribution to Social Security;
- 5400 (viii) long-term disability income insurance;
- 5401 (ix) the same additional state-paid life insurance available to other noncareer service
5402 employees;
- 5403 (x) the same severance pay available to other noncareer service employees;
- 5404 (xi) the same sick leave, converted sick leave, educational allowances, and holidays
5405 granted to Schedule B state employees, and the same annual leave granted to Schedule B state
5406 employees with more than ten years of state service;
- 5407 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
5408 provided by law or rule upon resignation or retirement according to the same criteria and
5409 procedures applied to Schedule B state employees;
- 5410 (xiii) the option to purchase additional life insurance at group insurance rates according
5411 to the same criteria and procedures applied to Schedule B state employees; and
- 5412 (xiv) professional memberships if being a member of the professional organization is a
5413 requirement of the position.

5414 (b) Each department shall pay the cost of additional state-paid life insurance for its
5415 executive director from its existing budget.

5416 (3) The Legislature fixes the following additional benefits:

- 5417 (a) for the executive director of the State Tax Commission a vehicle for official and
5418 personal use;
- 5419 (b) for the executive director of the Department of Transportation a vehicle for official
5420 and personal use;
- 5421 (c) for the executive director of the Department of Natural Resources a vehicle for

5422 commute and official use;

5423 (d) for the Commissioner of Public Safety:

5424 (i) an accidental death insurance policy if POST certified; and

5425 (ii) a public safety vehicle for official and personal use;

5426 (e) for the executive director of the Department of Corrections:

5427 (i) an accidental death insurance policy if POST certified; and

5428 (ii) a public safety vehicle for official and personal use;

5429 (f) for the Adjutant General a vehicle for official and personal use; and

5430 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
5431 official use.

5432 (4) (a) The governor has the discretion to establish a specific salary for each office
5433 listed in Subsection (1), and, within that discretion, may provide salary increases within the
5434 range fixed by the Legislature.

5435 (b) The governor shall apply the same overtime regulations applicable to other FLSA
5436 exempt positions.

5437 (c) The governor may develop standards and criteria for reviewing the performance of
5438 the state officers listed in Subsection (1).

5439 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are
5440 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary
5441 Act, shall be established as provided in Section 67-19-15.

5442 Section 163. Section **72-1-209** is amended to read:

5443 **72-1-209. Department to cooperate in programs relating to scenic centers.**

5444 The department shall cooperate in planning and promoting road-building programs into
5445 the scenic centers of the state and in providing camping grounds and facilities in scenic centers
5446 for tourists with:

5447 (1) the [~~Department of Community and~~] Governor's Office of Economic Development;

5448 [~~(2) the Division of Travel Development;~~]

5449 [~~(3)~~] (2) other states;

5450 [~~(4)~~] (3) all national, state, and local planning and zoning agencies and boards;

5451 [~~(5)~~] (4) municipal and county officials; and

5452 [~~(6)~~] (5) other agencies.

5453 Section 164. Section **72-4-302** is amended to read:

5454 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
5455 **Meetings -- Expenses.**

5456 (1) There is created the Utah State Scenic Byway Committee.

5457 (2) The committee shall consist of the following members:

5458 (a) a representative from each of the following [~~agencies~~] entities appointed by each
5459 respective [~~agency~~] entity:

5460 (i) the [~~Division of Travel~~] Governor's Office of Economic Development;

5461 (ii) the Utah Department of Transportation;

5462 (iii) the Utah Association of Governments;

5463 (iv) the Division of State Parks and Recreation;

5464 (v) the Federal Highway Administration;

5465 (vi) the National Park Service;

5466 (vii) the National Forest Service;

5467 (viii) the Bureau of Land Management; and

5468 (ix) the Utah Travel Regions Association;

5469 (b) two local government tourism representatives selected by the state [~~agencies~~]
5470 entities identified in Subsection (2)(a); and

5471 (c) a representative from the private sector selected by the state [~~agencies~~] entities
5472 identified in Subsection (2)(a).

5473 (3) (a) The representative from the [~~Division of Travel~~] Governor's Office of Economic
5474 Development shall chair the committee.

5475 (b) The members appointed under Subsections (2)(a)(v), (vi), (vii), and (viii) serve as
5476 nonvoting, ex officio members of the committee.

5477 (4) The [~~Division of Travel~~] Governor's Office of Economic Development and the
5478 department shall provide staff support to the committee.

5479 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
5480 department.

5481 (b) A majority of the voting members of the committee constitute a quorum.

5482 (c) Action by a majority vote of a quorum of the committee constitutes action by the
5483 committee.

5484 (6) (a) (i) Members who are not state government employees shall receive no
5485 compensation or benefits for their services, but may receive per diem and expenses incurred in
5486 the performance of the member's official duties at the rates established by the Division of
5487 Finance under Sections 63A-3-106 and 63A-3-107.

5488 (ii) Members may decline to receive per diem and expenses for their service.

5489 (b) (i) State government officer and employee members who do not receive salary, per
5490 diem, or expenses from their agency for their service may receive per diem and expenses
5491 incurred in the performance of their official duties at the rates established by the Division of
5492 Finance under Sections 63A-3-106 and 63A-3-107.

5493 (ii) State government officer and employee members may decline to receive per diem
5494 and expenses for their service.

5495 (c) (i) Local government members who do not receive salary, per diem, or expenses
5496 from the entity that they represent for their service may receive per diem and expenses incurred
5497 in the performance of their official duties at the rates established by the Division of Finance
5498 under Sections 63A-3-106 and 63A-3-107.

5499 (ii) Local government members may decline to receive per diem and expenses for their
5500 service.

5501 Section 165. Section **72-7-504** is amended to read:

5502 **72-7-504. Advertising prohibited near interstate or primary system -- Exceptions**
5503 **-- Logo advertising -- Department rules.**

5504 (1) Outdoor advertising that is capable of being read or comprehended from any place
5505 on the main-traveled way of an interstate or primary system may not be erected or maintained,
5506 except:

5507 (a) directional and other official signs and notices authorized or required by law,
5508 including signs and notices pertaining to natural wonders and scenic and historic attractions,
5509 informational or directional signs regarding utility service, emergency telephone signs, buried
5510 or underground utility markers, and above ground utility closure signs;

5511 (b) signs advertising the sale or lease of property upon which they are located;

5512 (c) signs advertising activities conducted on the property where they are located,
5513 including signs on the premises of a public assembly facility as provided in Section 72-7-504.5;

5514 (d) signs located in a commercial or industrial zone;

5515 (e) signs located in unzoned industrial or commercial areas as determined from actual
5516 land uses; and

5517 (f) logo advertising under Subsection (2).

5518 (2) (a) The department may itself or by contract erect, administer, and maintain
5519 informational signs on the main-traveled way of an interstate or primary system for the display
5520 of logo advertising and information of interest to the traveling public if:

5521 (i) the department complies with Title 63, Chapter 56, Utah Procurement Code, in the
5522 lease or other contract agreement with a private party for the sign or sign space; and

5523 (ii) the private party for the lease of the sign or sign space pays an amount set by the
5524 department to be paid to the department or the party under contract with the department under
5525 this Subsection (2).

5526 (b) The amount shall be sufficient to cover the costs of erecting, administering, and
5527 maintaining the signs or sign spaces.

5528 (c) The department may consult the [~~Division of Travel~~] Governor's Office of
5529 Economic Development in carrying out this Subsection (2).

5530 (3) (a) Revenue generated under Subsection (2) shall be:

5531 (i) applied first to cover department costs under Subsection (2); and

5532 (ii) deposited in the Transportation Fund.

5533 (b) Revenue in excess of costs under Subsection (2)(a) shall be deposited in the
5534 General Fund as a dedicated credit for use by the [~~Division of Travel~~] Governor's Office of
5535 Economic Development no later than the following fiscal year.

5536 (4) Outdoor advertising under Subsections (1)(a), (d), (e), and (f) shall conform to the
5537 rules made by the department under Sections 72-7-506 and 72-7-507.

5538 Section 166. Section **73-10c-3** is amended to read:

5539 **73-10c-3. Water Development Coordinating Council created -- Purpose --**
5540 **Members.**

5541 (1) (a) There is created within the Department of Natural Resources a Water
5542 Development Coordinating Council. The council comprises:

5543 (i) the director of the Division of Water Resources;

5544 (ii) the executive secretary of the Water Quality Board;

5545 (iii) the executive secretary of the Drinking Water Board;

5546 (iv) the executive director of the Department of Community and [Economic
5547 Development] Culture or [his] the executive director's designee; and
5548 (v) the state treasurer or [his] the treasurer's designee.
5549 (b) The council shall choose a chair and vice chair from among its own members.
5550 (c) (i) State government officer and employee members who do not receive salary, per
5551 diem, or expenses from their agency for their service may receive per diem and expenses
5552 incurred in the performance of their official duties from the council at the rates established by
5553 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

5554 (ii) State government officer and employee members may decline to receive per diem
5555 and expenses for their service.

5556 (2) The purposes of the council are to:

5557 (a) coordinate the use and application of the funds available to the state to give
5558 financial assistance to political subdivisions of this state so as to promote the conservation,
5559 development, treatment, restoration, and protection of the waters of this state;

5560 (b) promote the coordination of the financial assistance programs administered by the
5561 state and the use of the financing alternative most economically advantageous to the state and
5562 its political subdivisions;

5563 (c) promote the consideration by the Board of Water Resources, Drinking Water
5564 Board, and Water Quality Board of regional solutions to the water and wastewater needs of
5565 individual political subdivisions of this state; and

5566 (d) assess the adequacy and needs of the state and its political subdivisions with respect
5567 to water-related infrastructures and advise the governor and the Legislature on those funding
5568 needs.

5569 Section 167. **Repealer.**

5570 This bill repeals:

5571 Section **9-2-206, Director of division.**

5572 Section **9-2-801, Short title.**

5573 Section **9-2-809, State's share in moneys from technology and applications.**

5574 Section **9-2-1501, Title -- Purpose.**

5575 Section **9-2-1502, Definitions.**

5576 Section **9-2-1503, Community Economic Development Project Fund created --**

- 5577 **Administration.**
- 5578 Section **9-2-1504, Distribution of fund moneys.**
- 5579 Section **9-2-1505, Entities authorized to receive fund moneys.**
- 5580 Section **9-2-1506, Application process and priorities.**
- 5581 Section **9-2-1507, Annual accounting.**
- 5582 Section **9-2-1705, Creation of Tourism Marketing Performance Fund Committee --**
- 5583 **Members -- Appointment -- Qualifications -- Terms -- Quorum -- Per diem and expenses**
- 5584 **-- Staff.**
- 5585 Section **9-2-1706, Duties of Tourism Marketing Performance Fund Committee.**
- 5586 Section 168. **Study on the implementation of the restructuring of the Department**
- 5587 **of Community and Economic Development.**
- 5588 (1) The Legislature's Workforce Services and Community and Economic Development
- 5589 Interim Committee shall monitor and study the implementation and consequences of the
- 5590 restructuring of the Department of Community and Economic Development into the Governor's
- 5591 Office of Economic Development and the Department of Community and Culture as required
- 5592 in this H.B. 318.
- 5593 (2) The committee shall conduct its study to determine what modifications, if any, may
- 5594 be needed in the office, or the department, or both to further enhance the state's economic
- 5595 development and community and culture programs and policies.
- 5596 (3) The committee shall complete the study required by Subsection (1) and present its
- 5597 findings, including any proposed legislation, to the Legislative Management Committee by
- 5598 November 30, 2005.
- 5599 Section 169. **Effective date.**
- 5600 This bill takes effect on July 1, 2005.

Legislative Review Note
as of **2-18-05 10:26 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel