

- 24 \$150,000,000 for a loan guarantee;
- 25 ▶ provides that the aggregate outstanding certificates may not exceed a total of
- 26 \$100,000,000 for a guarantee for equity investments in the Utah fund of funds;
- 27 ▶ provides that tax-credit certificates may only guarantee up to 50% of equity
- 28 investments;
- 29 ▶ after July 1, 2014, splits the Utah fund of funds into two funds, one fund for
- 30 debt-based financing and one fund for equity investments; and
- 31 ▶ makes technical changes.

32 **Money Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 ~~H~~→ [None] This bill coordinates with S.B. 31, State Agency Reporting Amendments, by
36a providing superseding substantive and technical amendments. ←~~H~~

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **63M-1-1203**, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and
39 amended by Laws of Utah 2008, Chapter 382

40 **63M-1-1205**, as last amended by Laws of Utah 2010, Chapter 286

41 **63M-1-1206**, as last amended by Laws of Utah 2012, Chapter 242

42 **63M-1-1214**, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and
43 amended by Laws of Utah 2008, Chapter 382

44 **63M-1-1217**, as renumbered and amended by Laws of Utah 2008, Chapter 382

45 **63M-1-1218**, as last amended by Laws of Utah 2011, Chapter 342

46 ENACTS:

47 **63M-1-1225**, Utah Code Annotated 1953

47a ~~H~~→ Utah Code Sections Affected by Coordination Clause:

47b **63M-1-1206**, as last amended by Laws of Utah 2012, Chapter 242 ←~~H~~



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

50 Section 1. Section **63M-1-1203** is amended to read:

51 **63M-1-1203. Definitions.**

52 As used in this part:

53 (1) "Board" means the Utah Capital Investment Board.

54 (2) "Certificate" means a contract between the board and a designated investor under

210 (a) shall give priority to the redemption amount from the available funds in the
211 redemption reserve; and

212 (b) to the extent there are insufficient funds in the redemption reserve to redeem
213 certificates, shall grant the board the option to redeem certificates:

214 (i) by certifying a contingent tax credit to the designated investor; or

215 (ii) by making demand on designated purchasers consistent with the requirements of
216 Section 63M-1-1221.

217 (6) (a) The board shall, in consultation with the corporation, publish ~~H~~→ on or before
217a September 1 ←~~H~~ an annual report

218 of the activities conducted by the Utah fund of funds ~~H~~→ [on or before September 1] ←~~H~~ , and
218a submit the

219 report to the governor [~~and~~]; the Business, Economic Development, and Labor Appropriations
220 Subcommittee[-]; the Business and Labor Interim Committee; and the Retirement and
221 Independent Entities Committee.

222 (b) The annual report shall:

223 (i) be designed to provide clear, accurate, and accessible information to the public, the
224 governor, and the Legislature;

225 [~~(i)~~] (ii) include a copy of the audit of the Utah fund of funds [and a valuation of the
226 assets of the Utah fund of funds] described in Section 63M-1-1217;

227 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
228 statement;

229 (iv) include detailed information regarding new investments acquired during the year,
230 including the amount of money invested;

231 (v) include the net annual rate of return of the Utah fund of funds for the reported year,
232 and each previous year, after accounting for all expenses, including administrative and
233 financing costs;

234 (vi) include detailed information regarding:

235 (A) realized gains from investments and any realized losses; and

236 (B) estimated returns and any estimated losses based on the net present value of
237 ongoing investments;

238 (vii) include detailed information regarding all yearly expenditures, including:

239 (A) administrative, operating, and financing costs;

240 (B) aggregate compensation information separated by full- and part-time employees,

272 ~~stated in Section 63M-1-1202.]~~

273 ~~[(ii) The board shall give a copy of the report to the Legislature.]~~

274 Section 4. Section **63M-1-1214** is amended to read:

275 **63M-1-1214. Compensation from the Utah fund of funds to the corporation --**

276 **Redemption reserve.**

277 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
278 through the payment of the management fee described in Section 63M-1-1211.

279 (2) Before any returns may be reinvested in the Utah fund of funds:

280 (a) ~~[Any]~~ any returns shall be ~~H→~~ **[payed] paid** ~~←H~~ to designated investors, including
280a the repayment

281 by the Utah fund of funds of any outstanding loans;

282 (b) any returns in excess of those payable to designated investors shall be deposited in
283 the redemption reserve and held by the corporation as a first priority reserve for the redemption
284 of certificates[-];

285 ~~[(b) Any]~~ (c) any returns received by the corporation from investment of amounts held
286 in the redemption reserve shall be added to the redemption reserve until it has reached a total of
287 ~~[\$300,000,000.]~~ \$250,000,000; and

288 ~~[(c) If]~~ (d) if at the end of a calendar year the redemption reserve exceeds the
289 ~~[\$300,000,000]~~ \$250,000,000 limitation referred to in Subsection (2)~~[(b)]~~(c), the corporation
290 ~~[shall]~~ may reinvest the excess in the Utah fund of funds.

291 (3) Funds held by the corporation in the redemption reserve shall be invested in
292 accordance with Title 51, Chapter 7, State Money Management Act.

293 Section 5. Section **63M-1-1217** is amended to read:

294 **63M-1-1217. Annual audits.**

295 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be
296 made as described in this section.

297 (2) (a) The audit shall be conducted by:

298 (i) the state auditor; or

299 (ii) an independent auditor engaged by the state auditor.

300 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
301 contractual, or other connection to:

302 (i) the corporation; or

303 (ii) the Utah fund of funds.

304 (3) The corporation shall pay the costs associated with the annual audit.

305 (4) The annual audit report shall:

306 (a) be delivered to:

307 (i) the corporation; and

308 (ii) the board; ~~and~~

309 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
310 the reporting year[-];

311 (c) audit the accuracy of the information provided in the annual report described in
312 Subsection 63M-1-1206(6); and

313 (d) be completed on or before ~~H~~→ ~~[July 1]~~ **September 1** ←~~H~~ for the previous calendar
313a year so that it may be

314 included in the annual report described in Section 63M-1-1206.

315 Section 6. Section **63M-1-1218** is amended to read:

316 **63M-1-1218. Certificates and contingent tax credits.**

317 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
318 board, in consultation with the State Tax Commission, shall make rules governing the form,
319 issuance, transfer, and redemption of certificates.

320 (2) The board's issuance of certificates and related contingent tax credits to designated
321 investors is subject to the following:

322 (a) the aggregate outstanding certificates may not exceed a total of [~~\$300,000,000~~]:

323 (i) \$150,000,000 of contingent tax credits[;] used as collateral or a guarantee on loans
324 for the debt-based financing of investments in the Utah fund of funds; and

325 (ii) \$100,000,000 used as a guarantee on equity investments in the Utah fund of funds;

326 (b) the board shall issue a certificate contemporaneously with an investment in the
327 Utah fund of funds by a designated investor;

328 (c) the board shall issue contingent tax credits in a manner that not more than
329 \$20,000,000 [~~of contingent tax credits for each \$100,000,000 increment~~] of contingent tax
330 credits may be redeemable in [~~any~~] a fiscal year; ~~and~~

331 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
332 make a cash redemption and the board does not exercise its other options under Subsection
333 63M-1-1220(3)(b)[-];

396 (8) Funds invested by a designated investor for a certificate shall be paid to the
397 corporation for placement in the Utah fund of funds.

398 (9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah
399 Administrative Rulemaking Act, and in consultation with the board, make rules to help
400 implement this section.

401 Section 7. Section **63M-1-1225** is enacted to read:

402 **63M-1-1225. Division into two separate funds.**

403 After July 1, 2014:

404 (1) all investments in the Utah funds of funds acquired from debt-based financing shall
405 be called the Utah fund of funds 1;

406 (2) all investments in the Utah fund of funds from private investors with an equity
407 interest in the Utah fund of funds shall be called the Utah fund of funds 2;

408 (3) no more commitments may be made for the Utah fund of funds 1, and any
409 distributions from the Utah fund of funds 1 shall be used for expenses and paying the principal
410 and interest of any loans, except for funding existing commitments entered into before July 1,
411 2014; and

412 (4) all investments in the Utah fund of funds 2 shall be from private investors with an
413 equity interest in the Utah fund of funds 2.

413a **H→ Section 8. Coordinating H.B. 243 with S.B. 31 -- Superseding substantive and**
413b **technical amendments.**

413c **If this H.B. 243 and S.B. 31, State Agency Reporting Amendments, both pass and become**
413d **law, it is the intent of the Legislature that the amendments to Section 63M-1-1206 in this bill**
413e **supersede the amendments to Section 63M-1-1206 in S.B. 31, when the Office of Legislative**
413f **Research and General Counsel prepares the Utah Code database for publication. ←H**