

1 **GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

2 **REVISIONS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Aaron Osmond**

6 House Sponsor: Rebecca P. Edwards

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies statutory provisions related to the Governor's Office of Economic
11 Development (GOED).

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ creates Title 63N, Governor's Office of Economic Development;
- 15 ▶ recodifies statutory provisions related to GOED;
- 16 ▶ modifies the organization of GOED, the Board of Business and Economic
17 Development, and the Governor's Economic Development Coordinating Council;
- 18 and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 [17-31-9](#), as enacted by Laws of Utah 2014, Chapter 429

27 [26-18-14](#), as enacted by Laws of Utah 2008, Chapter 383

28 [26-18-18](#), as enacted by Laws of Utah 2013, Chapter 477

29 [31A-2-201.2](#), as last amended by Laws of Utah 2013, Chapter 319

- 30 **31A-2-212**, as last amended by Laws of Utah 2013, Chapter 341
- 31 **31A-2-218**, as enacted by Laws of Utah 2008, Chapter 383
- 32 **31A-22-613.5**, as last amended by Laws of Utah 2012, Chapter 279
- 33 **31A-22-635**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 34 **31A-22-726**, as enacted by Laws of Utah 2011, Chapter 278
- 35 **31A-23a-402**, as last amended by Laws of Utah 2013, Chapter 319
- 36 **31A-30-102**, as last amended by Laws of Utah 2014, Chapters 290 and 300
- 37 **31A-30-116**, as enacted by Laws of Utah 2012, Chapter 279
- 38 **31A-30-117**, as last amended by Laws of Utah 2014, Chapter 425
- 39 **31A-30-202**, as last amended by Laws of Utah 2010, Chapter 68
- 40 **31A-30-204**, as last amended by Laws of Utah 2010, Chapter 68
- 41 **31A-30-208**, as last amended by Laws of Utah 2013, Chapters 319 and 341
- 42 **31A-30-302**, as enacted by Laws of Utah 2014, Chapter 425
- 43 **35A-1-104.5**, as last amended by Laws of Utah 2012, Chapter 119
- 44 **53A-1-410**, as last amended by Laws of Utah 2014, Chapter 372
- 45 **59-7-610**, as last amended by Laws of Utah 2008, Chapter 382
- 46 **59-7-614.2**, as last amended by Laws of Utah 2012, Chapters 246 and 410
- 47 **59-7-614.5**, as last amended by Laws of Utah 2012, Chapter 246
- 48 **59-7-614.6**, as last amended by Laws of Utah 2012, Chapter 423
- 49 **59-7-614.8**, as enacted by Laws of Utah 2012, Chapter 410
- 50 **59-7-616**, as enacted by Laws of Utah 2014, Chapter 429
- 51 **59-10-210**, as last amended by Laws of Utah 2008, Chapters 382 and 389
- 52 **59-10-1007**, as last amended by Laws of Utah 2008, Chapter 382
- 53 **59-10-1025**, as last amended by Laws of Utah 2012, Chapter 423
- 54 **59-10-1030**, as enacted by Laws of Utah 2012, Chapter 410
- 55 **59-10-1107**, as last amended by Laws of Utah 2012, Chapters 246 and 410
- 56 **59-10-1108**, as last amended by Laws of Utah 2012, Chapter 246
- 57 **59-10-1109**, as last amended by Laws of Utah 2012, Chapter 423

- 58 **59-10-1110**, as enacted by Laws of Utah 2014, Chapter 429
- 59 **59-12-103**, as last amended by Laws of Utah 2014, Chapters 380 and 429
- 60 **59-12-301**, as last amended by Laws of Utah 2012, Chapter 369
- 61 **63A-3-402**, as last amended by Laws of Utah 2014, Chapters 64 and 185
- 62 **63E-1-102**, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
- 63 **63F-1-205**, as last amended by Laws of Utah 2014, Chapter 196
- 64 **63G-2-305**, as last amended by Laws of Utah 2014, Chapters 90 and 320
- 65 **63G-6a-303**, as last amended by Laws of Utah 2014, Chapter 196
- 66 **63G-6a-304**, as renumbered and amended by Laws of Utah 2012, Chapter 347
- 67 **63G-6a-305**, as last amended by Laws of Utah 2013, Chapter 445
- 68 **63G-6a-711**, as last amended by Laws of Utah 2013, Chapter 445
- 69 **63I-1-263**, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419,
- 70 429, and 435
- 71 **63I-2-263**, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
- 72 **63I-4a-102**, as last amended by Laws of Utah 2014, Chapter 320
- 73 **63J-1-315**, as enacted by Laws of Utah 2011, Chapter 211
- 74 **63J-1-602.4**, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189
- 75 **63J-4-603**, as last amended by Laws of Utah 2013, Chapters 101 and 337
- 76 **63J-7-102**, as last amended by Laws of Utah 2014, Chapter 320
- 77 **63M-2-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 78 **79-4-1103**, as enacted by Laws of Utah 2014, Chapter 313

79 ENACTS:

- 80 **63N-2-301**, Utah Code Annotated 1953
- 81 **63N-5-110**, Utah Code Annotated 1953
- 82 **63N-12-201**, Utah Code Annotated 1953

83 RENUMBERS AND AMENDS:

- 84 **63G-19-101**, (Renumbered from 63M-1-1001, as renumbered and amended by Laws of
- 85 Utah 2008, Chapter 382)

86 **63G-19-102**, (Renumbered from 63M-1-1002, as renumbered and amended by Laws of
87 Utah 2008, Chapter 382)

88 **63G-19-103**, (Renumbered from 63M-1-1003, as renumbered and amended by Laws of
89 Utah 2008, Chapter 382)

90 **63N-1-101**, (Renumbered from 63M-1-101, as renumbered and amended by Laws of
91 Utah 2008, Chapter 382)

92 **63N-1-102**, (Renumbered from 63M-1-102, as renumbered and amended by Laws of
93 Utah 2008, Chapter 382)

94 **63N-1-201**, (Renumbered from 63M-1-201, as last amended by Laws of Utah 2014,
95 Chapter 371)

96 **63N-1-202**, (Renumbered from 63M-1-202, as renumbered and amended by Laws of
97 Utah 2008, Chapter 382)

98 **63N-1-203**, (Renumbered from 63M-1-203, as last amended by Laws of Utah 2008,
99 Chapter 352 and renumbered and amended by Laws of Utah 2008, Chapter 382)

100 **63N-1-204**, (Renumbered from 63M-1-205, as renumbered and amended by Laws of
101 Utah 2008, Chapter 382)

102 **63N-1-301**, (Renumbered from 63M-1-206, as enacted by Laws of Utah 2014, Chapter
103 371)

104 **63N-1-401**, (Renumbered from 63M-1-302, as last amended by Laws of Utah 2010,
105 Chapter 286)

106 **63N-1-402**, (Renumbered from 63M-1-303, as last amended by Laws of Utah 2014,
107 Chapter 173)

108 **63N-1-501**, (Renumbered from 63M-1-1303, as enacted by Laws of Utah 2011, Chapter
109 236)

110 **63N-1-502**, (Renumbered from 63M-1-1304, as last amended by Laws of Utah 2014,
111 Chapter 371)

112 **63N-2-101**, (Renumbered from 63M-1-2401, as enacted by Laws of Utah 2008, Chapter
113 372)

114 **63N-2-102**, (Renumbered from 63M-1-2402, as enacted by Laws of Utah 2008, Chapter
115 372)
116 **63N-2-103**, (Renumbered from 63M-1-2403, as last amended by Laws of Utah 2010,
117 Chapters 104 and 164)
118 **63N-2-104**, (Renumbered from 63M-1-2404, as last amended by Laws of Utah 2013,
119 Chapter 392)
120 **63N-2-105**, (Renumbered from 63M-1-2405, as last amended by Laws of Utah 2013,
121 Chapter 392)
122 **63N-2-106**, (Renumbered from 63M-1-2406, as last amended by Laws of Utah 2014,
123 Chapter 371)
124 **63N-2-107**, (Renumbered from 63M-1-2407, as last amended by Laws of Utah 2013,
125 Chapter 310)
126 **63N-2-108**, (Renumbered from 63M-1-2409, as enacted by Laws of Utah 2010, Chapter
127 164)
128 **63N-2-201**, (Renumbered from 63M-1-401, as renumbered and amended by Laws of
129 Utah 2008, Chapter 382)
130 **63N-2-202**, (Renumbered from 63M-1-402, as last amended by Laws of Utah 2011,
131 Chapter 84)
132 **63N-2-203**, (Renumbered from 63M-1-403, as last amended by Laws of Utah 2014,
133 Chapter 371)
134 **63N-2-204**, (Renumbered from 63M-1-404, as last amended by Laws of Utah 2013,
135 Chapter 358)
136 **63N-2-205**, (Renumbered from 63M-1-405, as renumbered and amended by Laws of
137 Utah 2008, Chapter 382)
138 **63N-2-206**, (Renumbered from 63M-1-406, as last amended by Laws of Utah 2011,
139 Chapter 84)
140 **63N-2-207**, (Renumbered from 63M-1-407, as renumbered and amended by Laws of
141 Utah 2008, Chapter 382)

142 **63N-2-208**, (Renumbered from 63M-1-408, as renumbered and amended by Laws of
143 Utah 2008, Chapter 382)

144 **63N-2-209**, (Renumbered from 63M-1-409, as renumbered and amended by Laws of
145 Utah 2008, Chapter 382)

146 **63N-2-210**, (Renumbered from 63M-1-410, as renumbered and amended by Laws of
147 Utah 2008, Chapter 382)

148 **63N-2-211**, (Renumbered from 63M-1-411, as renumbered and amended by Laws of
149 Utah 2008, Chapter 382)

150 **63N-2-212**, (Renumbered from 63M-1-412, as last amended by Laws of Utah 2011,
151 Chapter 84)

152 **63N-2-213**, (Renumbered from 63M-1-413, as last amended by Laws of Utah 2014,
153 Chapter 259)

154 **63N-2-214**, (Renumbered from 63M-1-414, as last amended by Laws of Utah 2011,
155 Chapter 84)

156 **63N-2-215**, (Renumbered from 63M-1-415, as last amended by Laws of Utah 2008,
157 Chapter 114 and renumbered and amended by Laws of Utah 2008, Chapter 382)

158 **63N-2-302**, (Renumbered from 63M-1-501, as renumbered and amended by Laws of
159 Utah 2008, Chapter 382)

160 **63N-2-303**, (Renumbered from 63M-1-502, as renumbered and amended by Laws of
161 Utah 2008, Chapter 382)

162 **63N-2-304**, (Renumbered from 63M-1-503, as renumbered and amended by Laws of
163 Utah 2008, Chapter 382)

164 **63N-2-305**, (Renumbered from 63M-1-504, as renumbered and amended by Laws of
165 Utah 2008, Chapter 382)

166 **63N-2-401**, (Renumbered from 63M-1-1101, as renumbered and amended by Laws of
167 Utah 2008, Chapter 382)

168 **63N-2-402**, (Renumbered from 63M-1-1102, as renumbered and amended by Laws of
169 Utah 2008, Chapter 382)

170 **63N-2-403**, (Renumbered from 63M-1-1103, as last amended by Laws of Utah 2014,
171 Chapter 371)
172 **63N-2-404**, (Renumbered from 63M-1-1104, as last amended by Laws of Utah 2009,
173 Chapter 183)
174 **63N-2-405**, (Renumbered from 63M-1-1105, as renumbered and amended by Laws of
175 Utah 2008, Chapter 382)
176 **63N-2-406**, (Renumbered from 63M-1-1106, as renumbered and amended by Laws of
177 Utah 2008, Chapter 382)
178 **63N-2-407**, (Renumbered from 63M-1-1107, as renumbered and amended by Laws of
179 Utah 2008, Chapter 382)
180 **63N-2-408**, (Renumbered from 63M-1-1108, as renumbered and amended by Laws of
181 Utah 2008, Chapter 382)
182 **63N-2-409**, (Renumbered from 63M-1-1109, as renumbered and amended by Laws of
183 Utah 2008, Chapter 382)
184 **63N-2-410**, (Renumbered from 63M-1-1110, as renumbered and amended by Laws of
185 Utah 2008, Chapter 382)
186 **63N-2-411**, (Renumbered from 63M-1-1111, as renumbered and amended by Laws of
187 Utah 2008, Chapter 382)
188 **63N-2-412**, (Renumbered from 63M-1-1112, as last amended by Laws of Utah 2011,
189 Chapter 392)
190 **63N-2-501**, (Renumbered from 63M-1-3401, as enacted by Laws of Utah 2014, Chapter
191 429)
192 **63N-2-502**, (Renumbered from 63M-1-3402, as enacted by Laws of Utah 2014, Chapter
193 429)
194 **63N-2-503**, (Renumbered from 63M-1-3403, as enacted by Laws of Utah 2014, Chapter
195 429)
196 **63N-2-504**, (Renumbered from 63M-1-3404, as enacted by Laws of Utah 2014, Chapter
197 429)

198 **63N-2-505**, (Renumbered from 63M-1-3405, as enacted by Laws of Utah 2014, Chapter
199 429)
200 **63N-2-506**, (Renumbered from 63M-1-3406, as enacted by Laws of Utah 2014, Chapter
201 429)
202 **63N-2-507**, (Renumbered from 63M-1-3407, as enacted by Laws of Utah 2014, Chapter
203 429)
204 **63N-2-508**, (Renumbered from 63M-1-3408, as enacted by Laws of Utah 2014, Chapter
205 429)
206 **63N-2-509**, (Renumbered from 63M-1-3409, as enacted by Laws of Utah 2014, Chapter
207 429)
208 **63N-2-510**, (Renumbered from 63M-1-3410, as enacted by Laws of Utah 2014, Chapter
209 429)
210 **63N-2-511**, (Renumbered from 63M-1-3411, as enacted by Laws of Utah 2014, Chapter
211 429)
212 **63N-2-512**, (Renumbered from 63M-1-3412, as enacted by Laws of Utah 2014, Chapter
213 429)
214 **63N-2-513**, (Renumbered from 63M-1-3413, as enacted by Laws of Utah 2014, Chapter
215 429)
216 **63N-2-601**, (Renumbered from 63M-1-3501, as enacted by Laws of Utah 2014, Chapter
217 435)
218 **63N-2-602**, (Renumbered from 63M-1-3502, as enacted by Laws of Utah 2014, Chapter
219 435)
220 **63N-2-603**, (Renumbered from 63M-1-3503, as enacted by Laws of Utah 2014, Chapter
221 435)
222 **63N-2-604**, (Renumbered from 63M-1-3504, as enacted by Laws of Utah 2014, Chapter
223 435)
224 **63N-2-605**, (Renumbered from 63M-1-3505, as enacted by Laws of Utah 2014, Chapter
225 435)

226 **63N-2-606**, (Renumbered from 63M-1-3506, as enacted by Laws of Utah 2014, Chapter
227 435)
228 **63N-2-607**, (Renumbered from 63M-1-3507, as enacted by Laws of Utah 2014, Chapter
229 435)
230 **63N-2-608**, (Renumbered from 63M-1-3508, as enacted by Laws of Utah 2014, Chapter
231 435)
232 **63N-2-609**, (Renumbered from 63M-1-3509, as enacted by Laws of Utah 2014, Chapter
233 435)
234 **63N-2-610**, (Renumbered from 63M-1-3510, as enacted by Laws of Utah 2014, Chapter
235 435)
236 **63N-2-611**, (Renumbered from 63M-1-3511, as enacted by Laws of Utah 2014, Chapter
237 435)
238 **63N-2-612**, (Renumbered from 63M-1-3512, as enacted by Laws of Utah 2014, Chapter
239 435)
240 **63N-2-701**, (Renumbered from 63M-1-3101, as enacted by Laws of Utah 2012, Chapter
241 410)
242 **63N-2-702**, (Renumbered from 63M-1-3102, as enacted by Laws of Utah 2012, Chapter
243 410)
244 **63N-2-703**, (Renumbered from 63M-1-3103, as enacted by Laws of Utah 2012, Chapter
245 410)
246 **63N-2-704**, (Renumbered from 63M-1-3104, as enacted by Laws of Utah 2012, Chapter
247 410)
248 **63N-2-705**, (Renumbered from 63M-1-3105, as last amended by Laws of Utah 2014,
249 Chapter 371)
250 **63N-2-801**, (Renumbered from 63M-1-2901, as enacted by Laws of Utah 2011, Chapter
251 306)
252 **63N-2-802**, (Renumbered from 63M-1-2902, as last amended by Laws of Utah 2012,
253 Chapter 423)

254 **63N-2-803**, (Renumbered from 63M-1-2903, as last amended by Laws of Utah 2012,
255 Chapter 423)
256 **63N-2-804**, (Renumbered from 63M-1-2904, as enacted by Laws of Utah 2011, Chapter
257 306)
258 **63N-2-805**, (Renumbered from 63M-1-2905, as last amended by Laws of Utah 2012,
259 Chapter 423)
260 **63N-2-806**, (Renumbered from 63M-1-2906, as enacted by Laws of Utah 2011, Chapter
261 306)
262 **63N-2-807**, (Renumbered from 63M-1-2907, as enacted by Laws of Utah 2011, Chapter
263 306)
264 **63N-2-808**, (Renumbered from 63M-1-2908, as last amended by Laws of Utah 2012,
265 Chapter 423)
266 **63N-2-809**, (Renumbered from 63M-1-2909, as last amended by Laws of Utah 2012,
267 Chapter 423)
268 **63N-2-810**, (Renumbered from 63M-1-2910, as last amended by Laws of Utah 2014,
269 Chapter 371)
270 **63N-2-811**, (Renumbered from 63M-1-2911, as last amended by Laws of Utah 2013,
271 Chapter 310)
272 **63N-3-101**, (Renumbered from 63M-1-901, as renumbered and amended by Laws of
273 Utah 2008, Chapter 382)
274 **63N-3-102**, (Renumbered from 63M-1-902, as last amended by Laws of Utah 2010,
275 Chapters 245 and 278)
276 **63N-3-103**, (Renumbered from 63M-1-903, as last amended by Laws of Utah 2014,
277 Chapter 435)
278 **63N-3-104**, (Renumbered from 63M-1-904, as last amended by Laws of Utah 2014,
279 Chapter 371)
280 **63N-3-105**, (Renumbered from 63M-1-906, as last amended by Laws of Utah 2012,
281 Chapter 208)

282 **63N-3-106**, (Renumbered from 63M-1-905, as last amended by Laws of Utah 2011,
283 Chapters 211 and 303)
284 **63N-3-107**, (Renumbered from 63M-1-907, as renumbered and amended by Laws of
285 Utah 2008, Chapter 382)
286 **63N-3-108**, (Renumbered from 63M-1-908, as last amended by Laws of Utah 2010,
287 Chapter 278)
288 **63N-3-109**, (Renumbered from 63M-1-909, as last amended by Laws of Utah 2013,
289 Chapter 173)
290 **63N-3-110**, (Renumbered from 63M-1-909.5, as last amended by Laws of Utah 2013,
291 Chapter 173)
292 **63N-3-111**, (Renumbered from 63M-1-910, as last amended by Laws of Utah 2013,
293 Chapter 310)
294 **63N-3-201**, (Renumbered from 63M-1-701, as last amended by Laws of Utah 2011,
295 Chapter 392)
296 **63N-3-202**, (Renumbered from 63M-1-702, as last amended by Laws of Utah 2014,
297 Chapter 418)
298 **63N-3-203**, (Renumbered from 63M-1-703, as last amended by Laws of Utah 2014,
299 Chapter 418)
300 **63N-3-204**, (Renumbered from 63M-1-704, as last amended by Laws of Utah 2014,
301 Chapters 371, 418 and last amended by Coordination Clause, Laws of Utah 2014,
302 Chapter 418)
303 **63N-3-205**, (Renumbered from 63M-1-705, as last amended by Laws of Utah 2011,
304 Chapter 392)
305 **63N-3-301**, (Renumbered from 63M-1-2701, as enacted by Laws of Utah 2008, Chapter
306 50)
307 **63N-3-302**, (Renumbered from 63M-1-2702, as enacted by Laws of Utah 2008, Chapter
308 50)
309 **63N-3-303**, (Renumbered from 63M-1-2703, as enacted by Laws of Utah 2008, Chapter

310 50)
311 **63N-3-304**, (Renumbered from 63M-1-2704, as last amended by Laws of Utah 2014,
312 Chapter 371)
313 **63N-3-305**, (Renumbered from 63M-1-2705, as enacted by Laws of Utah 2008, Chapter
314 50)
315 **63N-3-306**, (Renumbered from 63M-1-2706, as last amended by Laws of Utah 2011,
316 Chapter 112)
317 **63N-3-307**, (Renumbered from 63M-1-2707, as last amended by Laws of Utah 2011,
318 Chapter 112)
319 **63N-3-401**, (Renumbered from 63M-1-2201, as renumbered and amended by Laws of
320 Utah 2008, Chapter 382)
321 **63N-3-402**, (Renumbered from 63M-1-2202, as renumbered and amended by Laws of
322 Utah 2008, Chapter 382)
323 **63N-3-403**, (Renumbered from 63M-1-2203, as last amended by Laws of Utah 2013,
324 Chapter 400)
325 **63N-4-101**, (Renumbered from 63M-1-1601, as renumbered and amended by Laws of
326 Utah 2008, Chapter 382)
327 **63N-4-102**, (Renumbered from 63M-1-1602, as last amended by Laws of Utah 2008,
328 Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382)
329 **63N-4-103**, (Renumbered from 63M-1-1603, as last amended by Laws of Utah 2014,
330 Chapter 259)
331 **63N-4-104**, (Renumbered from 63M-1-1604, as last amended by Laws of Utah 2014,
332 Chapter 259)
333 **63N-4-105**, (Renumbered from 63M-1-1605, as last amended by Laws of Utah 2014,
334 Chapter 259)
335 **63N-4-106**, (Renumbered from 63M-1-1606, as last amended by Laws of Utah 2014,
336 Chapter 371)
337 **63N-4-201**, (Renumbered from 63M-1-2001, as renumbered and amended by Laws of

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

366 Utah 2008, Chapter 382)
367 **63N-6-102**, (Renumbered from 63M-1-1202, as renumbered and amended by Laws of
368 Utah 2008, Chapter 382)
369 **63N-6-103**, (Renumbered from 63M-1-1203, as last amended by Laws of Utah 2014,
370 Chapter 334)
371 **63N-6-201**, (Renumbered from 63M-1-1204, as renumbered and amended by Laws of
372 Utah 2008, Chapter 382)
373 **63N-6-202**, (Renumbered from 63M-1-1205, as last amended by Laws of Utah 2014,
374 Chapter 334)
375 **63N-6-203**, (Renumbered from 63M-1-1206, as last amended by Laws of Utah 2014,
376 Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014,
377 Chapter 334)
378 **63N-6-301**, (Renumbered from 63M-1-1207, as last amended by Laws of Utah 2011,
379 Chapter 342)
380 **63N-6-302**, (Renumbered from 63M-1-1208, as renumbered and amended by Laws of
381 Utah 2008, Chapter 382)
382 **63N-6-303**, (Renumbered from 63M-1-1209, as renumbered and amended by Laws of
383 Utah 2008, Chapter 382)
384 **63N-6-304**, (Renumbered from 63M-1-1210, as renumbered and amended by Laws of
385 Utah 2008, Chapter 382)
386 **63N-6-305**, (Renumbered from 63M-1-1211, as last amended by Laws of Utah 2010,
387 Chapter 278)
388 **63N-6-306**, (Renumbered from 63M-1-1212, as renumbered and amended by Laws of
389 Utah 2008, Chapter 382)
390 **63N-6-401**, (Renumbered from 63M-1-1213, as last amended by Laws of Utah 2008,
391 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
392 **63N-6-402**, (Renumbered from 63M-1-1214, as last amended by Laws of Utah 2014,
393 Chapter 334)

- 394 **63N-6-403**, (Renumbered from 63M-1-1215, as renumbered and amended by Laws of
395 Utah 2008, Chapter 382)
- 396 **63N-6-404**, (Renumbered from 63M-1-1216, as last amended by Laws of Utah 2008,
397 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 398 **63N-6-405**, (Renumbered from 63M-1-1217, as last amended by Laws of Utah 2014,
399 Chapter 334)
- 400 **63N-6-406**, (Renumbered from 63M-1-1218, as last amended by Laws of Utah 2014,
401 Chapter 334)
- 402 **63N-6-407**, (Renumbered from 63M-1-1219, as renumbered and amended by Laws of
403 Utah 2008, Chapter 382)
- 404 **63N-6-408**, (Renumbered from 63M-1-1220, as renumbered and amended by Laws of
405 Utah 2008, Chapter 382)
- 406 **63N-6-409**, (Renumbered from 63M-1-1221, as renumbered and amended by Laws of
407 Utah 2008, Chapter 382)
- 408 **63N-6-410**, (Renumbered from 63M-1-1222, as renumbered and amended by Laws of
409 Utah 2008, Chapter 382)
- 410 **63N-6-411**, (Renumbered from 63M-1-1223, as last amended by Laws of Utah 2013,
411 Chapter 73)
- 412 **63N-6-412**, (Renumbered from 63M-1-1224, as last amended by Laws of Utah 2008,
413 Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
- 414 **63N-7-101**, (Renumbered from 63M-1-1401, as renumbered and amended by Laws of
415 Utah 2008, Chapter 382)
- 416 **63N-7-102**, (Renumbered from 63M-1-1402, as last amended by Laws of Utah 2010,
417 Chapter 286)
- 418 **63N-7-103**, (Renumbered from 63M-1-1403, as last amended by Laws of Utah 2014,
419 Chapter 429)
- 420 **63N-7-201**, (Renumbered from 63M-1-1404, as last amended by Laws of Utah 2014,
421 Chapter 371)

422 **63N-7-202**, (Renumbered from 63M-1-1405, as renumbered and amended by Laws of
423 Utah 2008, Chapter 382)
424 **63N-7-301**, (Renumbered from 63M-1-1406, as last amended by Laws of Utah 2014,
425 Chapter 423)
426 **63N-8-101**, (Renumbered from 63M-1-1801, as last amended by Laws of Utah 2009,
427 Chapter 135)
428 **63N-8-102**, (Renumbered from 63M-1-1802, as last amended by Laws of Utah 2011,
429 Chapter 338)
430 **63N-8-103**, (Renumbered from 63M-1-1803, as last amended by Laws of Utah 2011,
431 Chapter 338)
432 **63N-8-104**, (Renumbered from 63M-1-1804, as last amended by Laws of Utah 2011,
433 Chapter 338)
434 **63N-8-105**, (Renumbered from 63M-1-1805, as last amended by Laws of Utah 2014,
435 Chapter 371)
436 **63N-9-101**, (Renumbered from 63M-1-3301, as enacted by Laws of Utah 2013, Chapter
437 25)
438 **63N-9-102**, (Renumbered from 63M-1-3302, as enacted by Laws of Utah 2013, Chapter
439 25)
440 **63N-9-103**, (Renumbered from 63M-1-3303, as enacted by Laws of Utah 2013, Chapter
441 25)
442 **63N-9-104**, (Renumbered from 63M-1-3304, as enacted by Laws of Utah 2013, Chapter
443 25)
444 **63N-9-105**, (Renumbered from 63M-1-3305, as enacted by Laws of Utah 2013, Chapter
445 25)
446 **63N-9-106**, (Renumbered from 63M-1-3306, as repealed and reenacted by Laws of
447 Utah 2014, Chapter 371)
448 **63N-10-101**, (Renumbered from 63C-11-101, as repealed and reenacted by Laws of
449 Utah 2009, Chapter 369)

450 **63N-10-102**, (Renumbered from 63C-11-102, as repealed and reenacted by Laws of
451 Utah 2009, Chapter 369)
452 **63N-10-201**, (Renumbered from 63C-11-201, as last amended by Laws of Utah 2010,
453 Chapter 286)
454 **63N-10-202**, (Renumbered from 63C-11-202, as repealed and reenacted by Laws of
455 Utah 2009, Chapter 369)
456 **63N-10-203**, (Renumbered from 63C-11-203, as enacted by Laws of Utah 2009,
457 Chapter 369)
458 **63N-10-204**, (Renumbered from 63C-11-204, as enacted by Laws of Utah 2009,
459 Chapter 369)
460 **63N-10-205**, (Renumbered from 63C-11-205, as enacted by Laws of Utah 2009,
461 Chapter 369)
462 **63N-10-301**, (Renumbered from 63C-11-301, as last amended by Laws of Utah 2011,
463 Chapter 342)
464 **63N-10-302**, (Renumbered from 63C-11-302, as repealed and reenacted by Laws of
465 Utah 2009, Chapter 369)
466 **63N-10-303**, (Renumbered from 63C-11-303, as repealed and reenacted by Laws of
467 Utah 2009, Chapter 369)
468 **63N-10-304**, (Renumbered from 63C-11-304, as last amended by Laws of Utah 2011,
469 Chapter 342)
470 **63N-10-305**, (Renumbered from 63C-11-305, as repealed and reenacted by Laws of
471 Utah 2009, Chapter 369)
472 **63N-10-306**, (Renumbered from 63C-11-306, as repealed and reenacted by Laws of
473 Utah 2009, Chapter 369)
474 **63N-10-307**, (Renumbered from 63C-11-307, as repealed and reenacted by Laws of
475 Utah 2009, Chapter 369)
476 **63N-10-308**, (Renumbered from 63C-11-308, as repealed and reenacted by Laws of
477 Utah 2009, Chapter 369)

478 **63N-10-309**, (Renumbered from 63C-11-309, as repealed and reenacted by Laws of
479 Utah 2009, Chapter 369)
480 **63N-10-310**, (Renumbered from 63C-11-310, as repealed and reenacted by Laws of
481 Utah 2009, Chapter 369)
482 **63N-10-311**, (Renumbered from 63C-11-311, as repealed and reenacted by Laws of
483 Utah 2009, Chapter 369)
484 **63N-10-312**, (Renumbered from 63C-11-312, as repealed and reenacted by Laws of
485 Utah 2009, Chapter 369)
486 **63N-10-313**, (Renumbered from 63C-11-313, as repealed and reenacted by Laws of
487 Utah 2009, Chapter 369)
488 **63N-10-314**, (Renumbered from 63C-11-314, as repealed and reenacted by Laws of
489 Utah 2009, Chapter 369)
490 **63N-10-315**, (Renumbered from 63C-11-315, as repealed and reenacted by Laws of
491 Utah 2009, Chapter 369)
492 **63N-10-316**, (Renumbered from 63C-11-316, as repealed and reenacted by Laws of
493 Utah 2009, Chapter 369)
494 **63N-10-317**, (Renumbered from 63C-11-317, as repealed and reenacted by Laws of
495 Utah 2009, Chapter 369)
496 **63N-10-318**, (Renumbered from 63C-11-318, as repealed and reenacted by Laws of
497 Utah 2009, Chapter 369)
498 **63N-11-101**, (Renumbered from 63M-1-2501, as enacted by Laws of Utah 2008,
499 Chapter 383)
500 **63N-11-102**, (Renumbered from 63M-1-2502, as enacted by Laws of Utah 2008,
501 Chapter 383)
502 **63N-11-103**, (Renumbered from 63M-1-2503, as enacted by Laws of Utah 2008,
503 Chapter 383)
504 **63N-11-104**, (Renumbered from 63M-1-2504, as last amended by Laws of Utah 2014,
505 Chapters 371 and 425)

506 **63N-11-105**, (Renumbered from 63M-1-2505, as enacted by Laws of Utah 2008,
507 Chapter 383)
508 **63N-11-106**, (Renumbered from 63M-1-2505.5, as last amended by Laws of Utah
509 2013, Chapter 341)
510 **63N-11-107**, (Renumbered from 63M-1-2506, as last amended by Laws of Utah 2011,
511 Chapter 400)
512 **63N-12-101**, (Renumbered from 63M-1-601, as renumbered and amended by Laws of
513 Utah 2008, Chapter 382)
514 **63N-12-102**, (Renumbered from 63M-1-602, as renumbered and amended by Laws of
515 Utah 2008, Chapter 382)
516 **63N-12-103**, (Renumbered from 63M-1-603, as renumbered and amended by Laws of
517 Utah 2008, Chapter 382)
518 **63N-12-104**, (Renumbered from 63M-1-604, as last amended by Laws of Utah 2012,
519 Chapter 212)
520 **63N-12-105**, (Renumbered from 63M-1-605, as last amended by Laws of Utah 2014,
521 Chapter 371)
522 **63N-12-106**, (Renumbered from 63M-1-606, as renumbered and amended by Laws of
523 Utah 2008, Chapter 382)
524 **63N-12-107**, (Renumbered from 63M-1-607, as renumbered and amended by Laws of
525 Utah 2008, Chapter 382)
526 **63N-12-108**, (Renumbered from 63M-1-608, as last amended by Laws of Utah 2013,
527 Chapter 336)
528 **63N-12-202**, (Renumbered from 63M-1-3201, as last amended by Laws of Utah 2014,
529 Chapter 318)
530 **63N-12-203**, (Renumbered from 63M-1-3202, as last amended by Laws of Utah 2014,
531 Chapter 318)
532 **63N-12-204**, (Renumbered from 63M-1-3203, as last amended by Laws of Utah 2014,
533 Chapters 189 and 318)

534 **63N-12-205**, (Renumbered from 63M-1-3204, as last amended by Laws of Utah 2014,
535 Chapters 63 and 318)
536 **63N-12-206**, (Renumbered from 63M-1-3205, as last amended by Laws of Utah 2014,
537 Chapter 318)
538 **63N-12-207**, (Renumbered from 63M-1-3206, as enacted by Laws of Utah 2013,
539 Chapter 336)
540 **63N-12-208**, (Renumbered from 63M-1-3207, as last amended by Laws of Utah 2014,
541 Chapters 318 and 371)
542 **63N-12-209**, (Renumbered from 63M-1-3208, as enacted by Laws of Utah 2014,
543 Chapter 318)
544 **63N-12-210**, (Renumbered from 63M-1-3209, as enacted by Laws of Utah 2014,
545 Chapter 318)
546 **63N-12-211**, (Renumbered from 63M-1-3210, as enacted by Laws of Utah 2014,
547 Chapter 318)
548 **63N-12-212**, (Renumbered from 63M-1-3211, as enacted by Laws of Utah 2014,
549 Chapter 318)
550 **63N-13-101**, (Renumbered from 63M-1-2101, as renumbered and amended by Laws of
551 Utah 2008, Chapter 382)
552 **63N-13-201**, (Renumbered from 63M-1-2601, as enacted by Laws of Utah 2008,
553 Chapter 352)
554 **63N-13-202**, (Renumbered from 63M-1-2602, as last amended by Laws of Utah 2012,
555 Chapter 347)
556 **63N-13-203**, (Renumbered from 63M-1-2603, as last amended by Laws of Utah 2013,
557 Chapters 310 and 310)
558 **63N-13-204**, (Renumbered from 63M-1-2604, as enacted by Laws of Utah 2008,
559 Chapter 352)
560 **63N-13-205**, (Renumbered from 63M-1-2605, as last amended by Laws of Utah 2012,
561 Chapter 347)

562 **63N-13-206**, (Renumbered from 63M-1-2606, as last amended by Laws of Utah 2013,
563 Chapters 310 and 310)

564 **63N-13-207**, (Renumbered from 63M-1-2607, as last amended by Laws of Utah 2013,
565 Chapters 310 and 310)

566 **63N-13-208**, (Renumbered from 63M-1-2608, as last amended by Laws of Utah 2012,
567 Chapter 347)

568 **63N-13-209**, (Renumbered from 63M-1-2609, as last amended by Laws of Utah 2013,
569 Chapter 310)

570 **63N-13-210**, (Renumbered from 63M-1-2610, as last amended by Laws of Utah 2012,
571 Chapter 347)

572 **63N-13-211**, (Renumbered from 63M-1-2611, as last amended by Laws of Utah 2010,
573 Chapter 286)

574 **63N-13-212**, (Renumbered from 63M-1-2612, as last amended by Laws of Utah 2013,
575 Chapters 310 and 400)

576 REPEALS:

577 **63M-1-204**, as renumbered and amended by Laws of Utah 2008, Chapter 382

578 **63M-1-207**, as enacted by Laws of Utah 2014, Chapter 427

579 **63M-1-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382

580 **63M-1-304**, as renumbered and amended by Laws of Utah 2008, Chapter 382

581 **63M-1-801**, as renumbered and amended by Laws of Utah 2008, Chapter 382

582 **63M-1-802**, as renumbered and amended by Laws of Utah 2008, Chapter 382

583 **63M-1-1301**, as enacted by Laws of Utah 2011, Chapter 236

584 **63M-1-1302**, as enacted by Laws of Utah 2011, Chapter 236

585 **63M-1-1901**, as last amended by Laws of Utah 2014, Chapter 371

586 **63M-1-2408**, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

587

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

589 Section 1. Section **17-31-9** is amended to read:

590 17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact
591 Mitigation Fund.

592 A county in which a qualified hotel, as defined in Section [63M-1-3402] 63N-2-502, is
593 located shall:

594 (1) make an annual payment to the Division of Finance:

595 (a) for deposit into the Stay Another Day and Bounce Back Fund, established in
596 Section [63M-1-3411] 63N-2-511;

597 (b) for any year in which the Governor's Office of Economic Development issues a tax
598 credit certificate, as defined in Section [63M-1-3402] 63N-2-502; and

599 (c) in the amount of 5% of the state portion, as defined in Section [63M-1-3402]
600 63N-2-502; and

601 (2) make payments to the Division of Finance:

602 (a) for deposit into the Hotel Impact Mitigation Fund, created in Section [63M-1-3412]
603 63N-2-512;

604 (b) for each year described in Subsection [63M-1-3412] 63N-2-512(5)(a)(ii) during
605 which the balance of the Hotel Impact Mitigation Fund, defined in Section [63M-1-3412]
606 63N-2-512, is less than \$2,100,000 before any payment for that year under Subsection
607 [63M-1-3412] 63N-2-512(5)(a); and

608 (c) in the amount of the difference between \$2,100,000 and the balance of the Hotel
609 Impact Mitigation Fund, defined in Section [63M-1-3412] 63N-2-512, before any payment for
610 that year under Subsection [63M-1-3412] 63N-2-512(5)(a).

611 Section 2. Section 26-18-14 is amended to read:

612 26-18-14. Strategic plan for health system reform -- Medicaid program.

613 The department, including the Division of Health Care Financing within the
614 department, shall:

615 (1) work with the Governor's Office of Economic Development, the Insurance
616 Department, the Department of Workforce Services, and the Legislature to develop health
617 system reform in accordance with the strategic plan described in Title [63M] 63N, Chapter [†]

618 11, [~~Part 25,~~] Health System Reform Act;

619 (2) develop and submit amendments and waivers for the state's Medicaid plan as
620 necessary to carry out the provisions of the Health System Reform Act;

621 (3) seek federal approval of an amendment to Utah's Premium Partnership for Health
622 Insurance that would allow the state's Medicaid program to subsidize the purchase of health
623 insurance by an individual who does not have access to employer sponsored health insurance;

624 (4) in coordination with the Department of Workforce Services:

625 (a) establish a Children's Health Insurance Program eligibility policy, consistent with
626 federal requirements and Subsection [26-40-105\(1\)\(d\)](#), that prohibits enrollment of a child in the
627 program if the child's parent qualifies for assistance under Utah's Premium Partnership for
628 Health Insurance; and

629 (b) involve community partners, insurance agents and producers, community based
630 service organizations, and the education community to increase enrollment of eligible
631 employees and individuals in Utah's Premium Partnership for Health Insurance and the
632 Children's Health Insurance Program; and

633 (5) as funding permits, and in coordination with the department's adoption of standards
634 for the electronic exchange of clinical health data, help the private sector form an alliance of
635 employers, hospitals and other health care providers, patients, and health insurers to develop
636 and use evidence-based health care quality measures for the purpose of improving health care
637 decision making by health care providers, consumers, and third party payers.

638 Section 3. Section **26-18-18** is amended to read:

639 **26-18-18. Optional Medicaid expansion.**

640 (1) For purposes of this section PPACA is as defined in Section [31A-1-301](#).

641 (2) The department and the governor shall not expand the state's Medicaid program to
642 the optional population under PPACA unless:

643 (a) the Health Reform Task Force has completed a thorough analysis of a statewide
644 charity care system;

645 (b) the department and its contractors have:

- 646 (i) completed a thorough analysis of the impact to the state of expanding the state's
- 647 Medicaid program to optional populations under PPACA; and
- 648 (ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;
- 649 (c) the governor or the governor's designee has reported the intention to expand the
- 650 state Medicaid program under PPACA to the Legislature in compliance with the legislative
- 651 review process in Sections [~~63M-1-2505.5~~] 63N-11-106 and 26-18-3; and
- 652 (d) notwithstanding Subsection 63J-5-103(2), the governor submits the request for
- 653 expansion of the Medicaid program for optional populations to the Legislature under the high
- 654 impact federal funds request process required by Section 63J-5-204, Legislative review and
- 655 approval of certain federal funds request.

656 Section 4. Section **31A-2-201.2** is amended to read:

657 **31A-2-201.2. Evaluation of health insurance market.**

- 658 (1) Each year the commissioner shall:
- 659 (a) conduct an evaluation of the state's health insurance market;
- 660 (b) report the findings of the evaluation to the Health and Human Services Interim
- 661 Committee before October 1 of each year; and
- 662 (c) publish the findings of the evaluation on the department website.
- 663 (2) The evaluation required by this section shall:
- 664 (a) analyze the effectiveness of the insurance regulations and statutes in promoting a
- 665 healthy, competitive health insurance market that meets the needs of the state, and includes an
- 666 analysis of:
 - 667 (i) the availability and marketing of individual and group products;
 - 668 (ii) rate changes;
 - 669 (iii) coverage and demographic changes;
 - 670 (iv) benefit trends;
 - 671 (v) market share changes; and
 - 672 (vi) accessibility;
- 673 (b) assess complaint ratios and trends within the health insurance market, which

674 assessment shall include complaint data from the Office of Consumer Health Assistance within
675 the department;

676 (c) contain recommendations for action to improve the overall effectiveness of the
677 health insurance market, administrative rules, and statutes; and

678 (d) include claims loss ratio data for each health insurance company doing business in
679 the state.

680 (3) When preparing the evaluation required by this section, the commissioner shall
681 include a report of:

682 (a) the types of health benefit plans sold in the Health Insurance Exchange created in
683 Section [~~63M-1-2504~~] [63N-11-104](#);

684 (b) the number of insurers participating in the defined contribution arrangement health
685 benefit plans in the Health Insurance Exchange; and

686 (c) the number of employers and covered lives in the defined contribution arrangement
687 market in the Health Insurance Exchange.

688 (4) When preparing the evaluation and report required by this section, the
689 commissioner may seek the input of insurers, employers, insured persons, providers, and others
690 with an interest in the health insurance market.

691 (5) The commissioner may adopt administrative rules for the purpose of collecting the
692 data required by this section, taking into account the business confidentiality of the insurers.

693 (6) Records submitted to the commissioner under this section shall be maintained by
694 the commissioner as protected records under Title 63G, Chapter 2, Government Records
695 Access and Management Act.

696 Section 5. Section **31A-2-212** is amended to read:

697 **31A-2-212. Miscellaneous duties.**

698 (1) Upon issuance of an order limiting, suspending, or revoking a person's authority to
699 do business in Utah, and when the commissioner begins a proceeding against an insurer under
700 Chapter 27a, Insurer Receivership Act, the commissioner:

701 (a) shall notify by mail the producers of the person or insurer of whom the

702 commissioner has record; and

703 (b) may publish notice of the order or proceeding in any manner the commissioner
704 considers necessary to protect the rights of the public.

705 (2) When required for evidence in a legal proceeding, the commissioner shall furnish a
706 certificate of authority of a licensee to transact the business of insurance in Utah on any
707 particular date. The court or other officer shall receive the certificate of authority in lieu of the
708 commissioner's testimony.

709 (3) (a) On the request of an insurer authorized to do a surety business, the
710 commissioner shall furnish a copy of the insurer's certificate of authority to a designated public
711 officer in this state who requires that certificate of authority before accepting a bond.

712 (b) The public officer described in Subsection (3)(a) shall file the certificate of
713 authority furnished under Subsection (3)(a).

714 (c) After a certified copy of a certificate of authority is furnished to a public officer, it
715 is not necessary, while the certificate of authority remains effective, to attach a copy of it to any
716 instrument of suretyship filed with that public officer.

717 (d) Whenever the commissioner revokes the certificate of authority or begins a
718 proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a
719 surety business, the commissioner shall immediately give notice of that action to each public
720 officer who is sent a certified copy under this Subsection (3).

721 (4) (a) The commissioner shall immediately notify every judge and clerk of the courts
722 of record in the state when:

723 (i) an authorized insurer doing a surety business:

724 (A) files a petition for receivership; or

725 (B) is in receivership; or

726 (ii) the commissioner has reason to believe that the authorized insurer doing surety
727 business:

728 (A) is in financial difficulty; or

729 (B) has unreasonably failed to carry out any of its contracts.

730 (b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the
731 judges and clerks to notify and require a person that files with the court a bond on which the
732 authorized insurer doing surety business is surety to immediately file a new bond with a new
733 surety.

734 (5) (a) The commissioner shall report to the Legislature in accordance with Section
735 [~~63M-1-2505.5~~] 63N-11-106 prior to adopting a rule authorized by Subsection (5)(b).

736 (b) The commissioner shall require an insurer that issues, sells, renews, or offers health
737 insurance coverage in this state to comply with the provisions of PPACA and administrative
738 rules adopted by the commissioner related to regulation of health benefit plans, including:

- 739 (i) lifetime and annual limits;
- 740 (ii) prohibition of rescissions;
- 741 (iii) coverage of preventive health services;
- 742 (iv) coverage for a child or dependent;
- 743 (v) pre-existing condition coverage for children;
- 744 (vi) insurer transparency of consumer information including plan disclosures, uniform
745 coverage documents, and standard definitions;
- 746 (vii) premium rate reviews;
- 747 (viii) essential health benefits;
- 748 (ix) provider choice;
- 749 (x) waiting periods;
- 750 (xi) appeals processes;
- 751 (xii) rating restrictions;
- 752 (xiii) uniform applications and notice provisions; and
- 753 (xiv) certification and regulation of qualified health plans.

754 (c) The commissioner shall preserve state control over:

- 755 (i) the health insurance market in the state;
- 756 (ii) qualified health plans offered in the state; and
- 757 (iii) the conduct of navigators, producers, and in-person assisters operating in the state.

758 (d) If the state enters into an agreement with the United States Department of Health
759 and Human Services in which the state operates health insurance plan management, the
760 commissioner may:

761 (i) for fiscal year 2014, hire one temporary and two permanent full-time employees to
762 be funded through the department's existing budget; and

763 (ii) for fiscal year 2015, hire two permanent full-time employees funded through the
764 Insurance Department Restricted Account, subject to appropriations from the Legislature and
765 approval by the governor.

766 Section 6. Section **31A-2-218** is amended to read:

767 **31A-2-218. Strategic plan for health system reform.**

768 The commissioner and the department shall:

769 (1) work with the Governor's Office of Economic Development, the Department of
770 Health, the Department of Workforce Services, and the Legislature to develop health system
771 reform in accordance with the strategic plan described in Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 11,
772 ~~[Part 25,]~~ Health System Reform Act;

773 (2) work with health insurers in accordance with Section 31A-22-635 to develop
774 standards for health insurance applications and compatible electronic systems;

775 (3) facilitate a private sector method for the collection of health insurance premium
776 payments made for a single policy by multiple payers, including the policyholder, one or more
777 employers of one or more individuals covered by the policy, government programs, and others
778 by educating employers and insurers about collection services available through private
779 vendors, including financial institutions;

780 (4) encourage health insurers to develop products that:

781 (a) encourage health care providers to follow best practice protocols;

782 (b) incorporate other health care quality improvement mechanisms; and

783 (c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted
784 by the Health Insurance Portability and Accountability Act;

785 (5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as

786 necessary, to accomplish the requirements of this section; and

787 (6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
788 make rules, as necessary, to implement Subsections (2), (3), and (4).

789 Section 7. Section **31A-22-613.5** is amended to read:

790 **31A-22-613.5. Price and value comparisons of health insurance.**

791 (1) (a) This section applies to all health benefit plans.

792 (b) Subsection (2) applies to:

793 (i) all health benefit plans; and

794 (ii) coverage offered to state employees under Subsection [49-20-202\(1\)\(a\)](#).

795 (2) (a) The commissioner shall promote informed consumer behavior and responsible
796 health benefit plans by requiring an insurer issuing a health benefit plan to:

797 (i) provide to all enrollees, prior to enrollment in the health benefit plan written
798 disclosure of:

799 (A) restrictions or limitations on prescription drugs and biologics including:

800 (I) the use of a formulary;

801 (II) co-payments and deductibles for prescription drugs; and

802 (III) requirements for generic substitution;

803 (B) coverage limits under the plan; and

804 (C) any limitation or exclusion of coverage including:

805 (I) a limitation or exclusion for a secondary medical condition related to a limitation or
806 exclusion from coverage; and

807 (II) easily understood examples of a limitation or exclusion of coverage for a secondary
808 medical condition; and

809 (ii) provide the commissioner with:

810 (A) the information described in Subsections [31A-22-635\(5\)](#) through (7) in the
811 standardized electronic format required by Subsection [~~63M-1-2506~~] [63N-11-107\(1\)](#); and

812 (B) information regarding insurer transparency in accordance with Subsection (4).

813 (b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to

814 the commissioner:

815 (i) upon commencement of operations in the state; and

816 (ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):

817 (A) treatment policies;

818 (B) practice standards;

819 (C) restrictions;

820 (D) coverage limits of the insurer's health benefit plan or health insurance policy; or

821 (E) limitations or exclusions of coverage including a limitation or exclusion for a

822 secondary medical condition related to a limitation or exclusion of the insurer's health

823 insurance plan.

824 (c) An insurer shall provide the enrollee with notice of an increase in costs for

825 prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):

826 (i) either:

827 (A) in writing; or

828 (B) on the insurer's website; and

829 (ii) at least 30 days prior to the date of the implementation of the increase in cost, or as

830 soon as reasonably possible.

831 (d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make

832 available to prospective enrollees and maintain evidence of the fact of the disclosure of:

833 (i) the drugs included;

834 (ii) the patented drugs not included;

835 (iii) any conditions that exist as a precedent to coverage; and

836 (iv) any exclusion from coverage for secondary medical conditions that may result

837 from the use of an excluded drug.

838 (e) (i) The commissioner shall develop examples of limitations or exclusions of a

839 secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).

840 (ii) Examples of a limitation or exclusion of coverage provided under Subsection

841 (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact

842 situation to fall within the description of an example does not, by itself, support a finding of
843 coverage.

844 (3) The commissioner:

845 (a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to
846 the Health Insurance Exchange created under Section [~~63M-1-2504~~] [63N-11-104](#); and

847 (b) may request information from an insurer to verify the information submitted by the
848 insurer under this section.

849 (4) The commissioner shall:

850 (a) convene a group of insurers, a member representing the Public Employees' Benefit
851 and Insurance Program, consumers, and an organization that provides multipayer and
852 multiprovider quality assurance and data collection, to develop information for consumers to
853 compare health insurers and health benefit plans on the Health Insurance Exchange, which
854 shall include consideration of:

855 (i) the number and cost of an insurer's denied health claims;

856 (ii) the cost of denied claims that is transferred to providers;

857 (iii) the average out-of-pocket expenses incurred by participants in each health benefit
858 plan that is offered by an insurer in the Health Insurance Exchange;

859 (iv) the relative efficiency and quality of claims administration and other administrative
860 processes for each insurer offering plans in the Health Insurance Exchange; and

861 (v) consumer assessment of each insurer or health benefit plan;

862 (b) adopt an administrative rule that establishes:

863 (i) definition of terms;

864 (ii) the methodology for determining and comparing the insurer transparency
865 information;

866 (iii) the data, and format of the data, that an insurer shall submit to the commissioner in
867 order to facilitate the consumer comparison on the Health Insurance Exchange in accordance
868 with Section [~~63M-1-2506~~] [63N-11-107](#); and

869 (iv) the dates on which the insurer shall submit the data to the commissioner in order

870 for the commissioner to transmit the data to the Health Insurance Exchange in accordance with
871 Section [~~63M-1-2506~~] [63N-11-107](#); and

872 (c) implement the rules adopted under Subsection (4)(b) in a manner that protects the
873 business confidentiality of the insurer.

874 Section 8. Section **31A-22-635** is amended to read:

875 **31A-22-635. Uniform application -- Uniform waiver of coverage -- Information**
876 **on Health Insurance Exchange.**

877 (1) For purposes of this section, "insurer":

878 (a) is defined in Subsection [31A-22-634](#)(1); and

879 (b) includes the state employee's risk pool under Section [49-20-202](#).

880 (2) (a) Insurers offering a health benefit plan to an individual or small employer shall
881 use a uniform application form.

882 (b) The uniform application form:

883 (i) may not include questions about an applicant's health history; and

884 (ii) shall be shortened and simplified in accordance with rules adopted by the
885 commissioner.

886 (c) Insurers offering a health benefit plan to a small employer shall use a uniform
887 waiver of coverage form, which may not include health status related questions, and is limited
888 to:

889 (i) information that identifies the employee;

890 (ii) proof of the employee's insurance coverage; and

891 (iii) a statement that the employee declines coverage with a particular employer group.

892 (3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and
893 uniform waiver of coverage forms may, if the combination or modification is approved by the
894 commissioner, be combined or modified to facilitate a more efficient and consumer friendly
895 experience for:

896 (a) enrollees using the Health Insurance Exchange; or

897 (b) insurers using electronic applications.

898 (4) The uniform application form, and uniform waiver form, shall be adopted and
899 approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative
900 Rulemaking Act.

901 (5) (a) An insurer who offers a health benefit plan on the Health Insurance Exchange
902 created in Section [~~63M-1-2504~~] 63N-11-104, shall:

903 (i) accept and process an electronic submission of the uniform application or uniform
904 waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to
905 Section [~~63M-1-2506~~] 63N-11-107;

906 (ii) if requested, provide the applicant with a copy of the completed application either
907 by mail or electronically;

908 (iii) post all health benefit plans offered by the insurer in the defined contribution
909 arrangement market on the Health Insurance Exchange; and

910 (iv) post the information required by Subsection (6) on the Health Insurance Exchange
911 for every health benefit plan the insurer offers on the Health Insurance Exchange.

912 (b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans
913 on the Health Insurance Exchange may not directly or indirectly offer products on the Health
914 Insurance Exchange that are not health benefit plans.

915 (c) Notwithstanding Subsection (5)(b):

916 (i) an insurer may offer a health savings account on the Health Insurance Exchange;

917 (ii) an insurer may offer dental plans on the Health Insurance Exchange; and

918 (iii) the department may make administrative rules to regulate the offer of dental plans
919 on the Health Insurance Exchange.

920 (6) An insurer shall provide the commissioner and the Health Insurance Exchange with
921 the following information for each health benefit plan submitted to the Health Insurance
922 Exchange, in the electronic format required by Subsection [~~63M-1-2506~~] 63N-11-107(1):

923 (a) plan design, benefits, and options offered by the health benefit plan including state
924 mandates the plan does not cover;

925 (b) information and Internet address to online provider networks;

- 926 (c) wellness programs and incentives;
- 927 (d) descriptions of prescription drug benefits, exclusions, or limitations;
- 928 (e) the percentage of claims paid by the insurer within 30 days of the date a claim is
929 submitted to the insurer for the prior year; and
- 930 (f) the claims denial and insurer transparency information developed in accordance
931 with Subsection 31A-22-613.5(4).

932 (7) The department shall post on the Health Insurance Exchange the department's
933 solvency rating for each insurer who posts a health benefit plan on the Health Insurance
934 Exchange. The solvency rating for each insurer shall be based on methodology established by
935 the department by administrative rule and shall be updated each calendar year.

936 (8) (a) The commissioner may request information from an insurer under Section
937 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance
938 Exchange.

939 (b) The commissioner shall regulate the fees charged by insurers to an enrollee for a
940 uniform application form or electronic submission of the application forms.

941 Section 9. Section 31A-22-726 is amended to read:

942 **31A-22-726. Abortion coverage restriction in health benefit plan and on health**
943 **insurance exchange.**

944 (1) As used in this section, "permitted abortion coverage" means coverage for abortion:

945 (a) that is necessary to avert:

946 (i) the death of the woman on whom the abortion is performed; or

947 (ii) a serious risk of substantial and irreversible impairment of a major bodily function
948 of the woman on whom the abortion is performed;

949 (b) of a fetus that has a defect that is documented by a physician or physicians to be
950 uniformly diagnosable and uniformly lethal; or

951 (c) where the woman is pregnant as a result of:

952 (i) rape, as described in Section 76-5-402;

953 (ii) rape of a child, as described in Section 76-5-402.1; or

954 (iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

955 (2) A person may not offer coverage for an abortion in a health benefit plan, unless the
956 coverage is a type of permitted abortion coverage.

957 (3) A person may not offer a health benefit plan that provides coverage for an abortion
958 in a health insurance exchange created under Title [63M] 63N, Chapter [†] 11, [Part 25,]
959 Health System Reform Act, unless the coverage is a type of permitted abortion coverage.

960 (4) A person may not offer a health benefit plan that provides coverage for an abortion
961 in a health insurance exchange created under the federal Patient Protection and Affordable Care
962 Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.

963 Section 10. Section 31A-23a-402 is amended to read:

964 **31A-23a-402. Unfair marketing practices -- Communication -- Unfair**
965 **discrimination -- Coercion or intimidation -- Restriction on choice.**

966 (1) (a) (i) Any of the following may not make or cause to be made any communication
967 that contains false or misleading information, relating to an insurance product or contract, any
968 insurer, or any licensee under this title, including information that is false or misleading
969 because it is incomplete:

970 (A) a person who is or should be licensed under this title;

971 (B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

972 (C) a person whose primary interest is as a competitor of a person licensed under this
973 title; and

974 (D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

975 (ii) As used in this Subsection (1), "false or misleading information" includes:

976 (A) assuring the nonobligatory payment of future dividends or refunds of unused
977 premiums in any specific or approximate amounts, but reporting fully and accurately past
978 experience is not false or misleading information; and

979 (B) with intent to deceive a person examining it:

980 (I) filing a report;

981 (II) making a false entry in a record; or

982 (III) wilfully refraining from making a proper entry in a record.

983 (iii) A licensee under this title may not:

984 (A) use any business name, slogan, emblem, or related device that is misleading or
985 likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee
986 already in business; or

987 (B) use any advertisement or other insurance promotional material that would cause a
988 reasonable person to mistakenly believe that a state or federal government agency, including
989 the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section
990 [~~63M-1-2504~~] [63N-11-104](#), the Comprehensive Health Insurance Pool created in Chapter 29,
991 Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program
992 created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

993 (I) is responsible for the insurance sales activities of the person;

994 (II) stands behind the credit of the person;

995 (III) guarantees any returns on insurance products of or sold by the person; or

996 (IV) is a source of payment of any insurance obligation of or sold by the person.

997 (iv) A person who is not an insurer may not assume or use any name that deceptively
998 implies or suggests that person is an insurer.

999 (v) A person other than persons licensed as health maintenance organizations under
1000 Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to
1001 itself.

1002 (b) A licensee's violation creates a rebuttable presumption that the violation was also
1003 committed by the insurer if:

1004 (i) the licensee under this title distributes cards or documents, exhibits a sign, or
1005 publishes an advertisement that violates Subsection (1)(a), with reference to a particular
1006 insurer:

1007 (A) that the licensee represents; or

1008 (B) for whom the licensee processes claims; and

1009 (ii) the cards, documents, signs, or advertisements are supplied or approved by that

1010 insurer.

1011 (2) (a) A title insurer, individual title insurance producer, or agency title insurance
1012 producer or any officer or employee of the title insurer, individual title insurance producer, or
1013 agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give,
1014 directly or indirectly, as an inducement to obtaining any title insurance business:

1015 (i) any rebate, reduction, or abatement of any rate or charge made incident to the
1016 issuance of the title insurance;

1017 (ii) any special favor or advantage not generally available to others;

1018 (iii) any money or other consideration, except if approved under Section 31A-2-405; or

1019 (iv) material inducement.

1020 (b) "Charge made incident to the issuance of the title insurance" includes escrow
1021 charges, and any other services that are prescribed in rule by the Title and Escrow Commission
1022 after consultation with the commissioner and subject to Section 31A-2-404.

1023 (c) An insured or any other person connected, directly or indirectly, with the
1024 transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to
1025 in Subsection (2)(a), including:

1026 (i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices
1027 and Licensing Act;

1028 (ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices
1029 Act;

1030 (iii) a builder;

1031 (iv) an attorney; or

1032 (v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

1033 (3) (a) An insurer may not unfairly discriminate among policyholders by charging
1034 different premiums or by offering different terms of coverage, except on the basis of
1035 classifications related to the nature and the degree of the risk covered or the expenses involved.

1036 (b) Rates are not unfairly discriminatory if they are averaged broadly among persons
1037 insured under a group, blanket, or franchise policy, and the terms of those policies are not

1038 unfairly discriminatory merely because they are more favorable than in similar individual
1039 policies.

1040 (4) (a) This Subsection (4) applies to:

1041 (i) a person who is or should be licensed under this title;

1042 (ii) an employee of that licensee or person who should be licensed;

1043 (iii) a person whose primary interest is as a competitor of a person licensed under this
1044 title; and

1045 (iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

1046 (b) A person described in Subsection (4)(a) may not commit or enter into any
1047 agreement to participate in any act of boycott, coercion, or intimidation that:

1048 (i) tends to produce:

1049 (A) an unreasonable restraint of the business of insurance; or

1050 (B) a monopoly in that business; or

1051 (ii) results in an applicant purchasing or replacing an insurance contract.

1052 (5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
1053 insurer or licensee under this chapter, another person who is required to pay for insurance as a
1054 condition for the conclusion of a contract or other transaction or for the exercise of any right
1055 under a contract.

1056 (ii) A person requiring coverage may reserve the right to disapprove the insurer or the
1057 coverage selected on reasonable grounds.

1058 (b) The form of corporate organization of an insurer authorized to do business in this
1059 state is not a reasonable ground for disapproval, and the commissioner may by rule specify
1060 additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
1061 declining an application for insurance.

1062 (6) A person may not make any charge other than insurance premiums and premium
1063 financing charges for the protection of property or of a security interest in property, as a
1064 condition for obtaining, renewing, or continuing the financing of a purchase of the property or
1065 the lending of money on the security of an interest in the property.

1066 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of
1067 agency to the principal on demand.

1068 (b) A licensee whose license is suspended, limited, or revoked under Section
1069 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the
1070 commissioner on demand.

1071 (8) (a) A person may not engage in an unfair method of competition or any other unfair
1072 or deceptive act or practice in the business of insurance, as defined by the commissioner by
1073 rule, after a finding that the method of competition, the act, or the practice:

- 1074 (i) is misleading;
- 1075 (ii) is deceptive;
- 1076 (iii) is unfairly discriminatory;
- 1077 (iv) provides an unfair inducement; or
- 1078 (v) unreasonably restrains competition.

1079 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the
1080 Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an
1081 unfair method of competition or unfair or deceptive act or practice after a finding that the
1082 method of competition, the act, or the practice:

- 1083 (i) is misleading;
- 1084 (ii) is deceptive;
- 1085 (iii) is unfairly discriminatory;
- 1086 (iv) provides an unfair inducement; or
- 1087 (v) unreasonably restrains competition.

1088 Section 11. Section 31A-30-102 is amended to read:

1089 **31A-30-102. Purpose statement.**

1090 The purpose of this chapter is to:

- 1091 (1) prevent abusive rating practices;
- 1092 (2) require disclosure of rating practices to purchasers;
- 1093 (3) establish rules regarding:

- 1094 (a) a universal individual and small group application; and
1095 (b) renewability of coverage;
1096 (4) improve the overall fairness and efficiency of the individual and small group
1097 insurance market;
1098 (5) provide increased access for individuals and small employers to health insurance;
1099 and
1100 (6) provide an employer with the opportunity to establish a defined contribution
1101 arrangement for an employee to purchase a health benefit plan through the Health Insurance
1102 Exchange created by Section [~~63M-1-2504~~] [63N-11-104](#).

1103 Section 12. Section **31A-30-116** is amended to read:

1104 **31A-30-116. Essential health benefits.**

1105 (1) For purposes of this section, the "Affordable Care Act" is as defined in Section
1106 [31A-2-212](#) and includes federal rules related to the offering of essential health benefits.

1107 (2) The state chooses to designate its own essential health benefits rather than accept a
1108 federal determination of the essential health benefits required to be offered in the individual
1109 and small group market for plans renewed or offered on or after January 1, 2014.

1110 (3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the Affordable
1111 Care Act, and after considering public testimony, the Legislature's Health System Reform Task
1112 Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark
1113 plan for the state's essential health benefits based on:

- 1114 (i) the largest plan by enrollment in any of the three largest small employer group
1115 insurance products in the state's small employer group market;
1116 (ii) any of the largest three state employee health benefit plans by enrollment;
1117 (iii) the largest insured commercial non-Medicaid health maintenance organization
1118 operating in the state; or
1119 (iv) other benchmarks required or permitted by the Affordable Care Act.

1120 (b) Notwithstanding the provisions of Subsection [~~63M-1-2505.5~~] [63N-11-106](#)(2),
1121 based on the recommendation of the task force under Subsection (3)(a), and within 30 days of

1122 the task force recommendation, the commissioner shall adopt an emergency administrative rule
1123 that designates the essential health benefits that shall be included in a plan offered or renewed
1124 on or after January 1, 2014, in the small employer group and individual markets.

1125 (c) The essential health benefit plan:

1126 (i) shall not include a state mandate if the inclusion of the state mandate would require
1127 the state to contribute to premium subsidies under the Affordable Care Act; and

1128 (ii) may add benefits in addition to the benefits included in a benchmark plan described
1129 in Subsection (3)(b) if the additional benefits are mandated under the Affordable Care Act.

1130 Section 13. Section **31A-30-117** is amended to read:

1131 **31A-30-117. Patient Protection and Affordable Care Act -- Market transition.**

1132 (1) (a) After complying with the reporting requirements of Section [~~63M-1-2505.5~~]
1133 [63N-11-106](#), the commissioner may adopt administrative rules that change the rating and
1134 underwriting requirements of this chapter as necessary to transition the insurance market to
1135 meet federal qualified health plan standards and rating practices under PPACA.

1136 (b) Administrative rules adopted by the commissioner under this section may include:

1137 (i) the regulation of health benefit plans as described in Subsections [31A-2-212\(5\)\(a\)](#)
1138 and (b); and

1139 (ii) disclosure of records and information required by PPACA and state law.

1140 (c) (i) The commissioner shall establish by administrative rule one statewide open
1141 enrollment period that applies to the individual insurance market that is not on the PPACA
1142 certified individual exchange.

1143 (ii) The statewide open enrollment period:

1144 (A) may be shorter, but no longer than the open enrollment period established for the
1145 individual insurance market offered in the PPACA certified exchange; and

1146 (B) may not be extended beyond the dates of the open enrollment period established
1147 for the individual insurance market offered in the PPACA certified exchange.

1148 (2) A carrier that offers health benefit plans in the individual market that is not part of
1149 the individual PPACA certified exchange:

1150 (a) shall open enrollment:
1151 (i) during the statewide open enrollment period established in Subsection (1)(c); and
1152 (ii) at other times, for qualifying events, as determined by administrative rule adopted
1153 by the commissioner; and

1154 (b) may open enrollment at any time.

1155 (3) To the extent permitted by the Centers for Medicare and Medicaid Services policy,
1156 or federal regulation, the commissioner shall allow a health insurer to choose to continue
1157 coverage and individuals and small employers to choose to re-enroll in coverage in
1158 nongrandfathered health coverage that is not in compliance with market reforms required by
1159 PPACA.

1160 Section 14. Section **31A-30-202** is amended to read:

1161 **31A-30-202. Definitions.**

1162 For purposes of this part:

1163 (1) "Defined benefit plan" means an employer group health benefit plan in which:

1164 (a) the employer selects the health benefit plan or plans from a single insurer;

1165 (b) employees are not provided a choice of health benefit plans on the Health Insurance
1166 Exchange; and

1167 (c) the employer is subject to contribution requirements in Section **31A-30-112**.

1168 (2) "Defined contribution arrangement":

1169 (a) means a defined contribution arrangement employer group health benefit plan that:

1170 (i) complies with this part; and

1171 (ii) is sold through the Health Insurance Exchange in accordance with Title ~~[63M]~~

1172 63N, Chapter ~~[†]~~ 11, ~~[Part 25]~~ Health System Reform Act; and

1173 (b) beginning January 1, 2011, includes an employer choice of either a defined
1174 contribution arrangement health benefit plan or a defined benefit plan offered through the
1175 Health Insurance Exchange.

1176 (3) "Health reimbursement arrangement" means an employer provided health
1177 reimbursement arrangement in which reimbursements for medical care expenses are excluded

1178 from an employee's gross income under the Internal Revenue Code.

1179 (4) "Producer" is as defined in Subsection 31A-23a-501(4)(a).

1180 (5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies
1181 under Section 125, Internal Revenue Code, which permits an employee to contribute pre-tax
1182 dollars to a health benefit plan.

1183 (6) "Small employer" is defined in Section 31A-1-301.

1184 Section 15. Section 31A-30-204 is amended to read:

1185 **31A-30-204. Employer election -- Defined benefit -- Defined contribution**
1186 **arrangements -- Responsibilities.**

1187 (1) (a) An employer participating in the defined contribution arrangement market on
1188 the Health Insurance Exchange shall make an initial election to offer its employees either a
1189 defined benefit plan or a defined contribution arrangement health benefit plan.

1190 (b) If an employer elects to offer a defined benefit plan:

1191 (i) the employer or the employer's producer shall enroll the employer in the Health
1192 Insurance Exchange;

1193 (ii) the employees shall submit the uniform application required for the Health
1194 Insurance Exchange; and

1195 (iii) the employer shall select the defined benefit plan in accordance with Section
1196 31A-30-208.

1197 (c) When an employer makes an election under Subsections (1)(a) and (b):

1198 (i) the employer may not offer its employees a defined contribution arrangement health
1199 benefit plan; and

1200 (ii) the employees may not select a defined contribution arrangement health benefit
1201 plan in the Health Insurance Exchange.

1202 (d) If an employer elects to offer its employees a defined contribution arrangement
1203 health benefit plan, the employer shall comply with the provisions of Subsections (2) through
1204 (5).

1205 (2) (a) (i) An employer that chooses to participate in a defined contribution

1206 arrangement health benefit plan may not offer to an employee a health benefit plan that is not a
1207 defined contribution arrangement health benefit plan in the Health Insurance Exchange.

1208 (ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit
1209 policies such as dental or vision coverage, or other types of federally qualified savings accounts
1210 for health care expenses.

1211 (b) (i) To the extent permitted by Sections [31A-1-301](#), [31A-30-112](#), and [31A-30-206](#),
1212 and the risk adjustment plan adopted under Section [31A-42-204](#), the employer reserves the
1213 right to determine:

1214 (A) the criteria for employee eligibility, enrollment, and participation in the employer's
1215 health benefit plan; and

1216 (B) the amount of the employer's contribution to that plan.

1217 (ii) The determinations made under Subsection (2)(b) may only be changed during
1218 periods of open enrollment.

1219 (3) An employer that chooses to establish a defined contribution arrangement health
1220 benefit plan to provide a health benefit plan for its employees shall:

1221 (a) establish a mechanism for its employees to use pre-tax dollars to purchase a health
1222 benefit plan from the defined contribution arrangement market on the Health Insurance
1223 Exchange created in Section [~~63M-1-2504~~] [63N-11-104](#), which may include:

1224 (i) a health reimbursement arrangement;

1225 (ii) a Section 125 Cafeteria plan; or

1226 (iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is
1227 excluded or deducted from gross income under the Internal Revenue Code;

1228 (b) before the employee's health benefit plan selection period:

1229 (i) inform each employee of the health benefit plan the employer has selected as the
1230 default health benefit plan for the employer group;

1231 (ii) offer each employee a choice of any of the defined contribution arrangement health
1232 benefit plans available through the defined contribution arrangement market on the Health
1233 Insurance Exchange; and

1234 (iii) notify the employee that the employee will be enrolled in the default health benefit
1235 plan selected by the employer and payroll deductions initiated for premium payments, unless
1236 the employee, before the employee's selection period ends:

1237 (A) selects a different defined contribution arrangement health benefit plan available in
1238 the Health Insurance Exchange;

1239 (B) provides proof of coverage from another health benefit plan; or

1240 (C) specifically declines coverage in a health benefit plan.

1241 (4) An employer shall enroll an employee in the default defined contribution
1242 arrangement health benefit plan selected by the employer if the employee does not make one of
1243 the choices described in Subsection (3)(b)(iii) before the end of the employee selection period,
1244 which may not be less than 14 calendar days.

1245 (5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the
1246 employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an
1247 affirmative election under pre-tax payroll deductions for the employer to begin payroll
1248 deductions for health benefit plan premiums.

1249 Section 16. Section **31A-30-208** is amended to read:

1250 **31A-30-208. Enrollment for defined contribution arrangements.**

1251 (1) An insurer offering a health benefit plan in the defined contribution arrangement
1252 market:

1253 (a) shall allow an employer to enroll in a small employer defined contribution
1254 arrangement plan; and

1255 (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined
1256 Contribution Risk Adjuster Act, and Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 11, ~~[Part 25,]~~ Health System
1257 Reform Act.

1258 (2) (a) An insurer may enter or exit the defined contribution arrangement market on
1259 January 1 of each year.

1260 (b) An insurer may offer new or modify existing products in the defined contribution
1261 arrangement market:

- 1262 (i) on January 1 of each year;
- 1263 (ii) when required by changes in other law; and
- 1264 (iii) at other times as established by the risk adjuster board created in Section
- 1265 [31A-42-201](#).

1266 (c) An insurer shall give the department, the Health Insurance Exchange, and the risk
1267 adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or
1268 (b).

1269 Section 17. Section **31A-30-302** is amended to read:

1270 **31A-30-302. Creation of state risk adjustment program.**

1271 (1) The commissioner shall convene a group of stakeholders and actuaries to assist the
1272 commissioner with the evaluation or the risk adjustment options described in Subsection (2). If
1273 the commissioner determines that a state-based risk adjustment program is in the best interest
1274 of the state, the commissioner shall establish an individual and small employer market risk
1275 adjustment program in accordance with 42 U.S.C. 18063 and this section.

1276 (2) The risk adjustment program adopted by the commissioner may include one of the
1277 following models:

1278 (a) continue the United States Department of Health and Human Services
1279 administration of the federal model for risk adjustment for the individual and small employer
1280 market in the state;

1281 (b) have the state administer the federal model for risk adjustment for the individual
1282 and small employer market in the state;

1283 (c) establish and operate a state-based risk adjustment program for the individual and
1284 small employer market in the state; or

1285 (d) another risk adjustment model developed by the commissioner under Subsection
1286 (1).

1287 (3) Before adopting one of the models described in Subsection (2), the commissioner:

1288 (a) may enter into contracts to carry out the services needed to evaluate and establish
1289 one of the risk adjustment options described in Subsection (2); and

1290 (b) shall, prior to October 30, 2014, comply with the reporting requirements of Section
1291 [~~63M-1-2505.5~~] 63N-11-106 regarding the commissioner's evaluation of the risk adjustment
1292 options described in Subsection (2).

1293 (4) The commissioner may:

1294 (a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah
1295 Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk
1296 adjustment program to submit data to the all payers claims database created under Section
1297 26-33a-106.1; and

1298 (b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act,
1299 to cover the ongoing administrative cost of running the state-based risk adjustment program.

1300 Section 18. Section **35A-1-104.5** is amended to read:

1301 **35A-1-104.5. Other department duties -- Strategic plan for health system reform**
1302 **-- Reporting suspected misuse of a Social Security number.**

1303 (1) The department shall work with the Department of Health, the Insurance
1304 Department, the Governor's Office of Economic Development, and the Legislature to develop
1305 the health system reform in accordance with Title [~~63M~~] 63N, Chapter [~~1~~] 11, [~~Part 25,~~] Health
1306 System Reform Act.

1307 (2) In the process of determining an individual's eligibility for a public benefit or
1308 service under this title or under federal law, if the department determines that a valid Social
1309 Security number is being used by an unauthorized individual, the department shall:

1310 (a) inform the individual who the department determines to be the likely actual owner
1311 of the Social Security number or, if the likely actual owner is a minor, the minor's parent or
1312 guardian, of the suspected misuse; and

1313 (b) subject to federal law, provide information of the suspected misuse to an
1314 appropriate law enforcement agency responsible for investigating identity fraud.

1315 (3) If the department learns or determines that providing information under Subsection
1316 (2)(b) is prohibited by federal law, the department shall notify the Legislative Management
1317 Committee.

1318 Section 19. Section **53A-1-410** is amended to read:

1319 **53A-1-410. Utah Futures.**

1320 (1) As used in this section:

1321 (a) "Education provider" means:

1322 (i) a Utah institution of higher education as defined in Section **53B-2-101**; or

1323 (ii) a Utah provider of postsecondary education.

1324 (b) "Student user" means:

1325 (i) a Utah student in kindergarten through grade 12;

1326 (ii) a Utah post secondary education student;

1327 (iii) a parent or guardian of a Utah public education student; or

1328 (iv) a Utah potential post secondary education student.

1329 (c) "Utah Futures" means a career planning program developed and administered by

1330 the Department of Workforce Services, the State Board of Regents, and the State Board of

1331 Education.

1332 (d) "Utah Futures Steering Committee" means a committee of members designated by

1333 the governor to administer and manage Utah Futures in collaboration with the Department of

1334 Workforce Services, the State Board of Regents, and the State Board of Education.

1335 (2) The Utah Futures Steering Committee shall ensure, as funding allows and is

1336 feasible, that Utah Futures will:

1337 (a) allow a student user to:

1338 (i) access the student user's full academic record;

1339 (ii) electronically allow the student user to give access to the student user's academic

1340 record and related information to an education provider as allowed by law;

1341 (iii) access information about different career opportunities and understand the related

1342 educational requirements to enter that career;

1343 (iv) access information about education providers;

1344 (v) access up to date information about entrance requirements to education providers;

1345 (vi) apply for entrance to multiple schools without having to fully replicate the

1346 application process;

1347 (vii) apply for loans, scholarships, or grants from multiple education providers in one
1348 location without having to fully replicate the application process for multiple education
1349 providers; and

1350 (viii) research open jobs from different companies within the user's career interest and
1351 apply for those jobs without having to leave the website to do so;

1352 (b) allow all users to:

1353 (i) access information about different career opportunities and understand the related
1354 educational requirements to enter that career;

1355 (ii) access information about education providers;

1356 (iii) access up-to-date information about entrance requirements to education providers;

1357 (iv) apply for entrance to multiple schools without having to fully replicate the
1358 application process;

1359 (v) apply for loans, scholarships, or grants from multiple education providers in one
1360 location without having to fully replicate the application process for multiple education
1361 providers; and

1362 (vi) research open jobs from different companies within the user's career interest and
1363 apply for those jobs without having to leave the website to do so;

1364 (c) allow an education provider to:

1365 (i) research and find student users who are interested in various educational outcomes;

1366 (ii) promote the education provider's programs and schools to student users; and

1367 (iii) connect with student users within the Utah Futures website;

1368 (d) allow a Utah business to:

1369 (i) research and find student users who are pursuing educational outcomes that are
1370 consistent with jobs the Utah business is trying to fill now or in the future; and

1371 (ii) market jobs and communicate with student users through the Utah Futures website
1372 as allowed by law;

1373 (e) allow the Department of Workforce Services to analyze and report on student user

1374 interests, education paths, and behaviors within the education system so as to predictively
1375 determine appropriate career and educational outcomes and results; and

1376 (f) allow all users of the Utah Futures' system to communicate and interact through
1377 social networking tools within the Utah Futures website as allowed by law.

1378 (3) On or before October 1, 2014, the State Board of Education, after consulting with
1379 the Board of Business and Economic Development created in Section [~~63M-1-301~~] 63N-1-401,
1380 may select a technology provider, through a request for proposals process, to provide
1381 technology and support for Utah Futures.

1382 (4) In evaluating proposals under Subsection (3) in consultation with the Board of
1383 Business and Economic Development, the State Board of Education shall ensure that the
1384 technology provided by a proposer:

1385 (a) allows Utah Futures to license the selected service oriented architecture
1386 technologies;

1387 (b) allows Utah Futures to protect all user data within the system by leveraging role
1388 architecture;

1389 (c) allows Utah Futures to update the user interface, APIs, and web services software
1390 layers as needed;

1391 (d) provides the ability for a student user to have a secure profile and login to access
1392 and to store personal information related to the services listed in Subsection (2) via the
1393 Internet;

1394 (e) protects all user data within Utah Futures;

1395 (f) allows the State Board of Education to license the technology of the selected
1396 technology provider; and

1397 (g) provides technology able to support application programming interfaces to integrate
1398 technology of other third party providers, which may include cloud-based technology.

1399 (5) (a) On or before August 1, 2014, the evaluation panel described in Subsection
1400 (5)(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and
1401 determine whether any or all components of Utah Futures, as described in this section, should

1402 be outsourced to a private provider or built in-house by the participating state agencies.

1403 (b) The evaluation panel described in Subsection (5)(a) shall consist of the following
1404 members, appointed by the governor after consulting with the State Board of Education:

1405 (i) five members who represent business, including:

1406 (A) one member who has extensive knowledge and experience in information
1407 technology; and

1408 (B) one member who has extensive knowledge and experience in human resources;

1409 (ii) one member who is a user of the information provided by Utah Futures;

1410 (iii) one member who is a parent of a student who uses Utah Futures;

1411 (iv) one member who:

1412 (A) is an educator as defined in Section [53A-6-103](#); and

1413 (B) teaches students who use Utah Futures; and

1414 (v) one member who is a high school counselor licensed under Title 53A, Chapter 6,
1415 Educator Licensing and Professional Practices Act.

1416 (c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least
1417 the following criteria to make the determination described in Subsection (5)(a):

1418 (i) the complete functional capabilities of a private technology provider versus an
1419 in-house version;

1420 (ii) the cost of purchasing privately developed technology versus continuing to develop
1421 or build an in-house version;

1422 (iii) the data and security capabilities of a private technology provider versus an
1423 in-house version;

1424 (iv) the time frames to implementation; and

1425 (v) the best practices and examples of other states who have implemented a tool similar
1426 to Utah Futures.

1427 (d) On or before September 30, 2014, the evaluation panel shall report the
1428 determination to:

1429 (i) the State Board of Education;

1430 (ii) the Executive Appropriations Committee; and

1431 (iii) the Education Interim Committee.

1432 Section 20. Section **59-7-610** is amended to read:

1433 **59-7-610. Recycling market development zones tax credit.**

1434 (1) For taxable years beginning on or after January 1, 1996, a business operating in a
1435 recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may claim
1436 a tax credit as provided in this section.

1437 (a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price
1438 paid for machinery and equipment used directly in:

1439 (A) commercial composting; or

1440 (B) manufacturing facilities or plant units that:

1441 (I) manufacture, process, compound, or produce recycled items of tangible personal
1442 property for sale; or

1443 (II) reduce or reuse postconsumer waste material.

1444 (ii) The Governor's Office of Economic Development shall certify that the machinery
1445 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1446 process:

1447 (A) on a form provided by the commission; and

1448 (B) before a taxpayer is allowed a tax credit under this section.

1449 (iii) The Governor's Office of Economic Development shall provide a taxpayer seeking
1450 to claim a tax credit under this section with a copy of the form described in Subsection
1451 (1)(a)(ii).

1452 (iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form
1453 received under Subsection (1)(a)(iii).

1454 (b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures
1455 up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made
1456 by the taxpayer for establishing and operating recycling or composting technology in Utah,
1457 with an annual maximum tax credit of \$2,000.

1458 (2) The total nonrefundable tax credit allowed under this section may not exceed 40%
1459 of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of
1460 purchase prior to claiming the tax credit authorized by this section.

1461 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1462 composting or recycling machinery and equipment was paid may be carried over for credit
1463 against the business' income taxes in the three succeeding taxable years until the total tax credit
1464 amount is used.

1465 (b) Tax credits not claimed by a business on the business' state income tax return
1466 within three years are forfeited.

1467 (4) The commission shall make rules governing what information shall be filed with
1468 the commission to verify the entitlement to and amount of a tax credit.

1469 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1470 January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection
1471 (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under
1472 Section [~~63M-1-413~~] [63N-2-213](#).

1473 (b) For a taxable year other than a taxable year during which the taxpayer may not
1474 claim or carry forward a tax credit in accordance with Subsection (5)(a), a taxpayer may claim
1475 or carry forward a tax credit described in Subsection (1)(a):

1476 (i) if the taxpayer may claim or carry forward the tax credit in accordance with
1477 Subsections (1) and (2); and

1478 (ii) subject to Subsections (3) and (4).

1479 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1480 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year
1481 during which the taxpayer claims or carries forward a tax credit under Section [~~63M-1-413~~]
1482 [63N-2-213](#).

1483 (7) A taxpayer may not claim or carry forward a tax credit available under this section
1484 for a taxable year during which the taxpayer has claimed the targeted business income tax
1485 credit available under Section [~~63M-1-504~~] [63N-2-305](#).

1486 Section 21. Section **59-7-614.2** is amended to read:

1487 **59-7-614.2. Refundable economic development tax credit.**

1488 (1) As used in this section:

1489 (a) "Business entity" means a taxpayer that meets the definition of "business entity" as
1490 defined in Section [~~63M-1-2403~~] [63N-2-103](#).

1491 (b) "Community development and renewal agency" is as defined in Section [17C-1-102](#).

1492 (c) "Local government entity" is as defined in Section [~~63M-1-2403~~] [63N-2-103](#).

1493 (d) "Office" means the Governor's Office of Economic Development.

1494 (2) Subject to the other provisions of this section, a business entity, local government
1495 entity, or community development and renewal agency may claim a refundable tax credit for
1496 economic development.

1497 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1498 tax credit certificate that the office issues to the business entity, local government entity, or
1499 community development and renewal agency for the taxable year.

1500 (4) A community development and renewal agency may claim a tax credit under this
1501 section only if a local government entity assigns the tax credit to the community development
1502 and renewal agency in accordance with Section [~~63M-1-2404~~] [63N-2-104](#).

1503 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1504 (5)(b), the commission shall make a refund to the following that claim a tax credit under this
1505 section:

1506 (i) a local government entity;

1507 (ii) a community development and renewal agency; or

1508 (iii) a business entity if the amount of the tax credit exceeds the business entity's tax
1509 liability for a taxable year.

1510 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1511 commission may make rules providing procedures for making a refund to a business entity,
1512 local government entity, or community development and renewal agency as required by
1513 Subsection (5)(a).

1514 (6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1515 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1516 make recommendations to the Legislative Management Committee concerning whether the tax
1517 credit should be continued, modified, or repealed.

1518 (b) For purposes of the study required by this Subsection (6), the office shall provide
1519 the following information to the Revenue and Taxation Interim Committee:

1520 (i) the amount of tax credit that the office grants to each business entity, local
1521 government entity, or community development and renewal agency for each calendar year;

1522 (ii) the criteria that the office uses in granting a tax credit;

1523 (iii) (A) for a business entity, the new state revenues generated by the business entity
1524 for the calendar year; or

1525 (B) for a local government entity, regardless of whether the local government entity
1526 assigns the tax credit in accordance with Section [~~63M-1-2404~~] 63N-2-104, the new state
1527 revenues generated as a result of a new commercial project within the local government entity
1528 for each calendar year;

1529 (iv) the information contained in the office's latest report to the Legislature under
1530 Section [~~63M-1-2406~~] 63N-2-106; and

1531 (v) any other information that the Revenue and Taxation Interim Committee requests.

1532 (c) The Revenue and Taxation Interim Committee shall ensure that its
1533 recommendations under Subsection (6)(a) include an evaluation of:

1534 (i) the cost of the tax credit to the state;

1535 (ii) the purpose and effectiveness of the tax credit; and

1536 (iii) the extent to which the state benefits from the tax credit.

1537 Section 22. Section **59-7-614.5** is amended to read:

1538 **59-7-614.5. Refundable motion picture tax credit.**

1539 (1) As used in this section:

1540 (a) "Motion picture company" means a taxpayer that meets the definition of a motion
1541 picture company under Section [~~63M-1-1802~~] 63N-8-102.

1542 (b) "Office" means the Governor's Office of Economic Development.

1543 (c) "State-approved production" has the same meaning as defined in Section
1544 ~~[63M-1-1802]~~ [63N-8-102](#).

1545 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1546 may claim a refundable tax credit for a state-approved production.

1547 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1548 tax credit certificate that the office issues to a motion picture company under Section
1549 ~~[63M-1-1803]~~ [63N-8-103](#) for the taxable year.

1550 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1551 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1552 credit under this section if the amount of the tax credit exceeds the motion picture company's
1553 tax liability for a taxable year.

1554 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1555 commission may make rules providing procedures for making a refund to a motion picture
1556 company as required by Subsection (4)(a).

1557 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1558 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1559 make recommendations to the Legislative Management Committee concerning whether the tax
1560 credit should be continued, modified, or repealed.

1561 (b) For purposes of the study required by this Subsection (5), the office shall provide
1562 the following information to the Revenue and Taxation Interim Committee:

1563 (i) the amount of tax credit that the office grants to each motion picture company for
1564 each calendar year;

1565 (ii) the criteria that the office uses in granting the tax credit;

1566 (iii) the dollars left in the state, as defined in Section ~~[63M-1-1802]~~ [63N-8-102](#), by
1567 each motion picture company for each calendar year;

1568 (iv) the information contained in the office's latest report to the Legislature under
1569 Section ~~[63M-1-1805]~~ [63N-8-105](#); and

1570 (v) any other information requested by the Revenue and Taxation Interim Committee.

1571 (c) The Revenue and Taxation Interim Committee shall ensure that its

1572 recommendations under Subsection (5)(a) include an evaluation of:

1573 (i) the cost of the tax credit to the state;

1574 (ii) the effectiveness of the tax credit; and

1575 (iii) the extent to which the state benefits from the tax credit.

1576 Section 23. Section **59-7-614.6** is amended to read:

1577 **59-7-614.6. Refundable tax credit for certain business entities generating state tax**
1578 **revenue increases.**

1579 (1) As used in this section:

1580 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] 63N-2-802.

1581 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]
1582 63N-2-802.

1583 (c) "Office" means the Governor's Office of Economic Development.

1584 (d) "Pass-through entity" is as defined in Section 59-10-1402.

1585 (e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

1586 (f) "Qualifying agreement" means an agreement under [~~Subsection 63M-1-2908~~]

1587 Section 63N-2-808 that includes a provision for an eligible business entity to make new capital
1588 expenditures of at least \$1,000,000,000 in the state.

1589 (2) Subject to the other provisions of this section, an eligible business entity may:

1590 (a) claim a refundable tax credit as provided in Subsection (3); or

1591 (b) if the eligible business entity is a pass-through entity, pass through to one or more
1592 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
1593 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
1594 the eligible business entity could otherwise claim under this section.

1595 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible
1596 business entity may claim or pass through is the amount listed on the tax credit certificate that
1597 the office issues to the eligible business entity for a taxable year in accordance with Section

1598 [~~63M-1-2908~~] [63N-2-808](#).

1599 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
1600 amount of eligible new state tax revenues generated by an eligible business entity for the
1601 taxable year for which the eligible business entity claims a tax credit under this section.

1602 (c) A tax credit under this section for an eligible business entity that enters into a
1603 qualifying agreement may not exceed:

1604 (i) for the taxable year in which the eligible business entity first generates eligible new
1605 state tax revenues and the two following years, the amount of eligible new state tax revenues
1606 generated by the eligible business entity; and

1607 (ii) for the seven taxable years following the last of the three taxable years described in
1608 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
1609 eligible business entity.

1610 (4) An eligible business entity may only claim or pass through a tax credit under this
1611 section for a taxable year for which the eligible business entity holds a tax credit certificate
1612 issued in accordance with Section [~~63M-1-2908~~] [63N-2-808](#).

1613 (5) An eligible business entity may not:

1614 (a) carry forward or carry back a tax credit under this section; or

1615 (b) claim or pass through a tax credit in an amount greater than the amount listed on a
1616 tax credit certificate issued in accordance with Section [~~63M-1-2908~~] [63N-2-808](#) for a taxable
1617 year.

1618 Section 24. Section **59-7-614.8** is amended to read:

1619 **59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.**

1620 (1) As used in this section:

1621 (a) "Alternative energy entity" is as defined in Section [~~63M-1-3102~~] [63N-2-702](#).

1622 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1623 [63N-2-702](#).

1624 (c) "Office" means the Governor's Office of Economic Development.

1625 (2) Subject to the other provisions of this section, an alternative energy entity may

1626 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1627 section.

1628 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1629 tax credit certificate that the office issues under Title ~~[63M]~~ 63N, Chapter ~~[1]~~ 2, Part ~~[31]~~ 7,
1630 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1631 taxable year.

1632 (4) An alternative energy entity may carry forward a tax credit under this section for a
1633 period that does not exceed the next seven taxable years if:

1634 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1635 taxable year; and

1636 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1637 under this chapter for that taxable year.

1638 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1639 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1640 make recommendations to the Legislative Management Committee concerning whether the tax
1641 credit should be continued, modified, or repealed.

1642 (b) For purposes of the study required by this Subsection (5), the office shall provide
1643 the following information to the Revenue and Taxation Interim Committee:

1644 (i) the amount of tax credit that the office grants to each alternative energy entity for
1645 each taxable year;

1646 (ii) the new state revenues generated by each alternative energy manufacturing project;

1647 (iii) the information contained in the office's latest report to the Legislature under
1648 Section ~~[63M-1-3105]~~ 63N-2-705; and

1649 (iv) any other information that the Revenue and Taxation Interim Committee requests.

1650 (c) The Revenue and Taxation Interim Committee shall ensure that its
1651 recommendations under Subsection (5)(a) include an evaluation of:

1652 (i) the cost of the tax credit to the state;

1653 (ii) the purpose and effectiveness of the tax credit; and

1654 (iii) the extent to which the state benefits from the tax credit.

1655 Section 25. Section **59-7-616** is amended to read:

1656 **59-7-616. Refundable tax credit for certain business entities.**

1657 (1) As used in this section:

1658 (a) "Office" means the Governor's Office of Economic Development.

1659 (b) "Pass-through entity" has the same meaning as defined in Section [59-10-1402](#).

1660 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
1661 [59-10-1402](#).

1662 (d) "Tax credit certificate" has the same meaning as defined in Section [[63M-1-3402](#)]
1663 [63N-2-502](#).

1664 (e) "Tax credit recipient" has the same meaning as defined in Section [[63M-1-3402](#)]
1665 [63N-2-502](#).

1666 (2) (a) Subject to the other provisions of this section, a tax credit recipient that is a
1667 corporation may claim a refundable tax credit as provided in Subsection (3).

1668 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
1669 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
1670 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
1671 refundable tax credit that the tax credit recipient could otherwise claim under this section.

1672 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
1673 credit certificate that the office issues to the tax credit recipient for the taxable year.

1674 (4) A tax credit recipient:

1675 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
1676 during which the tax credit recipient has been issued a tax credit certificate; and

1677 (b) may not claim a tax credit under both this section and Section [59-10-1110](#).

1678 (5) (a) In accordance with any rules prescribed by the commission under Subsection
1679 (5)(b), the commission shall:

1680 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
1681 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;

1682 and

1683 (ii) transfer at least annually from the General Fund into the Education Fund an amount
1684 equal to the amount of tax credit claimed under this section.

1685 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1686 commission may make rules providing procedures for making:

1687 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
1688 Subsection (5)(a)(i); or

1689 (ii) transfers from the General Fund into the Education Fund as required by Subsection
1690 (5)(a)(ii).

1691 Section 26. Section **59-10-210** is amended to read:

1692 **59-10-210. Fiduciary adjustments.**

1693 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
1694 or subtracted from unadjusted income:

1695 (a) of:

1696 (i) a resident or nonresident estate or trust; or

1697 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

1698 (b) as provided in this section.

1699 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
1700 amounts:

1701 (a) the additions to and subtractions from unadjusted income of a resident or
1702 nonresident estate or trust required by Section [59-10-202](#); and

1703 (b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

1704 (i) Section [59-6-102](#);

1705 (ii) Part 10, Nonrefundable Tax Credit Act;

1706 (iii) Part 11, Refundable Tax Credit Act;

1707 (iv) Section [59-13-202](#);

1708 (v) Section [~~63M-1-413~~] [63N-2-213](#); or

1709 (vi) Section [~~63M-1-504~~] [63N-2-305](#).

1710 (3) (a) The respective shares of an estate or trust and its beneficiaries, including for the
1711 purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be
1712 allocated in proportion to their respective shares of federal distributable net income of the
1713 estate or trust.

1714 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
1715 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
1716 allocated in proportion to that beneficiary's share of the estate or trust income for the taxable
1717 year that is, under state law or the governing instrument, required to be distributed currently
1718 plus any other amounts of that income distributed in that taxable year.

1719 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
1720 the fiduciary adjustments shall be allocated to the estate or trust.

1721 (4) (a) The commission shall allow a fiduciary to use a method for determining the
1722 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1723 described in Subsection (3) if using the method described in Subsection (3) results in an
1724 inequity:

1725 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1726 (ii) if the inequity is substantial:

1727 (A) in amount; and

1728 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1729 (2).

1730 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1731 commission may make rules authorizing a fiduciary to use a method for determining the
1732 allocation of the fiduciary adjustments described in Subsection (2) other than the method
1733 described in Subsection (3) if using the method described in Subsection (3) results in an
1734 inequity:

1735 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1736 (ii) if the inequity is substantial:

1737 (A) in amount; and

1738 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1739 (2).

1740 Section 27. Section **59-10-1007** is amended to read:

1741 **59-10-1007. Recycling market development zones tax credit.**

1742 (1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust
1743 in a recycling market development zone as defined in Section [~~63M-1-1102~~] 63N-2-402 may
1744 claim a nonrefundable tax credit as provided in this section.

1745 (a) (i) There shall be allowed a tax credit of 5% of the purchase price paid for
1746 machinery and equipment used directly in:

1747 (A) commercial composting; or

1748 (B) manufacturing facilities or plant units that:

1749 (I) manufacture, process, compound, or produce recycled items of tangible personal
1750 property for sale; or

1751 (II) reduce or reuse postconsumer waste material.

1752 (ii) The Governor's Office of Economic Development shall certify that the machinery
1753 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
1754 process:

1755 (A) on a form provided by the commission; and

1756 (B) before a claimant, estate, or trust is allowed a tax credit under this section.

1757 (iii) The Governor's Office of Economic Development shall provide a claimant, estate,
1758 or trust seeking to claim a tax credit under this section with a copy of the form described in
1759 Subsection (1)(a)(ii).

1760 (iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy
1761 of the form received under Subsection (1)(a)(iii).

1762 (b) There shall be allowed a tax credit equal to 20% of net expenditures up to \$10,000
1763 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the
1764 claimant, estate, or trust for establishing and operating recycling or composting technology in
1765 Utah, with an annual maximum tax credit of \$2,000.

1766 (2) The total tax credit allowed under this section may not exceed 40% of the Utah
1767 income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of
1768 purchase prior to claiming the tax credit authorized by this section.

1769 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1770 composting or recycling machinery and equipment was paid may be carried forward against the
1771 claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable
1772 years until the total tax credit amount is used.

1773 (b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or
1774 trust's tax return under this chapter within three years are forfeited.

1775 (4) The commission shall make rules governing what information shall be filed with
1776 the commission to verify the entitlement to and amount of a tax credit.

1777 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1778 January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit
1779 described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust
1780 claims or carries forward a tax credit under Section [~~63M-1-413~~] [63N-2-213](#).

1781 (b) For a taxable year other than a taxable year during which the claimant, estate, or
1782 trust may not claim or carry forward a tax credit in accordance with Subsection (5)(a), a
1783 claimant, estate, or trust may claim or carry forward a tax credit described in Subsection (1)(a):

1784 (i) if the claimant, estate, or trust may claim or carry forward the tax credit in
1785 accordance with Subsections (1) and (2); and

1786 (ii) subject to Subsections (3) and (4).

1787 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
1788 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in
1789 a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit
1790 under Section [~~63M-1-413~~] [63N-2-213](#).

1791 (7) A claimant, estate, or trust may not claim or carry forward a tax credit available
1792 under this section for a taxable year during which the claimant, estate, or trust has claimed the
1793 targeted business income tax credit available under Section [~~63M-1-504~~] [63N-2-305](#).

1794 Section 28. Section **59-10-1025** is amended to read:

1795 **59-10-1025. Nonrefundable tax credit for investment in certain life science**
1796 **establishments.**

1797 (1) As used in this section:

1798 (a) "Commercial domicile" means the principal place from which the trade or business
1799 of a Utah small business corporation is directed or managed.

1800 (b) "Eligible claimant, estate, or trust" is as defined in Section [~~63M-1-2902~~]
1801 [63N-2-802](#).

1802 (c) "Life science establishment" means an establishment described in one of the
1803 following NAICS codes of the 2007 North American Industry Classification System of the
1804 federal Executive Office of the President, Office of Management and Budget:

1805 (i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

1806 (ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
1807 Manufacturing; or

1808 (iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

1809 (d) "Office" means the Governor's Office of Economic Development.

1810 (e) "Pass-through entity" is as defined in Section [59-10-1402](#).

1811 (f) "Pass-through entity taxpayer" is as defined in Section [59-10-1402](#).

1812 (g) "Qualifying ownership interest" means an ownership interest that is:

1813 (i) (A) common stock;

1814 (B) preferred stock; or

1815 (C) an ownership interest in a pass-through entity;

1816 (ii) originally issued to:

1817 (A) an eligible claimant, estate, or trust; or

1818 (B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit
1819 under this section was a pass-through entity taxpayer of the pass-through entity on the day on
1820 which the qualifying ownership interest was issued and remains a pass-through entity taxpayer
1821 of the pass-through entity until the last day of the taxable year for which the eligible claimant,

1822 estate, or trust claims a tax credit under this section; and

1823 (iii) issued:

1824 (A) by a Utah small business corporation;

1825 (B) on or after January 1, 2011; and

1826 (C) for money or other property, except for stock or securities.

1827 (h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is
1828 as defined in Section [59-10-1022](#).

1829 (ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal
1830 Revenue Code, is considered to include a pass-through entity.

1831 (2) Subject to the other provisions of this section, for a taxable year beginning on or
1832 after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate
1833 issued to the eligible claimant, estate, or trust in accordance with Section [~~63M-1-2908~~
1834 [63N-2-808](#) for that taxable year may claim a nonrefundable tax credit in an amount up to 35%
1835 of the purchase price of a qualifying ownership interest in a Utah small business corporation by
1836 the claimant, estate, or trust if:

1837 (a) the qualifying ownership interest is issued by a Utah small business corporation that
1838 is a life science establishment;

1839 (b) the qualifying ownership interest in the Utah small business corporation is
1840 purchased for at least \$25,000;

1841 (c) the eligible claimant, estate, or trust owned less than 30% of the qualifying
1842 ownership interest of the Utah small business corporation at the time of the purchase of the
1843 qualifying ownership interest; and

1844 (d) on each day of the taxable year of the purchase of the qualifying ownership interest,
1845 the Utah small business corporation described in Subsection (2)(a) has at least 50% of its
1846 employees in the state.

1847 (3) Subject to Subsection (4), the tax credit under Subsection (2):

1848 (a) may only be claimed by the eligible claimant, estate, or trust:

1849 (i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit

1850 certificate issued in accordance with Section [\[63M-1-2908\]](#) [63N-2-808](#); and

1851 (ii) subject to obtaining a tax credit certificate for each taxable year as required by

1852 Subsection (3)(a)(i), for a period of three taxable years as follows:

1853 (A) the tax credit in the taxable year of the purchase of the qualifying ownership

1854 interest may not exceed 10% of the purchase price of the qualifying ownership interest;

1855 (B) the tax credit in the taxable year after the taxable year described in Subsection

1856 (3)(a)(ii)(A) may not exceed 10% of the purchase price of the qualifying ownership interest;

1857 and

1858 (C) the tax credit in the taxable year two years after the taxable year described in

1859 Subsection (3)(a)(ii)(A) may not exceed 15% of the purchase price of the qualifying ownership

1860 interest; and

1861 (b) may not exceed the lesser of:

1862 (i) the amount listed on the tax credit certificate issued in accordance with Section

1863 [\[63M-1-2908\]](#) [63N-2-808](#); or

1864 (ii) \$350,000 in a taxable year.

1865 (4) An eligible claimant, estate, or trust may not claim a tax credit under this section

1866 for a taxable year if the eligible claimant, estate, or trust:

1867 (a) has sold any of the qualifying ownership interest during the taxable year; or

1868 (b) does not hold a tax credit certificate for that taxable year that is issued to the

1869 eligible claimant, estate, or trust by the office in accordance with Section [\[63M-1-2908\]](#)

1870 [63N-2-808](#).

1871 (5) If a Utah small business corporation in which an eligible claimant, estate, or trust

1872 purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the

1873 eligible claimant, estate, or trust may not claim both the tax credit provided in this section and

1874 a capital loss on the qualifying ownership interest.

1875 (6) If an eligible claimant is a pass-through entity taxpayer that files a return under

1876 Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax

1877 credit under this section on the return filed under Chapter 7, Corporate Franchise and Income

1878 Taxes.

1879 (7) A claimant, estate, or trust may not carry forward or carry back a tax credit under
1880 this section.

1881 Section 29. Section **59-10-1030** is amended to read:

1882 **59-10-1030. Nonrefundable alternative energy manufacturing tax credit.**

1883 (1) As used in this section:

1884 (a) "Alternative energy entity" is as defined in Section [~~63M-1-3102~~] 63N-2-702.

1885 (b) "Alternative energy manufacturing project" is as defined in Section [~~63M-1-3102~~]
1886 63N-2-702.

1887 (c) "Office" means the Governor's Office of Economic Development.

1888 (2) Subject to the other provisions of this section, an alternative energy entity may
1889 claim a nonrefundable tax credit for alternative energy manufacturing as provided in this
1890 section.

1891 (3) The tax credit under this section is the amount listed as the tax credit amount on a
1892 tax credit certificate that the office issues under Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~31~~] 7,
1893 Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the
1894 taxable year.

1895 (4) An alternative energy entity may carry forward a tax credit under this section for a
1896 period that does not exceed the next seven taxable years if:

1897 (a) the alternative energy entity is allowed to claim a tax credit under this section for a
1898 taxable year; and

1899 (b) the amount of the tax credit exceeds the alternative energy entity's tax liability
1900 under this chapter for that taxable year.

1901 (5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the
1902 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1903 make recommendations to the Legislative Management Committee concerning whether the tax
1904 credit should be continued, modified, or repealed.

1905 (b) For purposes of the study required by this Subsection (5), the office shall provide

1906 the following information to the Revenue and Taxation Interim Committee:

1907 (i) the amount of tax credit that the office grants to each alternative energy entity for
1908 each taxable year;

1909 (ii) the new state revenues generated by each alternative energy manufacturing project;

1910 (iii) the information contained in the office's latest report to the Legislature under
1911 Section [~~63M-1-3105~~] [63N-2-705](#); and

1912 (iv) any other information that the Revenue and Taxation Interim Committee requests.

1913 (c) The Revenue and Taxation Interim Committee shall ensure that its
1914 recommendations under Subsection (5)(a) include an evaluation of:

1915 (i) the cost of the tax credit to the state;

1916 (ii) the purpose and effectiveness of the tax credit; and

1917 (iii) the extent to which the state benefits from the tax credit.

1918 Section 30. Section **59-10-1107** is amended to read:

1919 **59-10-1107. Refundable economic development tax credit.**

1920 (1) As used in this section:

1921 (a) "Business entity" means a claimant, estate, or trust that meets the definition of
1922 "business entity" as defined in Section [~~63M-1-2403~~] [63N-2-103](#).

1923 (b) "Office" means the Governor's Office of Economic Development.

1924 (2) Subject to the other provisions of this section, a business entity may claim a
1925 refundable tax credit for economic development.

1926 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1927 tax credit certificate that the office issues to the business entity for the taxable year.

1928 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1929 (4)(b), the commission shall make a refund to a business entity that claims a tax credit under
1930 this section if the amount of the tax credit exceeds the business entity's tax liability for a
1931 taxable year.

1932 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1933 commission may make rules providing procedures for making a refund to a business entity as

1934 required by Subsection (4)(a).

1935 (5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the
1936 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1937 make recommendations to the Legislative Management Committee concerning whether the tax
1938 credit should be continued, modified, or repealed.

1939 (b) For purposes of the study required by this Subsection (5), the office shall provide
1940 the following information to the Revenue and Taxation Interim Committee:

1941 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1942 (ii) the criteria the office uses in granting a tax credit;

1943 (iii) the new state revenues generated by each taxpayer for each calendar year;

1944 (iv) the information contained in the office's latest report to the Legislature under

1945 Section [~~63M-1-2406~~] [63N-2-106](#); and

1946 (v) any other information that the Revenue and Taxation Interim Committee requests.

1947 (c) The Revenue and Taxation Interim Committee shall ensure that its

1948 recommendations under Subsection (5)(a) include an evaluation of:

1949 (i) the cost of the tax credit to the state;

1950 (ii) the purpose and effectiveness of the tax credit; and

1951 (iii) the extent to which the state benefits from the tax credit.

1952 Section 31. Section **59-10-1108** is amended to read:

1953 **59-10-1108. Refundable motion picture tax credit.**

1954 (1) As used in this section:

1955 (a) "Motion picture company" means a claimant, estate, or trust that meets the

1956 definition of a motion picture company under Section [~~63M-1-1802~~] [63N-8-102](#).

1957 (b) "Office" means the Governor's Office of Economic Development.

1958 (c) "State-approved production" has the same meaning as defined in Section

1959 [~~63M-1-1802~~] [63N-8-102](#).

1960 (2) For taxable years beginning on or after January 1, 2009, a motion picture company
1961 may claim a refundable tax credit for a state-approved production.

1962 (3) The tax credit under this section is the amount listed as the tax credit amount on the
1963 tax credit certificate that the office issues to a motion picture company under Section
1964 [~~63M-1-1803~~] [63N-8-103](#) for the taxable year.

1965 (4) (a) In accordance with any rules prescribed by the commission under Subsection
1966 (4)(b), the commission shall make a refund to a motion picture company that claims a tax
1967 credit under this section if the amount of the tax credit exceeds the motion picture company's
1968 tax liability for the taxable year.

1969 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1970 commission may make rules providing procedures for making a refund to a motion picture
1971 company as required by Subsection (4)(a).

1972 (5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
1973 Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
1974 make recommendations to the Legislative Management Committee concerning whether the tax
1975 credit should be continued, modified, or repealed.

1976 (b) For purposes of the study required by this Subsection (5), the office shall provide
1977 the following information to the Revenue and Taxation Interim Committee:

1978 (i) the amount of tax credit the office grants to each taxpayer for each calendar year;

1979 (ii) the criteria the office uses in granting a tax credit;

1980 (iii) the dollars left in the state, as defined in Section [~~63M-1-1802~~] [63N-8-102](#), by
1981 each motion picture company for each calendar year;

1982 (iv) the information contained in the office's latest report to the Legislature under
1983 Section [~~63M-1-1805~~] [63N-8-105](#); and

1984 (v) any other information requested by the Revenue and Taxation Interim Committee.

1985 (c) The Revenue and Taxation Interim Committee shall ensure that its
1986 recommendations under Subsection (5)(a) include an evaluation of:

1987 (i) the cost of the tax credit to the state;

1988 (ii) the effectiveness of the tax credit; and

1989 (iii) the extent to which the state benefits from the tax credit.

1990 Section 32. Section **59-10-1109** is amended to read:

1991 **59-10-1109. Refundable tax credit for certain business entities generating state**
1992 **tax revenue increases.**

1993 (1) As used in this section:

1994 (a) "Eligible business entity" is as defined in Section [~~63M-1-2902~~] [63N-2-802](#).

1995 (b) "Eligible new state tax revenues" is as defined in Section [~~63M-1-2902~~]

1996 [63N-2-802](#).

1997 (c) "Office" means the Governor's Office of Economic Development.

1998 (d) "Pass-through entity" is as defined in Section [59-10-1402](#).

1999 (e) "Pass-through entity taxpayer" is as defined in Section [59-10-1402](#).

2000 (f) "Qualifying agreement" is as defined in Section [59-7-614.6](#).

2001 (2) Subject to the other provisions of this section, an eligible business entity may:

2002 (a) claim a refundable tax credit as provided in Subsection (3); or

2003 (b) if the eligible business entity is a pass-through entity, pass through to one or more
2004 pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part
2005 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that
2006 the eligible business entity could otherwise claim under this section.

2007 (3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

2008 (i) for an eligible business entity, an amount up to the amount listed on the tax credit
2009 certificate that the office issues to the eligible business entity for the taxable year in accordance
2010 with Section [~~63M-1-2908~~] [63N-2-808](#); or

2011 (ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that
2012 an eligible business entity passes through to the pass-through entity taxpayer of the
2013 pass-through entity in accordance with Subsection (2)(b) or Subsection [59-7-614.6\(2\)\(b\)](#).

2014 (b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the
2015 amount of eligible new state tax revenues generated by an eligible business entity for the
2016 taxable year for which the eligible business entity claims a tax credit under this section.

2017 (c) A tax credit under this section for an eligible business entity that enters into a

2018 qualifying agreement may not exceed:

2019 (i) for the taxable year in which the eligible business entity first generates eligible new
2020 state tax revenues and the two following years, the amount of eligible new state tax revenues
2021 generated by the eligible business entity; and

2022 (ii) for the seven taxable years following the last of the three taxable years described in
2023 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
2024 eligible business entity.

2025 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
2026 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection
2027 [59-7-614.6\(2\)\(b\)](#) may only claim or pass through a tax credit under this section for a taxable
2028 year for which the eligible business entity holds a tax credit certificate issued in accordance
2029 with Section [~~63M-1-2908~~] [63N-2-808](#).

2030 (5) An eligible business entity or a pass-through entity taxpayer may not:

2031 (a) carry forward or carry back a tax credit under this section; or

2032 (b) claim a tax credit under both this section and Section [59-7-614.6](#).

2033 Section 33. Section **59-10-1110** is amended to read:

2034 **59-10-1110. Refundable tax credit for certain business entities.**

2035 (1) As used in this section:

2036 (a) "Office" means the Governor's Office of Economic Development.

2037 (b) "Pass-through entity" has the same meaning as defined in Section [59-10-1402](#).

2038 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
2039 [59-10-1402](#).

2040 (d) "Tax credit certificate" has the same meaning as defined in Section [~~63M-1-3402~~]
2041 [63N-2-502](#).

2042 (e) "Tax credit recipient" has the same meaning as defined in Section [~~63M-1-3402~~]
2043 [63N-2-502](#).

2044 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
2045 refundable tax credit as provided in Subsection (3).

2046 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
2047 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
2048 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
2049 refundable tax credit that the tax credit recipient could otherwise claim under this section.

2050 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
2051 credit certificate that the office issues to the tax credit recipient for the taxable year.

2052 (4) A tax credit recipient:

2053 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
2054 during which the tax credit recipient has been issued a tax credit certificate; and

2055 (b) may not claim a tax credit under both this section and Section 59-7-616.

2056 (5) (a) In accordance with any rules prescribed by the commission under Subsection
2057 (5)(b), the commission shall:

2058 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
2059 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
2060 and

2061 (ii) transfer at least annually from the General Fund into the Education Fund an amount
2062 equal to the amount of tax credit claimed under this section.

2063 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2064 commission may make rules providing procedures for making:

2065 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
2066 Subsection (5)(a)(i); or

2067 (ii) transfers from the General Fund into the Education Fund as required by Subsection
2068 (5)(a)(ii).

2069 Section 34. Section 59-12-103 is amended to read:

2070 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
2071 **tax revenues.**

2072 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
2073 charged for the following transactions:

- 2074 (a) retail sales of tangible personal property made within the state;
- 2075 (b) amounts paid for:
 - 2076 (i) telecommunications service, other than mobile telecommunications service, that
 - 2077 originates and terminates within the boundaries of this state;
 - 2078 (ii) mobile telecommunications service that originates and terminates within the
 - 2079 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 2080 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - 2081 (iii) an ancillary service associated with a:
 - 2082 (A) telecommunications service described in Subsection (1)(b)(i); or
 - 2083 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
 - 2084 (c) sales of the following for commercial use:
 - 2085 (i) gas;
 - 2086 (ii) electricity;
 - 2087 (iii) heat;
 - 2088 (iv) coal;
 - 2089 (v) fuel oil; or
 - 2090 (vi) other fuels;
 - 2091 (d) sales of the following for residential use:
 - 2092 (i) gas;
 - 2093 (ii) electricity;
 - 2094 (iii) heat;
 - 2095 (iv) coal;
 - 2096 (v) fuel oil; or
 - 2097 (vi) other fuels;
 - 2098 (e) sales of prepared food;
 - 2099 (f) except as provided in Section [59-12-104](#), amounts paid or charged as admission or
 - 2100 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
 - 2101 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

2102 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2103 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2104 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2105 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2106 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2107 exhibition, cultural, or athletic activity;

2108 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2109 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

2110 (i) the tangible personal property; and

2111 (ii) parts used in the repairs or renovations of the tangible personal property described
2112 in Subsection (1)(g)(i), regardless of whether:

2113 (A) any parts are actually used in the repairs or renovations of that tangible personal
2114 property; or

2115 (B) the particular parts used in the repairs or renovations of that tangible personal
2116 property are exempt from a tax under this chapter;

2117 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2118 assisted cleaning or washing of tangible personal property;

2119 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2120 accommodations and services that are regularly rented for less than 30 consecutive days;

2121 (j) amounts paid or charged for laundry or dry cleaning services;

2122 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2123 this state the tangible personal property is:

2124 (i) stored;

2125 (ii) used; or

2126 (iii) otherwise consumed;

2127 (l) amounts paid or charged for tangible personal property if within this state the
2128 tangible personal property is:

2129 (i) stored;

- 2130 (ii) used; or
- 2131 (iii) consumed; and
- 2132 (m) amounts paid or charged for a sale:
- 2133 (i) (A) of a product transferred electronically; or
- 2134 (B) of a repair or renovation of a product transferred electronically; and
- 2135 (ii) regardless of whether the sale provides:
- 2136 (A) a right of permanent use of the product; or
- 2137 (B) a right to use the product that is less than a permanent use, including a right:
- 2138 (I) for a definite or specified length of time; and
- 2139 (II) that terminates upon the occurrence of a condition.
- 2140 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 2141 is imposed on a transaction described in Subsection (1) equal to the sum of:
- 2142 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 2143 (A) 4.70%; and
- 2144 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 2145 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
- 2146 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional
- 2147 State Sales and Use Tax Act; and
- 2148 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 2149 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)
- 2150 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state
- 2151 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 2152 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 2153 transaction under this chapter other than this part.
- 2154 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 2155 on a transaction described in Subsection (1)(d) equal to the sum of:
- 2156 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 2157 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

2158 transaction under this chapter other than this part.

2159 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
2160 on amounts paid or charged for food and food ingredients equal to the sum of:

2161 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
2162 a tax rate of 1.75%; and

2163 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
2164 amounts paid or charged for food and food ingredients under this chapter other than this part.

2165 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
2166 tangible personal property other than food and food ingredients, a state tax and a local tax is
2167 imposed on the entire bundled transaction equal to the sum of:

2168 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

2169 (I) the tax rate described in Subsection (2)(a)(i)(A); and

2170 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
2171 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2172 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
2173 Additional State Sales and Use Tax Act; and

2174 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
2175 Sales and Use Tax Act, if the location of the transaction as determined under Sections
2176 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
2177 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

2178 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
2179 described in Subsection (2)(a)(ii).

2180 (ii) If an optional computer software maintenance contract is a bundled transaction that
2181 consists of taxable and nontaxable products that are not separately itemized on an invoice or
2182 similar billing document, the purchase of the optional computer software maintenance contract
2183 is 40% taxable under this chapter and 60% nontaxable under this chapter.

2184 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
2185 transaction described in Subsection (2)(d)(i) or (ii):

2186 (A) if the sales price of the bundled transaction is attributable to tangible personal
2187 property, a product, or a service that is subject to taxation under this chapter and tangible
2188 personal property, a product, or service that is not subject to taxation under this chapter, the
2189 entire bundled transaction is subject to taxation under this chapter unless:

2190 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2191 personal property, product, or service that is not subject to taxation under this chapter from the
2192 books and records the seller keeps in the seller's regular course of business; or

2193 (II) state or federal law provides otherwise; or

2194 (B) if the sales price of a bundled transaction is attributable to two or more items of
2195 tangible personal property, products, or services that are subject to taxation under this chapter
2196 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
2197 higher tax rate unless:

2198 (I) the seller is able to identify by reasonable and verifiable standards the tangible
2199 personal property, product, or service that is subject to taxation under this chapter at the lower
2200 tax rate from the books and records the seller keeps in the seller's regular course of business; or

2201 (II) state or federal law provides otherwise.

2202 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
2203 seller's regular course of business includes books and records the seller keeps in the regular
2204 course of business for nontax purposes.

2205 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
2206 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
2207 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
2208 of tangible personal property, other property, a product, or a service that is not subject to
2209 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
2210 the seller, at the time of the transaction:

2211 (A) separately states the portion of the transaction that is not subject to taxation under
2212 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

2213 (B) is able to identify by reasonable and verifiable standards, from the books and

2214 records the seller keeps in the seller's regular course of business, the portion of the transaction
2215 that is not subject to taxation under this chapter.

2216 (ii) A purchaser and a seller may correct the taxability of a transaction if:

2217 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
2218 the transaction that is not subject to taxation under this chapter was not separately stated on an
2219 invoice, bill of sale, or similar document provided to the purchaser because of an error or
2220 ignorance of the law; and

2221 (B) the seller is able to identify by reasonable and verifiable standards, from the books
2222 and records the seller keeps in the seller's regular course of business, the portion of the
2223 transaction that is not subject to taxation under this chapter.

2224 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
2225 in the seller's regular course of business includes books and records the seller keeps in the
2226 regular course of business for nontax purposes.

2227 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
2228 personal property, products, or services that are subject to taxation under this chapter at
2229 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
2230 unless the seller, at the time of the transaction:

2231 (A) separately states the items subject to taxation under this chapter at each of the
2232 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

2233 (B) is able to identify by reasonable and verifiable standards the tangible personal
2234 property, product, or service that is subject to taxation under this chapter at the lower tax rate
2235 from the books and records the seller keeps in the seller's regular course of business.

2236 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
2237 seller's regular course of business includes books and records the seller keeps in the regular
2238 course of business for nontax purposes.

2239 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
2240 rate imposed under the following shall take effect on the first day of a calendar quarter:

2241 (i) Subsection (2)(a)(i)(A);

- 2242 (ii) Subsection (2)(b)(i);
- 2243 (iii) Subsection (2)(c)(i); or
- 2244 (iv) Subsection (2)(d)(i)(A)(I).
- 2245 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
- 2246 begins on or after the effective date of the tax rate increase if the billing period for the
- 2247 transaction begins before the effective date of a tax rate increase imposed under:
 - 2248 (A) Subsection (2)(a)(i)(A);
 - 2249 (B) Subsection (2)(b)(i);
 - 2250 (C) Subsection (2)(c)(i); or
 - 2251 (D) Subsection (2)(d)(i)(A)(I).
- 2252 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
- 2253 statement for the billing period is rendered on or after the effective date of the repeal of the tax
- 2254 or the tax rate decrease imposed under:
 - 2255 (A) Subsection (2)(a)(i)(A);
 - 2256 (B) Subsection (2)(b)(i);
 - 2257 (C) Subsection (2)(c)(i); or
 - 2258 (D) Subsection (2)(d)(i)(A)(I).
- 2259 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
- 2260 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
- 2261 change in a tax rate takes effect:
 - 2262 (A) on the first day of a calendar quarter; and
 - 2263 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 2264 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
 - 2265 (A) Subsection (2)(a)(i)(A);
 - 2266 (B) Subsection (2)(b)(i);
 - 2267 (C) Subsection (2)(c)(i); or
 - 2268 (D) Subsection (2)(d)(i)(A)(I).
- 2269 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

2270 the commission may by rule define the term "catalogue sale."
2271 (3) (a) The following state taxes shall be deposited into the General Fund:
2272 (i) the tax imposed by Subsection (2)(a)(i)(A);
2273 (ii) the tax imposed by Subsection (2)(b)(i);
2274 (iii) the tax imposed by Subsection (2)(c)(i); or
2275 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
2276 (b) The following local taxes shall be distributed to a county, city, or town as provided
2277 in this chapter:
2278 (i) the tax imposed by Subsection (2)(a)(ii);
2279 (ii) the tax imposed by Subsection (2)(b)(ii);
2280 (iii) the tax imposed by Subsection (2)(c)(ii); and
2281 (iv) the tax imposed by Subsection (2)(d)(i)(B).
2282 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2283 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
2284 through (g):
2285 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
2286 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
2287 (B) for the fiscal year; or
2288 (ii) \$17,500,000.
2289 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
2290 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
2291 Department of Natural Resources to:
2292 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
2293 protect sensitive plant and animal species; or
2294 (B) award grants, up to the amount authorized by the Legislature in an appropriations
2295 act, to political subdivisions of the state to implement the measures described in Subsections
2296 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
2297 (ii) Money transferred to the Department of Natural Resources under Subsection

2298 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
2299 person to list or attempt to have listed a species as threatened or endangered under the
2300 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

2301 (iii) At the end of each fiscal year:

2302 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2303 Conservation and Development Fund created in Section 73-10-24;

2304 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2305 Program Subaccount created in Section 73-10c-5; and

2306 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2307 Program Subaccount created in Section 73-10c-5.

2308 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
2309 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
2310 created in Section 4-18-106.

2311 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
2312 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
2313 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
2314 water rights.

2315 (ii) At the end of each fiscal year:

2316 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
2317 Conservation and Development Fund created in Section 73-10-24;

2318 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
2319 Program Subaccount created in Section 73-10c-5; and

2320 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
2321 Program Subaccount created in Section 73-10c-5.

2322 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
2323 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
2324 Fund created in Section 73-10-24 for use by the Division of Water Resources.

2325 (ii) In addition to the uses allowed of the Water Resources Conservation and

2326 Development Fund under Section 73-10-24, the Water Resources Conservation and
2327 Development Fund may also be used to:

2328 (A) conduct hydrologic and geotechnical investigations by the Division of Water
2329 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
2330 quantifying surface and ground water resources and describing the hydrologic systems of an
2331 area in sufficient detail so as to enable local and state resource managers to plan for and
2332 accommodate growth in water use without jeopardizing the resource;

2333 (B) fund state required dam safety improvements; and

2334 (C) protect the state's interest in interstate water compact allocations, including the
2335 hiring of technical and legal staff.

2336 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2337 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
2338 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

2339 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
2340 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
2341 created in Section 73-10c-5 for use by the Division of Drinking Water to:

2342 (i) provide for the installation and repair of collection, treatment, storage, and
2343 distribution facilities for any public water system, as defined in Section 19-4-102;

2344 (ii) develop underground sources of water, including springs and wells; and

2345 (iii) develop surface water sources.

2346 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2347 2006, the difference between the following amounts shall be expended as provided in this
2348 Subsection (5), if that difference is greater than \$1:

2349 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
2350 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

2351 (ii) \$17,500,000.

2352 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

2353 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

2354 credits; and

2355 (B) expended by the Department of Natural Resources for watershed rehabilitation or
2356 restoration.

2357 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2358 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
2359 created in Section 73-10-24.

2360 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
2361 remaining difference described in Subsection (5)(a) shall be:

2362 (A) transferred each fiscal year to the Division of Water Resources as dedicated
2363 credits; and

2364 (B) expended by the Division of Water Resources for cloud-seeding projects
2365 authorized by Title 73, Chapter 15, Modification of Weather.

2366 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
2367 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
2368 created in Section 73-10-24.

2369 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
2370 remaining difference described in Subsection (5)(a) shall be deposited into the Water
2371 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
2372 Division of Water Resources for:

2373 (i) preconstruction costs:

2374 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
2375 26, Bear River Development Act; and

2376 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
2377 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

2378 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
2379 Chapter 26, Bear River Development Act;

2380 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
2381 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

2382 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
2383 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

2384 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
2385 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
2386 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
2387 incurred for employing additional technical staff for the administration of water rights.

2388 (f) At the end of each fiscal year, any unexpended dedicated credits described in
2389 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
2390 Fund created in Section 73-10-24.

2391 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2392 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
2393 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
2394 the Transportation Fund created by Section 72-2-102.

2395 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
2396 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
2397 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
2398 by a 1/64% tax rate on the taxable transactions under Subsection (1).

2399 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
2400 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
2401 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2402 created by Section 72-2-124:

2403 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
2404 the revenues collected from the following taxes, which represents a portion of the
2405 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
2406 on vehicles and vehicle-related products:

2407 (A) the tax imposed by Subsection (2)(a)(i)(A);

2408 (B) the tax imposed by Subsection (2)(b)(i);

2409 (C) the tax imposed by Subsection (2)(c)(i); and

2410 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
2411 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
2412 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
2413 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
2414 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

2415 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
2416 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
2417 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
2418 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
2419 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
2420 (8)(a) equal to the product of:

2421 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
2422 previous fiscal year; and

2423 (B) the total sales and use tax revenue generated by the taxes described in Subsections
2424 (8)(a)(i)(A) through (D) in the current fiscal year.

2425 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
2426 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
2427 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
2428 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
2429 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

2430 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
2431 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
2432 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
2433 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
2434 current fiscal year under Subsection (8)(a).

2435 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
2436 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
2437 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under

2438 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
2439 [72-2-124](#).

2440 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
2441 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
2442 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

2443 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
2444 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
2445 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
2446 created by Section [72-2-124](#) the amount of tax revenue generated by a .025% tax rate on the
2447 transactions described in Subsection (1).

2448 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
2449 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
2450 charged for food and food ingredients, except for tax revenue generated by a bundled
2451 transaction attributable to food and food ingredients and tangible personal property other than
2452 food and food ingredients described in Subsection (2)(d).

2453 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
2454 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
2455 Transportation Fund created by Section [72-2-102](#) the amount of tax revenue generated by a
2456 .025% tax rate on the transactions described in Subsection (1) to be expended to address
2457 chokepoints in construction management.

2458 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
2459 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
2460 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
2461 and food ingredients and tangible personal property other than food and food ingredients
2462 described in Subsection (2)(d).

2463 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
2464 fiscal year during which the Division of Finance receives notice under Subsection
2465 [~~63M-1-3410~~] [63N-2-510](#)(3) that construction on a qualified hotel, as defined in Section

2466 [63M-1-3402] [63N-2-502](#), has begun, the Division of Finance shall, for two consecutive fiscal
2467 years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under
2468 Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section [63M-1-3412]
2469 [63N-2-512](#).

2470 (14) Notwithstanding Subsections (4) through (13), an amount required to be expended
2471 or deposited in accordance with Subsections (4) through (13) may not include an amount the
2472 Division of Finance deposits in accordance with Section [59-12-103.2](#).

2473 Section 35. Section **59-12-301** is amended to read:

2474 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
2475 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

2476 (1) (a) A county legislative body may impose a tax on charges for the accommodations
2477 and services described in Subsection [59-12-103\(1\)\(i\)](#) at a rate of not to exceed 4.25%
2478 beginning on or after October 1, 2006.

2479 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
2480 Subsection (1)(a) shall be used for the purposes listed in Section [17-31-2](#).

2481 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
2482 under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

2483 (2) If a county legislative body of a county of the first class imposes a tax under this
2484 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
2485 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

2486 (a) deposited into the Transient Room Tax Fund created by Section [63M-1-2203]
2487 [63N-3-403](#); and

2488 (b) expended as provided in Section [63M-1-2203] [63N-3-403](#).

2489 (3) Subject to Subsection (4), a county legislative body:

2490 (a) may increase or decrease the tax authorized under this part; and

2491 (b) shall regulate the tax authorized under this part by ordinance.

2492 (4) (a) For purposes of this Subsection (4):

2493 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County

2494 Consolidations and Annexations.

2495 (ii) "Annexing area" means an area that is annexed into a county.

2496 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
2497 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
2498 change shall take effect:

2499 (A) on the first day of a calendar quarter; and

2500 (B) after a 90-day period beginning on the date the commission receives notice meeting
2501 the requirements of Subsection (4)(b)(ii) from the county.

2502 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

2503 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

2504 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

2505 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

2506 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2507 (4)(b)(ii)(A), the rate of the tax.

2508 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2509 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2510 first billing period:

2511 (A) that begins after the effective date of the enactment of the tax or the tax rate
2512 increase; and

2513 (B) if the billing period for the transaction begins before the effective date of the
2514 enactment of the tax or the tax rate increase imposed under this section.

2515 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
2516 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2517 billing period:

2518 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2519 and

2520 (B) if the billing period for the transaction begins before the effective date of the repeal
2521 of the tax or the tax rate decrease imposed under this section.

2522 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
2523 Subsection 59-12-103(1)(i).

2524 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
2525 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
2526 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

2527 (A) on the first day of a calendar quarter; and

2528 (B) after a 90-day period beginning on the date the commission receives notice meeting
2529 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

2530 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

2531 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
2532 repeal, or change in the rate of a tax under this part for the annexing area;

2533 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

2534 (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

2535 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
2536 (4)(d)(ii)(A), the rate of the tax.

2537 (e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2538 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
2539 first billing period:

2540 (A) that begins after the effective date of the enactment of the tax or the tax rate
2541 increase; and

2542 (B) if the billing period for the transaction begins before the effective date of the
2543 enactment of the tax or the tax rate increase imposed under this section.

2544 (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
2545 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
2546 billing period:

2547 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
2548 and

2549 (B) if the billing period for the transaction begins before the effective date of the repeal

2550 of the tax or the tax rate decrease imposed under this section.

2551 (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under
2552 Subsection 59-12-103(1)(i).

2553 Section 36. Section 63A-3-402 is amended to read:

2554 **63A-3-402. Utah Public Finance Website -- Establishment and administration --**
2555 **Records disclosure -- Exceptions.**

2556 (1) There is created the Utah Public Finance Website to be administered by the
2557 Division of Finance with the technical assistance of the Department of Technology Services.

2558 (2) The Utah Public Finance Website shall:

2559 (a) permit Utah taxpayers to:

2560 (i) view, understand, and track the use of taxpayer dollars by making public financial
2561 information available on the Internet for participating state entities, independent entities, and
2562 participating local entities, using the Utah Public Finance Website; and

2563 (ii) link to websites administered by participating local entities or independent entities
2564 that do not use the Utah Public Finance Website for the purpose of providing participating
2565 local entities' or independent entities' public financial information as required by this part and
2566 by rule under Section 63A-3-404;

2567 (b) allow a person who has Internet access to use the website without paying a fee;

2568 (c) allow the public to search public financial information on the Utah Public Finance
2569 Website using criteria established by the board;

2570 (d) provide access to financial reports, financial audits, budgets, or other financial
2571 documents that are used to allocate, appropriate, spend, and account for government funds, as
2572 may be established by rule under Section 63A-3-404;

2573 (e) have a unique and simplified website address;

2574 (f) be directly accessible via a link from the main page of the official state website;

2575 (g) include other links, features, or functionality that will assist the public in obtaining
2576 and reviewing public financial information, as may be established by rule under Section
2577 63A-3-404; and

2578 (h) include a link to school report cards published on the State Board of Education's
2579 website pursuant to Section [53A-1-1112](#).

2580 (3) The division shall:

2581 (a) establish and maintain the website, including the provision of equipment, resources,
2582 and personnel as necessary;

2583 (b) maintain an archive of all information posted to the website;

2584 (c) coordinate and process the receipt and posting of public financial information from
2585 participating state entities;

2586 (d) coordinate and regulate the posting of public financial information by participating
2587 local entities and independent entities; and

2588 (e) provide staff support for the advisory committee.

2589 (4) (a) A participating state entity and each independent entity shall permit the public
2590 to view the entity's public financial information via the website, beginning with information
2591 that is generated not later than the fiscal year that begins July 1, 2008, except that public
2592 financial information for an:

2593 (i) institution of higher education shall be provided beginning with information
2594 generated for the fiscal year beginning July 1, 2009; and

2595 (ii) independent entity shall be provided beginning with information generated for the
2596 entity's fiscal year beginning in 2014.

2597 (b) No later than May 15, 2009, the website shall:

2598 (i) be operational; and

2599 (ii) permit public access to participating state entities' public financial information,
2600 except as provided in Subsections (4)(c) and (d).

2601 (c) An institution of higher education that is a participating state entity shall submit the
2602 entity's public financial information at a time allowing for inclusion on the website no later
2603 than May 15, 2010.

2604 (d) No later than the first full quarter after July 1, 2014, an independent entity shall
2605 submit the entity's public financial information for inclusion on the Utah Public Finance

2606 Website or via a link to its own website on the Utah Public Finance Website.

2607 (5) (a) The Utah Educational Savings Plan, created in Section [53B-8a-103](#), shall
2608 provide the following financial information to the division for posting on the Utah Public
2609 Finance Website:

2610 (i) administrative fund expense transactions from its general ledger accounting system;
2611 and

2612 (ii) employee compensation information.

2613 (b) The plan is not required to submit other financial information to the division,
2614 including:

2615 (i) revenue transactions;

2616 (ii) account owner transactions; and

2617 (iii) fiduciary or commercial information, as defined in Section [53B-12-102](#).

2618 (6) (a) The following independent entities shall each provide administrative expense
2619 transactions from its general ledger accounting system and employee compensation
2620 information to the division for posting on the Utah Public Finance Website or via a link to a
2621 website administered by the independent entity:

2622 (i) the Utah Capital Investment Corporation, created in Section [~~63M-1-1207~~]
2623 [63N-6-301](#);

2624 (ii) the Utah Housing Corporation, created in Section [35A-8-704](#); and

2625 (iii) the School and Institutional Trust Lands Administration, created in Section
2626 [53C-1-201](#).

2627 (b) For purposes of this part, an independent entity described in Subsection (6)(a) is not
2628 required to submit to the division, or provide a link to, other financial information, including:

2629 (i) revenue transactions of a fund or account created in its enabling statute;

2630 (ii) fiduciary or commercial information related to any subject if the disclosure of the
2631 information:

2632 (A) would conflict with fiduciary obligations; or

2633 (B) is prohibited by insider trading provisions;

- 2634 (iii) information of a commercial nature, including information related to:
- 2635 (A) account owners, borrowers, and dependents;
- 2636 (B) demographic data;
- 2637 (C) contracts and related payments;
- 2638 (D) negotiations;
- 2639 (E) proposals or bids;
- 2640 (F) investments;
- 2641 (G) the investment and management of funds;
- 2642 (H) fees and charges;
- 2643 (I) plan and program design;
- 2644 (J) investment options and underlying investments offered to account owners;
- 2645 (K) marketing and outreach efforts;
- 2646 (L) lending criteria;
- 2647 (M) the structure and terms of bonding; and
- 2648 (N) financial plans or strategies; and
- 2649 (iv) information protected from public disclosure by federal law.
- 2650 (7) (a) As used in this Subsection (7):
- 2651 (i) "Local education agency" means a school district or a charter school.
- 2652 (ii) "New school building project" means the construction of a school that did not
- 2653 previously exist in a local education agency.
- 2654 (iii) "Significant school remodel" means the upgrading, changing, alteration,
- 2655 refurbishment, modification, or complete substitution of an existing school in a local education
- 2656 agency with a project cost equal to or in excess of \$2,000,000.
- 2657 (b) For each new school building project or significant school remodel, the local
- 2658 education agency shall:
- 2659 (i) prepare an annual school plant capital outlay report; and
- 2660 (ii) submit the report:
- 2661 (A) to the division for publication on the Utah Public Finance Website; and

2662 (B) in a format, including any raw data or electronic formatting, prescribed by
2663 applicable division policy.

2664 (c) The local education agency shall include in the capital outlay report described in
2665 Subsection (7)(b)(i) the following information as applicable to each new school building
2666 project or significant school remodel:

- 2667 (i) the name and location of the project or remodel;
- 2668 (ii) construction and design costs, including:
 - 2669 (A) the purchase price or lease terms of any real property acquired or leased for the
2670 project or remodel;
 - 2671 (B) facility construction;
 - 2672 (C) facility and landscape design;
 - 2673 (D) applicable impact fees; and
 - 2674 (E) furnishings and equipment;
- 2675 (iii) the gross square footage of the project or remodel;
- 2676 (iv) the year construction was completed; and
- 2677 (v) the final student capacity of the new school building project or, for a significant
2678 school remodel, the increase or decrease in student capacity created by the remodel.

2679 (d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c),
2680 the local education agency shall report the actual cost, fee, or other expense.

2681 (ii) The division may require that a local education agency provide further itemized
2682 data on information listed in Subsection (7)(c).

2683 (e) (i) No later than May 15, 2015, a local education agency shall provide the division a
2684 school plant capital outlay report for each new school building project and significant school
2685 remodel completed on or after July 1, 2004, and before May 13, 2014.

2686 (ii) For a new school building project or significant school remodel completed after
2687 May 13, 2014, the local education agency shall provide the school plant capital outlay report
2688 described in this Subsection (7) to the division annually by a date designated by the division.

2689 (8) A person who negligently discloses a record that is classified as private, protected,

2690 or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is
2691 not criminally or civilly liable for an improper disclosure of the record if the record is disclosed
2692 solely as a result of the preparation or publication of the Utah Public Finance Website.

2693 Section 37. Section **63E-1-102** is amended to read:

2694 **63E-1-102. Definitions -- List of independent entities.**

2695 As used in this title:

2696 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

2697 (2) "Committee" means the Retirement and Independent Entities Committee created by
2698 Section **63E-1-201**.

2699 (3) "Independent corporation" means a corporation incorporated in accordance with
2700 Chapter 2, Independent Corporations Act.

2701 (4) (a) "Independent entity" means an entity having a public purpose relating to the
2702 state or its citizens that is individually created by the state or is given by the state the right to
2703 exist and conduct its affairs as an:

2704 (i) independent state agency; or

2705 (ii) independent corporation.

2706 (b) "Independent entity" includes the:

2707 (i) Utah Dairy Commission created by Section **4-22-2**;

2708 (ii) Heber Valley Historic Railroad Authority created by Section **63H-4-102**;

2709 (iii) Utah State Railroad Museum Authority created by Section **63H-5-102**;

2710 (iv) Utah Science Center Authority created by Section **63H-3-103**;

2711 (v) Utah Housing Corporation created by Section **35A-8-704**;

2712 (vi) Utah State Fair Corporation created by Section **63H-6-103**;

2713 (vii) Workers' Compensation Fund created by Section **31A-33-102**;

2714 (viii) Utah State Retirement Office created by Section **49-11-201**;

2715 (ix) School and Institutional Trust Lands Administration created by Section
2716 **53C-1-201**;

2717 (x) School and Institutional Trust Fund Office created by Section **53D-1-201**;

- 2718 (xi) Utah Communications Authority created in Section [63H-7-201](#);
- 2719 (xii) Utah Energy Infrastructure Authority created by Section [63H-2-201](#);
- 2720 (xiii) Utah Capital Investment Corporation created by Section [~~[63M-1-1207](#)~~]
- 2721 [63N-6-301](#); and
- 2722 (xiv) Military Installation Development Authority created by Section [63H-1-201](#).
- 2723 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
- 2724 (i) the Public Service Commission of Utah created by Section [54-1-1](#);
- 2725 (ii) an institution within the state system of higher education;
- 2726 (iii) a city, county, or town;
- 2727 (iv) a local school district;
- 2728 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
- 2729 Districts; or
- 2730 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.
- 2731 (5) "Independent state agency" means an entity that is created by the state, but is
- 2732 independent of the governor's direct supervisory control.
- 2733 (6) "Money held in trust" means money maintained for the benefit of:
- 2734 (a) one or more private individuals, including public employees;
- 2735 (b) one or more public or private entities; or
- 2736 (c) the owners of a quasi-public corporation.
- 2737 (7) "Public corporation" means an artificial person, public in ownership, individually
- 2738 created by the state as a body politic and corporate for the administration of a public purpose
- 2739 relating to the state or its citizens.
- 2740 (8) "Quasi-public corporation" means an artificial person, private in ownership,
- 2741 individually created as a corporation by the state which has accepted from the state the grant of
- 2742 a franchise or contract involving the performance of a public purpose relating to the state or its
- 2743 citizens.
- 2744 Section 38. Section **63F-1-205** is amended to read:
- 2745 **63F-1-205. Approval of acquisitions of information technology.**

2746 (1) (a) Except as provided in Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 13, Part ~~[26]~~ 2,
2747 Government Procurement Private Proposal Program, in accordance with Subsection (2), the
2748 chief information officer shall approve the acquisition by an executive branch agency of:

- 2749 (i) information technology equipment;
- 2750 (ii) telecommunications equipment;
- 2751 (iii) software;
- 2752 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
- 2753 (v) data acquisition.

2754 (b) The chief information officer may negotiate the purchase, lease, or rental of private
2755 or public information technology or telecommunication services or facilities in accordance with
2756 this section.

2757 (c) Where practical, efficient, and economically beneficial, the chief information
2758 officer shall use existing private and public information technology or telecommunication
2759 resources.

2760 (d) Notwithstanding another provision of this section, an acquisition authorized by this
2761 section shall comply with rules made by the applicable rulemaking authority under Title 63G,
2762 Chapter 6a, Utah Procurement Code.

2763 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount
2764 that exceeds the value established by the chief information officer by rule in accordance with
2765 Section [63F-1-206](#), the chief information officer shall:

2766 (a) conduct an analysis of the needs of executive branch agencies and subscribers of
2767 services and the ability of the proposed information technology or telecommunications services
2768 or supplies to meet those needs; and

2769 (b) for purchases, leases, or rentals not covered by an existing statewide contract,
2770 provide in writing to the chief procurement officer in the Division of Purchasing and General
2771 Services that:

- 2772 (i) the analysis required in Subsection (2)(a) was completed; and
- 2773 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of

2774 services, products, or supplies is practical, efficient, and economically beneficial to the state
2775 and the executive branch agency or subscriber of services.

2776 (3) In approving an acquisition described in Subsections (1) and (2), the chief
2777 information officer shall:

2778 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards
2779 under which an agency must obtain approval from the chief information officer before
2780 acquiring the items listed in Subsections (1) and (2);

2781 (b) for those acquisitions requiring approval, determine whether the acquisition is in
2782 compliance with:

2783 (i) the executive branch strategic plan;

2784 (ii) the applicable agency information technology plan;

2785 (iii) the budget for the executive branch agency or department as adopted by the
2786 Legislature; and

2787 (iv) Title 63G, Chapter 6a, Utah Procurement Code; and

2788 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between
2789 two or more executive branch agencies if it is in the best interests of the state.

2790 (4) (a) Each executive branch agency shall provide the chief information officer with
2791 complete access to all information technology records, documents, and reports:

2792 (i) at the request of the chief information officer; and

2793 (ii) related to the executive branch agency's acquisition of any item listed in Subsection
2794 (1).

2795 (b) Beginning July 1, 2006 and in accordance with administrative rules established by
2796 the department under Section 63F-1-206, no new technology projects may be initiated by an
2797 executive branch agency or the department unless the technology project is described in a
2798 formal project plan and the business case analysis has been approved by the chief information
2799 officer and agency head. The project plan and business case analysis required by this
2800 Subsection (4) shall be in the form required by the chief information officer, and shall include:

2801 (i) a statement of work to be done and existing work to be modified or displaced;

2802 (ii) total cost of system development and conversion effort, including system analysis
2803 and programming costs, establishment of master files, testing, documentation, special
2804 equipment cost and all other costs, including overhead;

2805 (iii) savings or added operating costs that will result after conversion;

2806 (iv) other advantages or reasons that justify the work;

2807 (v) source of funding of the work, including ongoing costs;

2808 (vi) consistency with budget submissions and planning components of budgets; and

2809 (vii) whether the work is within the scope of projects or initiatives envisioned when the
2810 current fiscal year budget was approved.

2811 (5) (a) The chief information officer and the Division of Purchasing and General
2812 Services shall work cooperatively to establish procedures under which the chief information
2813 officer shall monitor and approve acquisitions as provided in this section.

2814 (b) The procedures established under this section shall include at least the written
2815 certification required by Subsection 63G-6a-303(1)(e).

2816 Section 39. Section 63G-2-305 is amended to read:

2817 **63G-2-305. Protected records.**

2818 The following records are protected if properly classified by a governmental entity:

2819 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
2820 has provided the governmental entity with the information specified in Section 63G-2-309;

2821 (2) commercial information or nonindividual financial information obtained from a
2822 person if:

2823 (a) disclosure of the information could reasonably be expected to result in unfair
2824 competitive injury to the person submitting the information or would impair the ability of the
2825 governmental entity to obtain necessary information in the future;

2826 (b) the person submitting the information has a greater interest in prohibiting access
2827 than the public in obtaining access; and

2828 (c) the person submitting the information has provided the governmental entity with
2829 the information specified in Section 63G-2-309;

2830 (3) commercial or financial information acquired or prepared by a governmental entity
2831 to the extent that disclosure would lead to financial speculations in currencies, securities, or
2832 commodities that will interfere with a planned transaction by the governmental entity or cause
2833 substantial financial injury to the governmental entity or state economy;

2834 (4) records, the disclosure of which could cause commercial injury to, or confer a
2835 competitive advantage upon a potential or actual competitor of, a commercial project entity as
2836 defined in Subsection 11-13-103(4);

2837 (5) test questions and answers to be used in future license, certification, registration,
2838 employment, or academic examinations;

2839 (6) records, the disclosure of which would impair governmental procurement
2840 proceedings or give an unfair advantage to any person proposing to enter into a contract or
2841 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
2842 Subsection (6) does not restrict the right of a person to have access to, after the contract or
2843 grant has been awarded and signed by all parties, a bid, proposal, application, or other
2844 information submitted to or by a governmental entity in response to:

2845 (a) an invitation for bids;

2846 (b) a request for proposals;

2847 (c) a request for quotes;

2848 (d) a grant; or

2849 (e) other similar document;

2850 (7) information submitted to or by a governmental entity in response to a request for
2851 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
2852 the right of a person to have access to the information, after:

2853 (a) a contract directly relating to the subject of the request for information has been
2854 awarded and signed by all parties; or

2855 (b) (i) a final determination is made not to enter into a contract that relates to the
2856 subject of the request for information; and

2857 (ii) at least two years have passed after the day on which the request for information is

2858 issued;

2859 (8) records that would identify real property or the appraisal or estimated value of real
2860 or personal property, including intellectual property, under consideration for public acquisition
2861 before any rights to the property are acquired unless:

2862 (a) public interest in obtaining access to the information is greater than or equal to the
2863 governmental entity's need to acquire the property on the best terms possible;

2864 (b) the information has already been disclosed to persons not employed by or under a
2865 duty of confidentiality to the entity;

2866 (c) in the case of records that would identify property, potential sellers of the described
2867 property have already learned of the governmental entity's plans to acquire the property;

2868 (d) in the case of records that would identify the appraisal or estimated value of
2869 property, the potential sellers have already learned of the governmental entity's estimated value
2870 of the property; or

2871 (e) the property under consideration for public acquisition is a single family residence
2872 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
2873 the property as required under Section [78B-6-505](#);

2874 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
2875 compensated transaction of real or personal property including intellectual property, which, if
2876 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
2877 of the subject property, unless:

2878 (a) the public interest in access is greater than or equal to the interests in restricting
2879 access, including the governmental entity's interest in maximizing the financial benefit of the
2880 transaction; or

2881 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
2882 the value of the subject property have already been disclosed to persons not employed by or
2883 under a duty of confidentiality to the entity;

2884 (10) records created or maintained for civil, criminal, or administrative enforcement
2885 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if

2886 release of the records:

2887 (a) reasonably could be expected to interfere with investigations undertaken for
2888 enforcement, discipline, licensing, certification, or registration purposes;

2889 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
2890 proceedings;

2891 (c) would create a danger of depriving a person of a right to a fair trial or impartial
2892 hearing;

2893 (d) reasonably could be expected to disclose the identity of a source who is not
2894 generally known outside of government and, in the case of a record compiled in the course of
2895 an investigation, disclose information furnished by a source not generally known outside of
2896 government if disclosure would compromise the source; or

2897 (e) reasonably could be expected to disclose investigative or audit techniques,
2898 procedures, policies, or orders not generally known outside of government if disclosure would
2899 interfere with enforcement or audit efforts;

2900 (11) records the disclosure of which would jeopardize the life or safety of an
2901 individual;

2902 (12) records the disclosure of which would jeopardize the security of governmental
2903 property, governmental programs, or governmental recordkeeping systems from damage, theft,
2904 or other appropriation or use contrary to law or public policy;

2905 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
2906 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
2907 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

2908 (14) records that, if disclosed, would reveal recommendations made to the Board of
2909 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
2910 Board of Pardons and Parole, or the Department of Human Services that are based on the
2911 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
2912 jurisdiction;

2913 (15) records and audit workpapers that identify audit, collection, and operational

2914 procedures and methods used by the State Tax Commission, if disclosure would interfere with
2915 audits or collections;

2916 (16) records of a governmental audit agency relating to an ongoing or planned audit
2917 until the final audit is released;

2918 (17) records that are subject to the attorney client privilege;

2919 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
2920 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
2921 quasi-judicial, or administrative proceeding;

2922 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
2923 from a member of the Legislature; and

2924 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
2925 legislative action or policy may not be classified as protected under this section; and

2926 (b) (i) an internal communication that is part of the deliberative process in connection
2927 with the preparation of legislation between:

2928 (A) members of a legislative body;

2929 (B) a member of a legislative body and a member of the legislative body's staff; or

2930 (C) members of a legislative body's staff; and

2931 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
2932 legislative action or policy may not be classified as protected under this section;

2933 (20) (a) records in the custody or control of the Office of Legislative Research and
2934 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
2935 legislation or contemplated course of action before the legislator has elected to support the
2936 legislation or course of action, or made the legislation or course of action public; and

2937 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
2938 Office of Legislative Research and General Counsel is a public document unless a legislator
2939 asks that the records requesting the legislation be maintained as protected records until such
2940 time as the legislator elects to make the legislation or course of action public;

2941 (21) research requests from legislators to the Office of Legislative Research and

2942 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
2943 in response to these requests;

2944 (22) drafts, unless otherwise classified as public;

2945 (23) records concerning a governmental entity's strategy about:

2946 (a) collective bargaining; or

2947 (b) imminent or pending litigation;

2948 (24) records of investigations of loss occurrences and analyses of loss occurrences that
2949 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
2950 Uninsured Employers' Fund, or similar divisions in other governmental entities;

2951 (25) records, other than personnel evaluations, that contain a personal recommendation
2952 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
2953 personal privacy, or disclosure is not in the public interest;

2954 (26) records that reveal the location of historic, prehistoric, paleontological, or
2955 biological resources that if known would jeopardize the security of those resources or of
2956 valuable historic, scientific, educational, or cultural information;

2957 (27) records of independent state agencies if the disclosure of the records would
2958 conflict with the fiduciary obligations of the agency;

2959 (28) records of an institution within the state system of higher education defined in
2960 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
2961 retention decisions, and promotions, which could be properly discussed in a meeting closed in
2962 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
2963 the final decisions about tenure, appointments, retention, promotions, or those students
2964 admitted, may not be classified as protected under this section;

2965 (29) records of the governor's office, including budget recommendations, legislative
2966 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
2967 policies or contemplated courses of action before the governor has implemented or rejected
2968 those policies or courses of action or made them public;

2969 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,

2970 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
2971 recommendations in these areas;

2972 (31) records provided by the United States or by a government entity outside the state
2973 that are given to the governmental entity with a requirement that they be managed as protected
2974 records if the providing entity certifies that the record would not be subject to public disclosure
2975 if retained by it;

2976 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
2977 except as provided in Section [52-4-206](#);

2978 (33) records that would reveal the contents of settlement negotiations but not including
2979 final settlements or empirical data to the extent that they are not otherwise exempt from
2980 disclosure;

2981 (34) memoranda prepared by staff and used in the decision-making process by an
2982 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
2983 other body charged by law with performing a quasi-judicial function;

2984 (35) records that would reveal negotiations regarding assistance or incentives offered
2985 by or requested from a governmental entity for the purpose of encouraging a person to expand
2986 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
2987 person or place the governmental entity at a competitive disadvantage, but this section may not
2988 be used to restrict access to a record evidencing a final contract;

2989 (36) materials to which access must be limited for purposes of securing or maintaining
2990 the governmental entity's proprietary protection of intellectual property rights including patents,
2991 copyrights, and trade secrets;

2992 (37) the name of a donor or a prospective donor to a governmental entity, including an
2993 institution within the state system of higher education defined in Section [53B-1-102](#), and other
2994 information concerning the donation that could reasonably be expected to reveal the identity of
2995 the donor, provided that:

2996 (a) the donor requests anonymity in writing;

2997 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be

2998 classified protected by the governmental entity under this Subsection (37); and
2999 (c) except for an institution within the state system of higher education defined in
3000 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
3001 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
3002 over the donor, a member of the donor's immediate family, or any entity owned or controlled
3003 by the donor or the donor's immediate family;
3004 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
3005 73-18-13;
3006 (39) a notification of workers' compensation insurance coverage described in Section
3007 34A-2-205;
3008 (40) (a) the following records of an institution within the state system of higher
3009 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
3010 or received by or on behalf of faculty, staff, employees, or students of the institution:
3011 (i) unpublished lecture notes;
3012 (ii) unpublished notes, data, and information:
3013 (A) relating to research; and
3014 (B) of:
3015 (I) the institution within the state system of higher education defined in Section
3016 53B-1-102; or
3017 (II) a sponsor of sponsored research;
3018 (iii) unpublished manuscripts;
3019 (iv) creative works in process;
3020 (v) scholarly correspondence; and
3021 (vi) confidential information contained in research proposals;
3022 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
3023 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
3024 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
3025 (41) (a) records in the custody or control of the Office of Legislative Auditor General

3026 that would reveal the name of a particular legislator who requests a legislative audit prior to the
3027 date that audit is completed and made public; and

3028 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
3029 Office of the Legislative Auditor General is a public document unless the legislator asks that
3030 the records in the custody or control of the Office of Legislative Auditor General that would
3031 reveal the name of a particular legislator who requests a legislative audit be maintained as
3032 protected records until the audit is completed and made public;

3033 (42) records that provide detail as to the location of an explosive, including a map or
3034 other document that indicates the location of:

3035 (a) a production facility; or

3036 (b) a magazine;

3037 (43) information:

3038 (a) contained in the statewide database of the Division of Aging and Adult Services
3039 created by Section [62A-3-311.1](#); or

3040 (b) received or maintained in relation to the Identity Theft Reporting Information
3041 System (IRIS) established under Section [67-5-22](#);

3042 (44) information contained in the Management Information System and Licensing
3043 Information System described in Title 62A, Chapter 4a, Child and Family Services;

3044 (45) information regarding National Guard operations or activities in support of the
3045 National Guard's federal mission;

3046 (46) records provided by any pawn or secondhand business to a law enforcement
3047 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
3048 Secondhand Merchandise Transaction Information Act;

3049 (47) information regarding food security, risk, and vulnerability assessments performed
3050 by the Department of Agriculture and Food;

3051 (48) except to the extent that the record is exempt from this chapter pursuant to Section
3052 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
3053 prepared or maintained by the Division of Emergency Management, and the disclosure of

3054 which would jeopardize:

3055 (a) the safety of the general public; or

3056 (b) the security of:

3057 (i) governmental property;

3058 (ii) governmental programs; or

3059 (iii) the property of a private person who provides the Division of Emergency

3060 Management information;

3061 (49) records of the Department of Agriculture and Food that provides for the

3062 identification, tracing, or control of livestock diseases, including any program established under

3063 Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of

3064 Animal Disease;

3065 (50) as provided in Section [26-39-501](#):

3066 (a) information or records held by the Department of Health related to a complaint

3067 regarding a child care program or residential child care which the department is unable to

3068 substantiate; and

3069 (b) information or records related to a complaint received by the Department of Health

3070 from an anonymous complainant regarding a child care program or residential child care;

3071 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as

3072 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or

3073 personal mobile phone number, if:

3074 (a) the individual is required to provide the information in order to comply with a law,

3075 ordinance, rule, or order of a government entity; and

3076 (b) the subject of the record has a reasonable expectation that this information will be

3077 kept confidential due to:

3078 (i) the nature of the law, ordinance, rule, or order; and

3079 (ii) the individual complying with the law, ordinance, rule, or order;

3080 (52) the name, home address, work addresses, and telephone numbers of an individual

3081 that is engaged in, or that provides goods or services for, medical or scientific research that is:

- 3082 (a) conducted within the state system of higher education, as defined in Section
3083 [53B-1-102](#); and
- 3084 (b) conducted using animals;
- 3085 (53) an initial proposal under Title [~~63M~~] [63N](#), Chapter [~~1~~] [13](#), Part [~~26~~] [2](#),
3086 Government Procurement Private Proposal Program, to the extent not made public by rules
3087 made under that chapter;
- 3088 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
3089 Evaluation Commission concerning an individual commissioner's vote on whether or not to
3090 recommend that the voters retain a judge;
- 3091 (55) information collected and a report prepared by the Judicial Performance
3092 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
3093 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
3094 the information or report;
- 3095 (56) records contained in the Management Information System created in Section
3096 [62A-4a-1003](#);
- 3097 (57) records provided or received by the Public Lands Policy Coordinating Office in
3098 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);
- 3099 (58) information requested by and provided to the Utah State 911 Committee under
3100 Section [63H-7-303](#);
- 3101 (59) in accordance with Section [73-10-33](#):
- 3102 (a) a management plan for a water conveyance facility in the possession of the Division
3103 of Water Resources or the Board of Water Resources; or
- 3104 (b) an outline of an emergency response plan in possession of the state or a county or
3105 municipality;
- 3106 (60) the following records in the custody or control of the Office of Inspector General
3107 of Medicaid Services, created in Section [63A-13-201](#):
- 3108 (a) records that would disclose information relating to allegations of personal
3109 misconduct, gross mismanagement, or illegal activity of a person if the information or

3110 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
3111 through other documents or evidence, and the records relating to the allegation are not relied
3112 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
3113 report or final audit report;

3114 (b) records and audit workpapers to the extent they would disclose the identity of a
3115 person who, during the course of an investigation or audit, communicated the existence of any
3116 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
3117 regulation adopted under the laws of this state, a political subdivision of the state, or any
3118 recognized entity of the United States, if the information was disclosed on the condition that
3119 the identity of the person be protected;

3120 (c) before the time that an investigation or audit is completed and the final
3121 investigation or final audit report is released, records or drafts circulated to a person who is not
3122 an employee or head of a governmental entity for the person's response or information;

3123 (d) records that would disclose an outline or part of any investigation, audit survey
3124 plan, or audit program; or

3125 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
3126 investigation or audit;

3127 (61) records that reveal methods used by the Office of Inspector General of Medicaid
3128 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
3129 abuse;

3130 (62) information provided to the Department of Health or the Division of Occupational
3131 and Professional Licensing under Subsection [58-68-304](#)(3) or (4);

3132 (63) a record described in Section [63G-12-210](#); and

3133 (64) captured plate data that is obtained through an automatic license plate reader
3134 system used by a governmental entity as authorized in Section [41-6a-2003](#).

3135 Section 40. Section **63G-6a-303** is amended to read:

3136 **63G-6a-303. Duties and authority of chief procurement officer.**

3137 (1) Except as otherwise specifically provided in this chapter, the chief procurement

3138 officer serves as the central procurement officer of the state and shall:

3139 (a) adopt office policies governing the internal functions of the division;

3140 (b) procure or supervise each procurement over which the chief procurement officer

3141 has authority;

3142 (c) establish and maintain programs for the inspection, testing, and acceptance of each

3143 procurement item over which the chief procurement officer has authority;

3144 (d) prepare statistical data concerning each procurement and procurement usage of a

3145 state procurement unit;

3146 (e) ensure that:

3147 (i) before approving a procurement not covered by an existing statewide contract for

3148 information technology or telecommunications supplies or services, the chief information

3149 officer and the agency have stated in writing to the division that the needs analysis required in

3150 Section [63F-1-205](#) was completed, unless the procurement is approved in accordance with

3151 Title ~~[63M]~~ [63N](#), Chapter ~~[1]~~ [13](#), Part ~~[26]~~ [2](#), Government Procurement Private Proposal

3152 Program; and

3153 (ii) the oversight authority required by Subsection (5)(a) is not delegated outside the

3154 division;

3155 (f) provide training to procurement units and to persons who do business with

3156 procurement units;

3157 (g) if the chief procurement officer determines that a procurement over which the chief

3158 procurement officer has authority is out of compliance with this chapter or board rules:

3159 (i) correct or amend the procurement to bring it into compliance; or

3160 (ii) cancel the procurement, if:

3161 (A) it is not feasible to bring the procurement into compliance; or

3162 (B) the chief procurement officer determines that it is in the best interest of the state to

3163 cancel the procurement; and

3164 (h) if the chief procurement officer determines that a contract over which the chief

3165 procurement officer has authority is out of compliance with this chapter or board rules, correct

3166 or amend the contract to bring it into compliance or cancel the contract:

3167 (i) if the chief procurement officer determines that correcting, amending, or canceling
3168 the contract is in the best interest of the state; and

3169 (ii) after consultation with the attorney general's office.

3170 (2) The chief procurement officer may:

3171 (a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any
3172 stage of the procurement process; and

3173 (b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time
3174 during the term of the contract.

3175 Section 41. Section **63G-6a-304** is amended to read:

3176 **63G-6a-304. Delegation of authority.**

3177 (1) In accordance with rules made by the board, the chief procurement officer may
3178 delegate authority to designees or to any department, agency, or official.

3179 (2) For a procurement under Title [~~63M~~] 63N, Chapter [~~+~~] 13, Part [~~26~~] 2, Government
3180 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3181 this section shall be made to the Governor's Office of Economic Development.

3182 Section 42. Section **63G-6a-305** is amended to read:

3183 **63G-6a-305. Duty of chief procurement officer in maintaining specifications.**

3184 (1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the
3185 use of specifications for each procurement over which the chief procurement officer has
3186 authority.

3187 (2) The chief procurement officer shall obtain expert advice and assistance from
3188 personnel of procurement units in the development of specifications and may delegate in
3189 writing to a procurement unit the authority to prepare and utilize its own specifications.

3190 (3) For a procurement under Title [~~63M~~] 63N, Chapter [~~+~~] 13, Part [~~26~~] 2, Government
3191 Procurement Private Proposal Program, any delegation by the chief procurement officer under
3192 this section shall be made to the Governor's Office of Economic Development.

3193 Section 43. Section **63G-6a-711** is amended to read:

3194 **63G-6a-711. Procurement for submitted proposal.**

3195 (1) As used in this section:

3196 (a) "Committee" is as defined in Section [~~63M-1-2602~~] 63N-13-202.

3197 (b) "Initial proposal" is a proposal submitted by a private entity under Section
3198 [~~63M-1-2605~~] 63N-13-205.

3199 (2) After receipt by the chief procurement officer of a copy of an initial proposal from
3200 the committee in accordance with Subsection [~~63M-1-2606~~] 63N-13-206(5), including any
3201 comment, suggestion, or modification to the initial proposal, the chief procurement officer
3202 shall initiate a standard procurement process in compliance with this chapter.

3203 (3) The chief procurement officer or designee shall:

3204 (a) review each detailed proposal received in accordance with Title [~~63M~~] 63N,
3205 Chapter [~~+~~] 13, Part [~~26~~] 2, Government Procurement Private Proposal Program; and

3206 (b) submit all detailed proposals that meet the guidelines established under Subsection
3207 [~~63M-1-2608~~] 63N-13-208(1) to the committee for review under Section [~~63M-1-2609~~]
3208 63N-13-209.

3209 (4) For purposes of this chapter, the Governor's Office of Economic Development is
3210 considered a procurement unit with independent procurement authority for a procurement
3211 under Title [~~63M~~] 63N, Chapter [~~+~~] 13, Part [~~26~~] 2, Government Procurement Private Proposal
3212 Program.

3213 Section 44. Section **63G-19-101**, which is renumbered from Section 63M-1-1001 is
3214 renumbered and amended to read:

3215 **CHAPTER 19. BIOTECHNOLOGY PROVISIONS**

3216 **Part 1. Biotechnology Provisions**

3217 [~~63M-1-1001~~]. **63G-19-101. Title -- Definitions.**

3218 (1) This chapter is known as "Biotechnology Provisions."

3219 (2) As used in this part, "biotechnology" is:

3220 [~~+~~] (a) the modification of living organisms by recombinant DNA techniques; and

3221 [~~2~~] (b) a means to accomplish, through genetic engineering, the same kinds of

3222 modifications accomplished through traditional genetic techniques such as crossbreeding.

3223 Section 45. Section **63G-19-102**, which is renumbered from Section 63M-1-1002 is
3224 renumbered and amended to read:

3225 ~~[63M-1-1002]~~. **63G-19-102. Confidential information.**

3226 (1) A state agency having access under federal law to biotechnology trade secrets and
3227 related confidential information shall manage the trade secrets and related confidential records
3228 as protected records under Title 63G, Chapter 2, Government Records Access and
3229 Management Act.

3230 (2) The records described in this section may be disclosed under the balancing
3231 provisions of Title 63G, Chapter 2, Government Records Access and Management Act, when a
3232 determination is made that disclosure is essential for the protection of the public's health or
3233 environment.

3234 Section 46. Section **63G-19-103**, which is renumbered from Section 63M-1-1003 is
3235 renumbered and amended to read:

3236 ~~[63M-1-1003]~~. **63G-19-103. Preemption of local regulation.**

3237 (1) A county, city, town, or other political subdivision may not regulate the
3238 technological processes relating to the development and use of biotechnologically created
3239 materials and organisms.

3240 (2) This preemption does not affect the powers of a county, city, town, or other
3241 political subdivision, including the power to regulate land use, business, industry, construction,
3242 and public utilities, to protect the public health or environment, or to provide fire protection
3243 and other public safety services.

3244 Section 47. Section **63I-1-263** is amended to read:

3245 **63I-1-263. Repeal dates, Titles 63A to 63N.**

3246 (1) Section **63A-4-204**, authorizing the Risk Management Fund to provide coverage to
3247 any public school district which chooses to participate, is repealed July 1, 2016.

3248 (2) Subsection **63A-5-104(4)(h)** is repealed on July 1, 2024.

3249 (3) Section **63A-5-603**, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

- 3250 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
 3251 1, 2018.
- 3252 (5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.
- 3253 (6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.
- 3254 (7) Subsection [63G-6a-1402](#)(7) authorizing certain transportation agencies to award a
 3255 contract for a design-build transportation project in certain circumstances, is repealed July 1,
 3256 2015.
- 3257 (8) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
 3258 2020.
- 3259 (9) The Resource Development Coordinating Committee, created in Section
 3260 [63J-4-501](#), is repealed July 1, 2015.
- 3261 ~~[(15)]~~ (10) The Crime Victim Reparations and Assistance Board, created in Section
 3262 [63M-7-504](#), is repealed July 1, 2017.
- 3263 ~~[(16)]~~ (11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
 3264 2017.
- 3265 ~~[(10)]~~ (12) Title ~~[63M]~~ [63N](#), Chapter ~~[1]~~ 2, Part ~~[4]~~ 2, Enterprise Zone Act, is repealed
 3266 July 1, 2018.
- 3267 ~~[(11)]~~ (13) (a) Title ~~[63M]~~ [63N](#), Chapter ~~[1]~~ 2, Part ~~[(11)]~~ 4, Recycling Market
 3268 Development Zone Act, is repealed January 1, 2021.
- 3269 (b) Subject to Subsection ~~[(11)]~~ (13)(c), Sections [59-7-610](#) and [59-10-1007](#) regarding
 3270 tax credits for certain persons in recycling market development zones, are repealed for taxable
 3271 years beginning on or after January 1, 2021.
- 3272 (c) A person may not claim a tax credit under Section [59-7-610](#) or [59-10-1007](#):
 3273 (i) for the purchase price of machinery or equipment described in Section [59-7-610](#) or
 3274 [59-10-1007](#), if the machinery or equipment is purchased on or after January 1, 2021; or
 3275 (ii) for an expenditure described in Subsection [59-7-610](#)(1)(b) or [59-10-1007](#)(1)(b), if
 3276 the expenditure is made on or after January 1, 2021.
- 3277 (d) Notwithstanding Subsections ~~[(11)]~~ (13)(b) and (c), a person may carry forward a

3278 tax credit in accordance with Section [59-7-610](#) or [59-10-1007](#) if:

3279 (i) the person is entitled to a tax credit under Section [59-7-610](#) or [59-10-1007](#); and

3280 (ii) (A) for the purchase price of machinery or equipment described in Section
3281 [59-7-610](#) or [59-10-1007](#), the machinery or equipment is purchased on or before December 31,
3282 2020; or

3283 (B) for an expenditure described in Subsection [59-7-610](#)(1)(b) or [59-10-1007](#)(1)(b), the
3284 expenditure is made on or before December 31, 2020.

3285 ~~[(12)]~~ (14) Section ~~[[63M-1-3412](#)]~~ [63N-2-512](#) is repealed on July 1, 2021.

3286 ~~[(13)-(a) Section [63M-1-2507](#), Health Care Compact is repealed on July 1, 2014.]~~

3287 ~~[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]~~

3288 ~~[(A) direct the Health System Reform Task Force to evaluate the issues listed in~~
3289 ~~Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the~~
3290 ~~Legislature to use to negotiate the terms of the Health Care Compact; and]~~

3291 ~~[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the~~
3292 ~~member states that the Legislature determines are appropriate after considering the~~
3293 ~~recommendations of the Health System Reform Task Force.]~~

3294 ~~[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the~~
3295 ~~Legislature regarding:]~~

3296 ~~[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]~~

3297 ~~[(B) whether Utah is likely to be required to implement any part of the Affordable Care~~
3298 ~~Act prior to negotiating the compact with the federal government, such as Medicaid expansion~~
3299 ~~in 2014;]~~

3300 ~~[(C) whether the compact's current funding formula, based on adjusted 2010 state~~
3301 ~~expenditures, is the best formula for Utah and other state compact members to use for~~
3302 ~~establishing the block grants from the federal government;]~~

3303 ~~[(D) whether the compact's calculation of current year inflation adjustment factor,~~
3304 ~~without consideration of the regional medical inflation rate in the current year, is adequate to~~
3305 ~~protect the state from increased costs associated with administering a state based Medicaid and~~

3306 a state-based Medicare program;]

3307 [(E) whether the state has the flexibility it needs under the compact to implement and
3308 fund state-based initiatives, or whether the compact requires uniformity across member states
3309 that does not benefit Utah;]

3310 [(F) whether the state has the option under the compact to refuse to take over the
3311 federal Medicare program;]

3312 [(G) whether a state-based Medicare program would provide better benefits to the
3313 elderly and disabled citizens of the state than a federally run Medicare program;]

3314 [(H) whether the state has the infrastructure necessary to implement and administer a
3315 better state-based Medicare program;]

3316 [(I) whether the compact appropriately delegates policy decisions between the
3317 legislative and executive branches of government regarding the development and
3318 implementation of the compact with other states and the federal government; and]

3319 [(J) the impact on public health activities, including communicable disease
3320 surveillance and epidemiology.]

3321 [(14)] (15) (a) Title [63M] 63N, Chapter [1] 2, Part [35] 6, Utah Small Business Jobs
3322 Act, is repealed January 1, 2021.

3323 (b) Section 59-9-107 regarding tax credits against premium taxes is repealed for
3324 calendar years beginning on or after January 1, 2021.

3325 (c) Notwithstanding Subsection [(14)] (15)(b), an entity may carry forward a tax credit
3326 in accordance with Section 59-9-107 if:

3327 (i) the person is entitled to a tax credit under Section 59-9-107 on or before December
3328 31, 2020; and

3329 (ii) the qualified equity investment that is the basis of the tax credit is certified under
3330 Section [63M-1-3503] 63N-2-603 on or before December 31, 2023.

3331 Section 48. Section 63I-2-263 is amended to read:

3332 **63I-2-263. Repeal dates, Title 63A to Title 63N.**

3333 [(1) Section 63A-1-115 is repealed on July 1, 2014.]

- 3334 [~~(2)~~] (1) Section [63C-9-501.1](#) is repealed on July 1, 2015.
- 3335 [~~(3)~~] Subsection [63J-1-218](#)(3) is repealed on December 1, 2013.]
- 3336 [~~(4)~~] Subsection [63J-1-218](#)(4) is repealed on December 1, 2013.]
- 3337 [~~(5)~~] Section [63M-1-207](#) is repealed on December 1, 2014.]
- 3338 [~~(6)~~] (2) Subsection [~~63M-1-903~~] [63N-3-103](#)(1)(d) is repealed on July 1, 2015.
- 3339 [~~(7)~~] Subsection [63M-1-1406](#)(9) is repealed on January 1, 2015.]
- 3340 Section 49. Section **63I-4a-102** is amended to read:
- 3341 **63I-4a-102. Definitions.**
- 3342 (1) (a) "Activity" means to provide a good or service.
- 3343 (b) "Activity" includes to:
- 3344 (i) manufacture a good or service;
- 3345 (ii) process a good or service;
- 3346 (iii) sell a good or service;
- 3347 (iv) offer for sale a good or service;
- 3348 (v) rent a good or service;
- 3349 (vi) lease a good or service;
- 3350 (vii) deliver a good or service;
- 3351 (viii) distribute a good or service; or
- 3352 (ix) advertise a good or service.
- 3353 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 3354 (i) the state; or
- 3355 (ii) an entity of the state including a department, office, division, authority,
- 3356 commission, or board.
- 3357 (b) "Agency" does not include:
- 3358 (i) the Legislature;
- 3359 (ii) an entity or agency of the Legislature;
- 3360 (iii) the state auditor;
- 3361 (iv) the state treasurer;

- 3362 (v) the Office of the Attorney General;
- 3363 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 3364 (vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science
- 3365 Center Authority;
- 3366 (viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber
- 3367 Valley Historic Railroad Authority;
- 3368 (ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah
- 3369 State Railroad Museum Authority;
- 3370 (x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah
- 3371 Housing Corporation Act;
- 3372 (xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair
- 3373 Corporation Act;
- 3374 (xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 3375 Compensation Fund;
- 3376 (xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
- 3377 Retirement Systems Administration;
- 3378 (xiv) a charter school chartered by the State Charter School Board or a board of
- 3379 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 3380 Schools Act;
- 3381 (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 3382 Utah Schools for the Deaf and the Blind;
- 3383 (xvi) an institution of higher education as defined in Section [53B-3-102](#);
- 3384 (xvii) the School and Institutional Trust Lands Administration created in Title 53C,
- 3385 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 3386 (xviii) the Utah Communications Authority created in Title 63H, Chapter 7, Utah
- 3387 Communications Authority Act; or
- 3388 (xix) the Utah Capital Investment Corporation created in Title ~~[63M]~~ [63N](#), Chapter [~~†~~
- 3389 [6](#), Part [~~†2~~] [3](#), [~~Utah Venture Capital Enhancement Act~~] [Utah Capital Investment Corporation](#).

- 3390 (3) "Agency head" means the chief administrative officer of an agency.
- 3391 (4) "Board" means the Free Market Protection and Privatization Board created in
3392 Section [63I-4a-202](#).
- 3393 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
3394 or in part from a private enterprise.
- 3395 (6) "Local entity" means:
- 3396 (a) a political subdivision of the state, including a:
- 3397 (i) county;
- 3398 (ii) city;
- 3399 (iii) town;
- 3400 (iv) local school district;
- 3401 (v) local district; or
- 3402 (vi) special service district;
- 3403 (b) an agency of an entity described in this Subsection (6), including a department,
3404 office, division, authority, commission, or board; or
- 3405 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
3406 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 3407 (7) "Private enterprise" means a person that engages in an activity for profit.
- 3408 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
3409 private enterprise engages in the activity, including a transfer by:
- 3410 (a) contract;
- 3411 (b) transfer of property; or
- 3412 (c) another arrangement.
- 3413 (9) "Special district" means:
- 3414 (a) a local district, as defined in Section [17B-1-102](#);
- 3415 (b) a special service district, as defined in Section [17D-1-102](#); or
- 3416 (c) a conservation district, as defined in Section [17D-3-102](#).
- 3417 Section 50. Section **63J-1-315** is amended to read:

3418 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account --**
3419 **Transfers of Medicaid growth savings -- Base budget adjustments.**

3420 (1) As used in this section:

3421 (a) "Department" means the Department of Health created in Section 26-1-4.

3422 (b) "Division" means the Division of Health Care Financing created within the
3423 department under Section 26-18-2.1.

3424 (c) "General Fund revenue surplus" means a situation where actual General Fund
3425 revenues collected in a completed fiscal year exceed the estimated revenues for the General
3426 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
3427 Legislature.

3428 (d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid
3429 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
3430 target.

3431 (e) "Medicaid growth target" means Medicaid program expenditures for the previous
3432 year multiplied by 1.08.

3433 (f) "Medicaid program" is as defined in Section 26-18-2.

3434 (g) "Medicaid program expenditures" means total state revenue expended for the
3435 Medicaid program from the General Fund, including restricted accounts within the General
3436 Fund, during a fiscal year.

3437 (h) "Medicaid program expenditures for the previous year" means total state revenue
3438 expended for the Medicaid program from the General Fund, including restricted accounts
3439 within the General Fund, during the fiscal year immediately preceding a fiscal year for which
3440 Medicaid program expenditures are calculated.

3441 (i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund
3442 balance in the General Fund is less than zero.

3443 (j) "State revenue" means revenue other than federal revenue.

3444 (k) "State revenue expended for the Medicaid program" includes money transferred or
3445 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the

3446 extent the money is appropriated for the Medicaid program by the Legislature.

3447 (2) There is created within the General Fund a restricted account to be known as the
3448 Medicaid Growth Reduction and Budget Stabilization Account.

3449 (3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a
3450 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
3451 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
3452 Budget Stabilization Account.

3453 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
3454 Subsection (6), the Legislature shall include, to the extent revenue is available, an amount
3455 equal to the reduction as an appropriation from the General Fund to the account in the base
3456 budget for the second fiscal year following the fiscal year for which the reduction was made.

3457 (b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the
3458 Legislature shall include, to the extent revenue is available, an amount equal to Medicaid
3459 growth savings as an appropriation from the General Fund to the account in the base budget for
3460 the second fiscal year following the fiscal year for which the reduction was made.

3461 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
3462 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in
3463 state expenditures for the Medicaid program, and to each fiscal year after that year.

3464 (4) The Division of Finance shall calculate the amount to be transferred under
3465 Subsection (3):

3466 (a) before transferring revenue from the General Fund revenue surplus to:

3467 (i) the General Fund Budget Reserve Account under Section 63J-1-312; and[;]

3468 (ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

3469 (b) before earmarking revenue from the General Fund revenue surplus to the Industrial
3470 Assistance Account under Section [63M-1-905] 63N-3-106; and

3471 (c) before making any other year-end contingency appropriations, year-end set-asides,
3472 or other year-end transfers required by law.

3473 (5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay

3474 additional debt service for any bonded debt authorized by the Legislature, the Division of
3475 Finance may hold back from any General Fund revenue surplus money sufficient to pay the
3476 additional debt service requirements resulting from issuance of bonded debt that was
3477 authorized by the Legislature.

3478 (b) The Division of Finance may not spend the hold back amount for debt service
3479 under Subsection (5)(a) unless and until it is appropriated by the Legislature.

3480 (c) If, after calculating the amount for transfer under Subsection (3), the remaining
3481 General Fund revenue surplus is insufficient to cover the hold back for debt service required by
3482 Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
3483 Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
3484 hold back.

3485 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
3486 the General Fund balance for debt service authorized by this Subsection (5) before making any
3487 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
3488 designation or allocation of General Fund revenue surplus.

3489 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
3490 of Finance determines that an operating deficit exists and that holding back earmarks to the
3491 Industrial Assistance Account under Section ~~[63M-1-905]~~ [63N-3-106](#), transfers to the State
3492 Disaster Recovery Restricted Account under Section [63J-1-314](#), transfers to the General Fund
3493 Budget Reserve Account under Section [63J-1-312](#), or earmarks and transfers to more than one
3494 of those accounts, in that order, does not eliminate the operating deficit, the Division of
3495 Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization
3496 Account by the amount necessary to eliminate the operating deficit.

3497 (7) The Legislature may appropriate money from the Medicaid Growth Reduction and
3498 Budget Stabilization Account only:

3499 (a) if Medicaid program expenditures for the fiscal year for which the appropriation is
3500 made are estimated to be 108% or more of Medicaid program expenditures for the previous
3501 year; and

3502 (b) for the Medicaid program.

3503 (8) The Division of Finance shall deposit interest or other earnings derived from
3504 investment of Medicaid Growth Reduction and Budget Stabilization Account money into the
3505 General Fund.

3506 Section 51. Section **63J-1-602.4** is amended to read:

3507 **63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.**

3508 (1) Funds paid to the Division of Real Estate for the cost of a criminal background
3509 check for a mortgage loan license, as provided in Section [61-2c-202](#).

3510 (2) Funds paid to the Division of Real Estate for the cost of a criminal background
3511 check for principal broker, associate broker, and sales agent licenses, as provided in Section
3512 [61-2f-204](#).

3513 (3) Certain funds donated to the Department of Human Services, as provided in
3514 Section [62A-1-111](#).

3515 (4) Appropriations from the National Professional Men's Basketball Team Support of
3516 Women and Children Issues Restricted Account created in Section [62A-1-202](#).

3517 (5) Certain funds donated to the Division of Child and Family Services, as provided in
3518 Section [62A-4a-110](#).

3519 (6) Appropriations from the Choose Life Adoption Support Restricted Account created
3520 in Section [62A-4a-608](#).

3521 (7) Appropriations to the Division of Services for People with Disabilities, as provided
3522 in Section [62A-5-102](#).

3523 (8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as
3524 provided in Section [63C-6-104](#).

3525 [~~(10)~~] (9) Funds appropriated or collected for publishing the Division of
3526 Administrative Rules' publications, as provided in Section [63G-3-402](#).

3527 [~~(11)~~] (10) The Immigration Act Restricted Account created in Section [63G-12-103](#).

3528 [~~(12)~~] (11) Money received by the military installation development authority, as
3529 provided in Section [63H-1-504](#).

3530 [~~(13)~~] (12) Appropriations to fund the Governor's Office of Economic Development's
 3531 Enterprise Zone Act, as provided in Title [~~63M~~] 63N, Chapter [~~1~~] 2, Part [~~4~~] 2, Enterprise Zone
 3532 Act.

3533 [~~(14)~~] (13) The Motion Picture Incentive Account created in Section [~~63M-1-1803~~]
 3534 63N-8-103.

3535 [~~(9)~~] (14) Certain money payable for commission expenses of the Pete Suazo Utah
 3536 Athletic Commission, as provided under Section [~~63C-11-301~~] 63N-10-301.

3537 Section 52. Section **63J-4-603** is amended to read:

3538 **63J-4-603. Powers and duties of coordinator and office.**

3539 (1) The coordinator and the office shall:

3540 (a) make a report to the Constitutional Defense Council created under Section
 3541 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter
 3542 4a, Constitutional and Federalism Defense Act;

3543 (b) provide staff assistance to the Constitutional Defense Council created under Section
 3544 63C-4a-202 for meetings of the council;

3545 (c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

3546 (ii) execute any action assigned in a constitutional defense plan;

3547 (d) under the direction of the state planning coordinator, assist in fulfilling the state
 3548 planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the
 3549 development of public lands policies by:

3550 (i) developing cooperative contracts and agreements between the state, political
 3551 subdivisions, and agencies of the federal government for involvement in the development of
 3552 public lands policies;

3553 (ii) producing research, documents, maps, studies, analysis, or other information that
 3554 supports the state's participation in the development of public lands policy;

3555 (iii) preparing comments to ensure that the positions of the state and political
 3556 subdivisions are considered in the development of public lands policy;

3557 (iv) partnering with state agencies and political subdivisions in an effort to:

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

3586 Committee jointly with the Constitutional Defense Council;

3587 (j) make grants of up to 16% of the office's total annual appropriations from the
3588 Constitutional Defense Restricted Account to a county or statewide association of counties to
3589 be used by the county or association of counties for public lands matters if the coordinator,
3590 with the advice of the Constitutional Defense Council, determines that the action provides a
3591 state benefit;

3592 (k) provide staff services to the Snake Valley Aquifer Advisory Council created in
3593 Section [63C-12-103](#);

3594 (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section
3595 [63C-12-107](#); and

3596 (m) conduct the public lands transfer study and economic analysis required by Section
3597 [63J-4-606](#).

3598 (2) The coordinator and office shall comply with Subsection [63C-4a-203](#)(8) before
3599 submitting a comment to a federal agency, if the governor would be subject to Subsection
3600 [63C-4a-203](#)(8) if the governor were submitting the material.

3601 (3) The office may enter into a contract or other agreement with another state agency to
3602 provide information and services related to:

3603 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and
3604 Classification Act;

3605 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and
3606 Classification Act, or R.S. 2477 matters; or

3607 (c) any other matter within the office's responsibility.

3608 Section 53. Section **63J-7-102** is amended to read:

3609 **63J-7-102. Scope and applicability of chapter.**

3610 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
3611 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
3612 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

3613 (2) This chapter does not govern:

- 3614 (a) a grant deposited into a General Fund restricted account;
- 3615 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
- 3616 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
- 3617 (d) a grant made to the state without a restriction or other designated purpose that is
- 3618 deposited into the General Fund as free revenue;
- 3619 (e) a grant made to the state that is restricted only to "education" and that is deposited
- 3620 into the Education Fund or Uniform School Fund as free revenue;
- 3621 (f) in-kind donations;
- 3622 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
- 3623 when required by state law or application of state law;
- 3624 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
- 3625 Contribution Act;
- 3626 (i) a grant received by an agency from another agency or political subdivision;
- 3627 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
- 3628 Act;
- 3629 (k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah
- 3630 Science Center Authority;
- 3631 (l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4,
- 3632 Heber Valley Historic Railroad Authority;
- 3633 (m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter
- 3634 5, Utah State Railroad Museum Authority;
- 3635 (n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7,
- 3636 Utah Housing Corporation Act;
- 3637 (o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah
- 3638 State Fair Corporation Act;
- 3639 (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
- 3640 Workers' Compensation Fund;
- 3641 (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah

3642 State Retirement Systems Administration;

3643 (r) a grant to the School and Institutional Trust Lands Administration created in Title
3644 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

3645 (s) a grant to the Utah Communications Authority created in Title 63H, Chapter 7,
3646 Utah Communications Authority Act;

3647 (t) a grant to the Medical Education Program created in Section 53B-24-202;

3648 (u) a grant to the Utah Capital Investment Corporation created in Title ~~[63M]~~ 63N,
3649 Chapter ~~[1]~~ 6, Part ~~[12]~~ 3, ~~[Utah Venture Capital Enhancement Act]~~ Utah Capital Investment
3650 Corporation;

3651 (v) a grant to the Utah Charter School Finance Authority created in Section
3652 53A-20b-103;

3653 (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

3654 (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section
3655 31A-29-104; or

3656 (y) a grant to the Military Installation Development Authority created in Section
3657 63H-1-201.

3658 (3) An agency need not seek legislative review or approval of grants under Part 2,
3659 Grant Approval Requirements, if:

3660 (a) the governor has declared a state of emergency; and

3661 (b) the grant is donated to the agency to assist victims of the state of emergency under
3662 Subsection 53-2a-204(1).

3663 Section 54. Section 63M-2-101 is amended to read:

3664 **TITLE 63M. GOVERNOR'S PROGRAMS**

3665 **CHAPTER 2. UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING**
3666 **AUTHORITY ACT**

3667 **63M-2-101. Title.**

3668 (1) This title is known as "Governor's Programs."

3669 (2) This chapter is known as the "Utah Science Technology and Research Governing

3670 Authority Act."

3671 Section 55. Section **63N-1-101**, which is renumbered from Section 63M-1-101 is
3672 renumbered and amended to read:

3673 **TITLE 63N. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT**

3674 **CHAPTER 1. GOED GENERAL PROVISIONS**

3675 **Part 1. General Provisions**

3676 ~~[63M-1-101].~~ **63N-1-101. Title.**

3677 (1) This title is known as [~~"Governor's Programs."~~] the "Governor's Office of
3678 Economic Development."

3679 (2) This chapter is known as [~~the "Governor's Office of Economic Development."~~]
3680 "GOED General Provisions."

3681 Section 56. Section **63N-1-102**, which is renumbered from Section 63M-1-102 is
3682 renumbered and amended to read:

3683 ~~[63M-1-102].~~ **63N-1-102. Definitions.**

3684 As used in this [~~chapter~~] title:

3685 (1) "Board" means the Board of Business and Economic Development[~~:~~] created in
3686 Section [63N-1-401](#).

3687 (2) "Council" means the Governor's Economic Development Coordinating Council
3688 created in Section [63N-1-501](#).

3689 [~~(2) "Director"~~] (3) "Executive director" means the executive director of the office.

3690 [~~(3)~~] (4) "Office" or "GOED" means the Governor's Office of Economic Development.

3691 Section 57. Section **63N-1-201**, which is renumbered from Section 63M-1-201 is
3692 renumbered and amended to read:

3693 **Part 2. Creation of GOED**

3694 ~~[63M-1-201].~~ **63N-1-201. Creation of office -- Responsibilities.**

3695 (1) There is created the Governor's Office of Economic Development.

3696 (2) The office [~~shall~~] is:

3697 (a) [~~be~~] responsible for economic development [~~within~~] and economic development

3698 planning in the state; and
 3699 ~~[(b) perform economic development planning for the state;]~~
 3700 (b) the industrial promotion authority of the state.
 3701 (3) The office shall:
 3702 ~~[(e)]~~ (a) administer and coordinate [aH] state [or] and federal economic development
 3703 grant programs [which are, or become available, for economic development];
 3704 (b) promote and encourage the economic, commercial, financial, industrial,
 3705 agricultural, and civic welfare of the state;
 3706 (c) act to create, develop, attract, and retain business, industry, and commerce in the
 3707 state;
 3708 (d) act to enhance the state's economy;
 3709 ~~[(d)]~~ (e) administer [any other] programs over which the office is given administrative
 3710 supervision by the governor;
 3711 ~~[(e)]~~ (f) submit an annual written report as described in Section [63M-1-206]
 3712 63N-1-301; and
 3713 ~~[(f)]~~ (g) perform [any] other duties as provided by the Legislature.
 3714 (4) In order to perform its duties under this title, the office may:
 3715 (a) enter into a contract or agreement with, or make a grant to, a public or private
 3716 entity, including a municipality, if the contract or agreement is not in violation of state statute
 3717 or other applicable law;
 3718 (b) except as provided in Subsection (4)(c), receive and expend funds from a public or
 3719 private source for any lawful purpose that is in the state's best interest; and
 3720 ~~[(3) The office may]~~ (c) solicit and accept [contributions] a contribution of money,
 3721 services, [and] or facilities from [any other source;] a public or private donor, but may not use
 3722 the [money] contribution for publicizing the exclusive interest of the donor.
 3723 ~~[(4)]~~ (5) Money received under Subsection [(3)] (4)(c) shall be deposited in the
 3724 General Fund as dedicated credits of the office.
 3725 ~~[(5) (a) The office is recognized as an issuing authority as defined in Subsection~~

3726 ~~63M-1-3002(7), entitled to issue bonds from the Small Issue Bond Account created in~~
 3727 ~~Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap~~
 3728 ~~authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the~~
 3729 ~~code.]~~

3730 ~~[(b) To promote and encourage the issuance of bonds from the Small Issue Bond~~
 3731 ~~Account for manufacturing projects, the office may:]~~

3732 ~~[(i) develop campaigns and materials that inform qualified small manufacturing~~
 3733 ~~businesses about the existence of the program and the application process;]~~

3734 ~~[(ii) assist small businesses in applying for and qualifying for these bonds; or]~~

3735 ~~[(iii) develop strategies to lower the cost to small businesses of applying for and~~
 3736 ~~qualifying for these bonds, including making arrangements with financial advisors,~~
 3737 ~~underwriters, bond counsel, and other professionals involved in the issuance process to provide~~
 3738 ~~their services at a reduced rate when the division can provide them with a high volume of~~
 3739 ~~applicants or issues.]~~

3740 (6) (a) The office shall obtain the advice of the board before implementing a change to
 3741 a policy, priority, or objective under which the office operates.

3742 (b) Subsection (6)(a) does not apply to the routine administration by the office of
 3743 money or services related to the assistance, retention, or recruitment of business, industry, or
 3744 commerce in the state.

3745 Section 58. Section **63N-1-202**, which is renumbered from Section 63M-1-202 is
 3746 renumbered and amended to read:

3747 ~~[63M-1-202].~~ **63N-1-202.** **Executive director of office -- Appointment --**

3748 **Removal -- Compensation.**

3749 (1) The office shall be administered, ~~[directed, controlled,]~~ organized, and managed by
 3750 [a] an executive director appointed by the governor.

3751 (2) The executive director serves at the pleasure of the governor.

3752 (3) The salary of the executive director shall be established by the governor within the
 3753 salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

3754 Section 59. Section **63N-1-203**, which is renumbered from Section 63M-1-203 is
 3755 renumbered and amended to read:

3756 ~~[63M-1-203].~~ **63N-1-203. Powers and duties of executive director.**

3757 (1) Unless otherwise expressly provided by statute, the executive director may organize
 3758 the office in any appropriate manner, including the appointment of deputy directors of the
 3759 office.

3760 (2) The executive director may consolidate personnel and service functions for
 3761 efficiency and economy in the office.

3762 ~~[(+)]~~ (3) The executive director, with the approval of the governor~~[-, may]~~:

3763 (a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal
 3764 Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

3765 (b) may enter into a lawful ~~[contracts or agreements with other states, any]~~ contract or
 3766 agreement with another state, a chamber of commerce organization, [any] a service club, [and a
 3767 private entity pursuant to Section ~~63M-1-2610~~] or a private entity; and

3768 (c) shall annually prepare and submit to the governor a budget of the office's financial
 3769 requirements.

3770 ~~[(2) If any]~~ (4) With the governor's approval, if a federal program requires the
 3771 expenditure of state funds as a condition [to participation by] for the state [in any] to participate
 3772 in a fund, property, or service, [with the governor's approval, the director shall expend
 3773 whatever funds are necessary out of] the executive director may expend necessary funds from
 3774 money provided by the Legislature for the use of the office.

3775 Section 60. Section **63N-1-204**, which is renumbered from Section 63M-1-205 is
 3776 renumbered and amended to read:

3777 ~~[63M-1-205].~~ **63N-1-204. Executive director and the Public Service**
 3778 **Commission.**

3779 (1) The executive director or the executive director's designee shall:

3780 (a) become generally informed of significant rate cases and policy proceedings before
 3781 the Public Service Commission; and

3782 (b) monitor and study the potential economic development impact of these proceedings
3783 [~~before the Public Service Commission~~].

3784 (2) In the discretion of the executive director or the executive director's designee, the
3785 office may appear in [~~any~~] a proceeding before the Public Service Commission to testify,
3786 advise, or present argument regarding the economic development impact of [~~any~~] a matter that
3787 is the subject of the proceeding.

3788 Section 61. Section **63N-1-301**, which is renumbered from Section 63M-1-206 is
3789 renumbered and amended to read:

3790 **Part 3. GOED Annual Report**

3791 [~~63M-1-206~~]. **63N-1-301. Annual report -- Content -- Format.**

3792 (1) The office shall prepare and submit to the governor and the Legislature, by October
3793 1 of each year, an annual written report of the operations, activities, programs, and services of
3794 the office, including the divisions, sections, boards, commissions, councils, and committees
3795 established under this [~~chapter~~] title, for the preceding fiscal year.

3796 (2) For each operation, activity, program, or service provided by the office, the annual
3797 report shall include:

- 3798 (a) a description of the operation, activity, program, or service;
- 3799 (b) data selected and used by the office to measure progress, performance, and scope of
3800 the operation, activity, program, or service, including summary data;
- 3801 (c) budget data, including the amount and source of funding, expenses, and allocation
3802 of full-time employees for the operation, activity, program, or service;
- 3803 (d) historical data from previous years for comparison with data reported under
3804 Subsections (2)(b) and (c);
- 3805 (e) goals, challenges, and achievements related to the operation, activity, program, or
3806 service;
- 3807 (f) relevant federal and state statutory references and requirements;
- 3808 (g) contact information of officials knowledgeable and responsible for each operation,
3809 activity, program, or service; and

3810 (h) other information determined by the office that:
 3811 (i) may be needed, useful, or of historical significance; or
 3812 (ii) promotes accountability and transparency for each operation, activity, program, or
 3813 service with the public and elected officials.

3814 (3) The annual report shall be designed to provide clear, accurate, and accessible
 3815 information to the public, the governor, and the Legislature.

3816 (4) The office shall:

3817 (a) submit the annual report in accordance with Section 68-3-14; and

3818 (b) make the annual report, and previous annual reports, accessible to the public by
 3819 placing a link to the reports on the office's website.

3820 Section 62. Section **63N-1-401**, which is renumbered from Section 63M-1-302 is
 3821 renumbered and amended to read:

3822 **Part 4. Board of Business and Economic Development**

3823 ~~63M-1-302~~. **63N-1-401. Board of Business and Economic Development --**
 3824 **Membership -- Expenses.**

3825 (1) (a) ~~[The board shall consist]~~ There is created within the office the Board of
 3826 Business and Economic Development, consisting of 15 members appointed by the governor to
 3827 four-year terms of office with the consent of the Senate.

3828 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
 3829 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 3830 board members are staggered so that approximately half of the board is appointed every two
 3831 years.

3832 (c) The members may not serve more than two full consecutive terms except where the
 3833 governor determines that an additional term is in the best interest of the state.

3834 (2) In appointing members of the committee, the governor shall ensure that:

3835 ~~[(2) Not]~~ (a) no more than eight members of the board ~~[may be]~~ are from one political
 3836 party[-]; and

3837 ~~[(3) The members shall be representative of all areas of the state.]~~

3838 (b) members represent a variety of geographic areas and economic interests of the state.

3839 [~~(4)~~] (3) When a vacancy occurs in the membership for any reason, the replacement
3840 shall be appointed for the unexpired term.

3841 [~~(5)~~] (4) Eight members of the board constitute a quorum for conducting board
3842 business and exercising board power.

3843 [~~(6)~~] (5) The governor shall select one [~~of the board members as its~~] board member as
3844 the board's chair.

3845 [~~(7)~~] (6) A member may not receive compensation or benefits for the member's service,
3846 but may receive per diem and travel expenses in accordance with:

3847 (a) Section 63A-3-106;

3848 (b) Section 63A-3-107; and

3849 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
3850 63A-3-107.

3851 Section 63. Section 63N-1-402, which is renumbered from Section 63M-1-303 is
3852 renumbered and amended to read:

3853 [~~63M-1-303~~]. 63N-1-402. Board duties and powers.

3854 (1) The board shall advise and assist the office to:

3855 (a) promote and encourage the economic, commercial, financial, industrial,
3856 agricultural, and civic welfare of the state;

3857 [~~(b) do all lawful acts for the development, attraction, and retention of businesses,~~
3858 ~~industries, and commerce within the state;]~~

3859 [~~(c)~~] (b) promote and encourage the [~~expansion and retention~~] development, attraction,
3860 expansion, and retention of businesses, industries, and commerce [~~located~~] in the state;

3861 [~~(d)~~] (c) support the efforts of local government and regional nonprofit economic
3862 development organizations to encourage expansion or retention of businesses, industries, and
3863 commerce [~~located~~] in the state;

3864 [~~(e) do other acts not specifically enumerated in this chapter, if the acts are for the~~
3865 ~~betterment of the economy of the state;]~~

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

3894 Section 64. Section **63N-1-501**, which is renumbered from Section 63M-1-1303 is
 3895 renumbered and amended to read:

3896 **Part 5. Governor's Economic Development Coordinating Council**

3897 ~~[63M-1-1303].~~ **63N-1-501. Governor's Economic Development**

3898 **Coordinating Council -- Membership -- Expenses.**

3899 (1) There is created in the office the Governor's Economic Development Coordinating
 3900 Council, [~~hereafter referred to in this part as the "council";~~] consisting of the following 11
 3901 members:

3902 (a) the executive director, who shall serve as chair of the council;

3903 (b) the chair of the board or the chair's designee;

3904 (c) the chair of the Utah Science Technology and Research Governing Authority
 3905 created in Section 63M-2-301 or the chair's designee;

3906 (d) the chair of the [~~Utah Rural Development Council~~] Governor's Rural Partnership
 3907 Board created in Section 63C-10-102 or the chair's designee;

3908 (e) the chair of the board of directors of the Utah Capital Investment Corporation
 3909 created in Section 63N-6-301 or the chair's designee;

3910 (f) the chair of the Economic Development Corporation of Utah or its successor
 3911 organization or the chair's designee;

3912 (g) the chair of the World Trade Center Utah or its successor organization or the chair's
 3913 designee; and

3914 (h) four members appointed by the governor, with the [~~advice and~~] consent of the
 3915 Senate, who have expertise in [~~the area of~~] business [~~or~~], economic development,
 3916 entrepreneurship, or the raising of venture or seed capital for research and business growth.

3917 (2) (a) The four members appointed by the governor may serve for no more than two
 3918 consecutive two-year terms.

3919 (b) The governor shall appoint a replacement if a vacancy occurs from the membership
 3920 [~~described~~] appointed under Subsection (1)(h).

3921 (3) Six members of the council constitute a quorum for the purpose of conducting

3922 council business and the action of a majority of a quorum constitutes the action of the council.

3923 (4) A member may not receive compensation or benefits for the member's service on
3924 the council, but may receive per diem and travel expenses in accordance with:

3925 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

3926 (b) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
3927 [63A-3-107](#).

3928 (5) The office shall provide office space and administrative staff support for the
3929 council.

3930 (6) The council, as a governmental entity, has all the rights, privileges, and immunities
3931 of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open
3932 and Public Meetings Act.

3933 Section 65. Section **63N-1-502**, which is renumbered from Section 63M-1-1304 is
3934 renumbered and amended to read:

3935 ~~**63M-1-1304**~~. **63N-1-502**. **Council powers and duties.**

3936 (1) The council shall:

3937 (a) [~~coordinate and advise~~] make recommendations to the governor, the office, and the
3938 board on policies and objectives related to economic development and growth [~~within~~] in the
3939 state;

3940 (b) coordinate with state and private entities, including private venture capital and seed
3941 capital firms, to avoid duplication of programs and to increase the availability of venture and
3942 seed capital for research and for the development and growth of new and existing businesses in
3943 the state;

3944 (c) [~~focus on~~] give priority to technologies, industries, and geographical areas of the
3945 state in which the state can expand investment and entrepreneurship and stimulate job growth;

3946 (d) [~~coordinate~~] develop ideas and strategies to increase national and international
3947 business activities for both the urban and rural areas of the state; and

3948 (e) plan, coordinate, [~~advise,~~] or recommend [~~any other~~] action that would better the
3949 state's economy.

3950 (2) The council shall annually report its activities to the office for inclusion in the
3951 office's annual written report described in Section [~~63M-1-206~~] 63N-1-301.

3952 Section 66. Section **63N-2-101**, which is renumbered from Section 63M-1-2401 is
3953 renumbered and amended to read:

3954 **CHAPTER 2. TAX CREDIT INCENTIVES FOR ECONOMIC DEVELOPMENT**

3955 **Part 1. Economic Development Tax Increment Financing**

3956 [~~63M-1-2401~~]. **63N-2-101. Title.**

3957 (1) This [~~part~~] chapter is known as [~~the~~] "Tax Credit Incentives for Economic
3958 Development [~~Incentives Act~~]."

3959 (2) This part is known as "Economic Development Tax Increment Financing."

3960 Section 67. Section **63N-2-102**, which is renumbered from Section 63M-1-2402 is
3961 renumbered and amended to read:

3962 [~~63M-1-2402~~]. **63N-2-102. Purpose.**

3963 (1) The Legislature finds that:

3964 (a) to foster and develop industry in Utah is a public purpose necessary to assure
3965 adequate employment for, and the welfare of, Utah's citizens and the growth of the state's
3966 economy;

3967 (b) Utah loses prospective high paying jobs, new economic growth, and corresponding
3968 incremental new state and local revenues to competing states because of a wide variety of
3969 competing economic incentives offered by those states; and

3970 (c) economic development initiatives and interests of state and local economic
3971 development officials should be aligned and united in the creation of higher paying jobs that
3972 will lift the wage levels of the communities in which those jobs will be created.

3973 (2) This part is enacted to:

3974 (a) foster and develop industry in the state, to provide additional employment
3975 opportunities for Utah's citizens, and to improve the state's economy;

3976 [~~(a)~~] (b) address the loss of prospective high paying jobs, the loss of new economic
3977 growth, and the corresponding loss of incremental new state and local revenues [~~by providing~~]

3978 to competing states caused by economic incentives offered by those states;

3979 (c) provide tax credits to attract new commercial projects in economic development
3980 zones in the state; and

3981 ~~[(b)]~~ (d) provide a cooperative and unified working relationship between state and
3982 local economic development efforts.

3983 Section 68. Section **63N-2-103**, which is renumbered from Section 63M-1-2403 is
3984 renumbered and amended to read:

3985 ~~[63M-1-2403].~~ **63N-2-103. Definitions.**

3986 As used in this part:

3987 (1) "Business entity" means a person that enters into an agreement with the office to
3988 initiate a new commercial project in Utah that will qualify the person to receive a tax credit
3989 under Section [59-7-614.2](#) or [59-10-1107](#).

3990 (2) "Community development and renewal agency" ~~[is]~~ has the same meaning as
3991 defined in Section [17C-1-102](#).

3992 (3) "Development zone" means an economic development zone created under Section
3993 ~~[63M-1-2404]~~ [63N-2-104](#).

3994 (4) "High paying jobs" means:

3995 (a) with respect to a business entity, the annual wages of employment positions in a
3996 business entity that compare favorably against the average wage of a community in which the
3997 employment positions will exist;

3998 (b) with respect to a county, the annual wages of employment positions in a new
3999 commercial project within the county that compare favorably against the average wage of the
4000 county in which the employment positions will exist; or

4001 (c) with respect to a city or town, the annual wages of employment positions in a new
4002 commercial project within the city or town that compare favorably against the average wages of
4003 the city or town in which the employment positions will exist.

4004 (5) "Local government entity" means a county, city, or town that enters into an
4005 agreement with the office to have a new commercial project that:

- 4006 (a) is initiated within the county's, city's, or town's boundaries; and
- 4007 (b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.
- 4008 (6) (a) "New commercial project" means an economic development opportunity that
- 4009 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.
- 4010 (b) "New commercial project" does not include retail business.
- 4011 (7) (a) "New incremental jobs" means employment positions that are:
- 4012 [~~(a) not shifted from one jurisdiction in the state to another jurisdiction in the state;~~
- 4013 ~~and]~~
- 4014 [(b)] (i) with respect to a business entity, created in addition to the baseline count of
- 4015 employment positions that existed within the business entity before the new commercial
- 4016 project;
- 4017 (ii) with respect to a county, created as a result of a new commercial project with
- 4018 respect to which the county or a community development and renewal agency seeks to claim a
- 4019 tax credit under Section 59-7-614.2; or
- 4020 (iii) with respect to a city or town, created as a result of a new commercial project with
- 4021 respect to which the city, town, or a community development and renewal agency seeks to
- 4022 claim a tax credit under Section 59-7-614.2.
- 4023 (b) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
- 4024 in the state to another jurisdiction in the state.
- 4025 (8) "New state revenues" means:
- 4026 (a) with respect to a business entity:
- 4027 (i) incremental new state sales and use tax revenues that a business entity pays under
- 4028 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
- 4029 development zone;
- 4030 (ii) incremental new state tax revenues~~[, if any,]~~ that a business entity pays as a result
- 4031 of a new commercial project in a development zone under:
- 4032 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 4033 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and

4034 Information;

4035 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

4036 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~[or]~~ and

4037 (E) a combination of Subsections (8)(a)(ii)(A) through (D);

4038 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,

4039 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by

4040 employees of a new or expanded industrial, manufacturing, distribution, or business service

4041 within a new commercial project as evidenced by payroll records that indicate the amount of

4042 employee income taxes withheld and transmitted to the State Tax Commission by the new or

4043 expanded industrial, manufacturing, distribution, or business service within the new

4044 commercial project; or

4045 (iv) a combination of Subsections (8)(a)(i) through (iii); or

4046 (b) with respect to a local government entity:

4047 (i) incremental new state sales and use tax revenues that are collected under Title 59,

4048 Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development

4049 zone;

4050 (ii) incremental new state tax revenues~~[, if any,]~~ that are collected as a result of a new

4051 commercial project in a development zone under:

4052 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

4053 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and

4054 Information;

4055 (C) Title 59, Chapter 10, Part 2, Trusts and Estates;

4056 (D) Title 59, Chapter 10, Part 4, Withholding of Tax; ~~[or]~~ and

4057 (E) a combination of Subsections (8)(b)(ii)(A) through (D);

4058 (iii) incremental new state tax revenues paid as individual income taxes under Title 59,

4059 Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by

4060 employees of a new or expanded industrial, manufacturing, distribution, or business service

4061 within a new commercial project as evidenced by payroll records that indicate the amount of

4062 employee income taxes withheld and transmitted to the State Tax Commission by the new or
 4063 expanded industrial, manufacturing, distribution, or business service within the new
 4064 commercial project; or

4065 (iv) a combination of Subsections (8)(b)(i) through (iii).

4066 [~~(9)~~] "~~Office~~" means the Governor's Office of Economic Development.]

4067 [~~(10)~~] (9) "Significant capital investment" means an amount of at least \$10,000,000 to
 4068 purchase a capital asset or a fixed asset:

4069 (a) with the primary purpose of the investment to increase a business entity's rate at
 4070 which it produces goods based on output per unit of labor;

4071 (b) that represents an expansion of existing [~~Utah~~] operations in the state; and

4072 (c) that maintains or increases the business entity's existing [~~Utah~~] work force in the
 4073 state.

4074 [~~(11)~~] (10) "Tax credit" means an economic development tax credit created by Section
 4075 [59-7-614.2](#) or [59-10-1107](#).

4076 [~~(12)~~] (11) "Tax credit amount" means the amount the office lists as a tax credit on a
 4077 tax credit certificate for a taxable year.

4078 [~~(13)~~] (12) "Tax credit certificate" means a certificate issued by the office that:

4079 (a) lists the name of the business entity, local government entity, or community
 4080 development and renewal agency to which the office authorizes a tax credit;

4081 (b) lists the business entity's, local government entity's, or community development and
 4082 renewal agency's taxpayer identification number;

4083 (c) lists the amount of tax credit that the office authorizes the business entity, local
 4084 government entity, or community development and renewal agency for the taxable year; and

4085 (d) may include other information as determined by the office.

4086 Section 69. Section **63N-2-104**, which is renumbered from Section 63M-1-2404 is
 4087 renumbered and amended to read:

4088 ~~[63M-1-2404]~~. **63N-2-104**. **Creation of economic development zones -- Tax**
 4089 **credits -- Assignment of tax credit.**

4090 (1) The office, with advice from the board, may create an economic development zone
4091 in the state ~~[that satisfies all of]~~ if the following requirements are satisfied:

4092 (a) the area is zoned commercial, industrial, manufacturing, business park, research
4093 park, or other appropriate use in a community-approved master plan;

4094 (b) the request to create a development zone has ~~[been forwarded to the office after]~~
4095 first ~~[being]~~ been approved by an appropriate local government entity; and

4096 (c) local incentives have been ~~[committed]~~ or will be committed to be provided within
4097 the area.

4098 (2) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah
4099 Administrative Rulemaking Act, the office shall make rules establishing the ~~[conditions that]~~
4100 requirements for a business entity or local government entity ~~[shall meet]~~ to qualify for a tax
4101 credit for a new commercial project in a development zone under this part.

4102 (b) The office shall ensure that the ~~[conditions]~~ requirements described in Subsection
4103 (2)(a) include the following ~~[requirements]~~:

4104 (i) the new commercial project ~~[must be]~~ is within the development zone;

4105 (ii) the new commercial project includes direct investment within the geographic
4106 boundaries of the development zone;

4107 (iii) the new commercial project brings new incremental jobs to Utah;

4108 (iv) the new commercial project includes significant capital investment, the creation of
4109 high paying jobs, ~~[or]~~ significant purchases from Utah vendors and providers, or ~~[any]~~ a
4110 combination of these ~~[three]~~ economic factors;

4111 (v) the new commercial project generates new state revenues; and

4112 (vi) ~~[(A)]~~ a business entity ~~[or]~~, a local government entity ~~[qualifying for the tax~~
4113 credit], or a community development and renewal agency to which a local government entity
4114 assigns a tax credit under this section, meets the requirements of Section ~~[63M-1-2405; or]~~
4115 63N-2-105.

4116 ~~[(B) a community development and renewal agency to which a local government entity~~
4117 assigns a tax credit under this section meets the requirements of Section 63M-1-2405.]

4118 (3) (a) ~~[Subject to the other provisions of this Subsection (3), the office, with advice~~
 4119 ~~from]~~ The office, after consultation with the board, may enter into ~~[an]~~ a written agreement
 4120 with a business entity or local government entity authorizing a tax credit to the business entity
 4121 or local government entity if the business entity or local government entity meets the ~~[standards~~
 4122 ~~established under Subsection (2)]~~ requirements described in this section.

4123 (b) (i) With respect to ~~[one]~~ a new commercial project, the office may authorize a tax
 4124 credit to a business entity or a local government entity, but not both.

4125 (ii) In determining whether to authorize a tax credit with respect to ~~[one]~~ a new
 4126 commercial project to a business entity or a local government entity, the office shall authorize
 4127 the tax credit in a manner that the office determines will result in providing the most effective
 4128 incentive for the new commercial project.

4129 (c) (i) ~~[The]~~ Except as provided in Subsection (3)(c)(ii), the office may not authorize or
 4130 commit to authorize a tax credit ~~[if that tax credit]~~ that exceeds:

4131 (A) 50% of the new state revenues from the new commercial project in any given year;
 4132 or

4133 (B) 30% of the new state revenues from the new commercial project over the lesser of
 4134 the life of a new commercial project or 20 years~~[, whichever is less].~~

4135 (ii) ~~[Notwithstanding Subsection (3)(c)(i), the]~~ The office may authorize or commit to
 4136 authorize a tax credit not exceeding 60% of new state revenues from the new commercial
 4137 project in any given year, if the eligible business entity:

4138 (A) creates a significant number of high paying jobs; and

4139 (B) makes capital expenditures in the state of at least \$1,000,000,000.

4140 (d) (i) A local government entity may by resolution assign a tax credit that the office
 4141 authorizes to the local government entity to a community development and renewal agency.

4142 (ii) The local government entity shall provide a copy of the resolution described in
 4143 Subsection (3)(d)(i) to the office.

4144 (iii) If a local government entity assigns a tax credit to a community development and
 4145 renewal agency~~[-(A)]~~, the written agreement described in ~~[this section]~~ Subsection (3)(a) shall:

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

4174 renumbered and amended to read:

4175 ~~[63M-1-2405]~~. 63N-2-105. Qualifications for tax credit -- Procedure.

4176 (1) The office shall certify a business entity's or local government entity's eligibility for
4177 a tax credit as provided in this ~~[section]~~ part.

4178 (2) A business entity or local government entity seeking to receive a tax credit as
4179 provided in this part shall provide the office with:

4180 (a) an application for a tax credit certificate, including a certification, by an officer of
4181 the business entity, of any signature on the application;

4182 (b) (i) for a business entity, documentation of the new state revenues from the business
4183 entity's new commercial project that were paid during the preceding calendar year; or

4184 (ii) for a local government entity, documentation of the new state revenues from the
4185 new commercial project within the area of the local government entity that were paid during
4186 the preceding calendar year;

4187 (c) known or expected detriments to the state or existing businesses in the state;

4188 (d) if a local government entity seeks to assign the tax credit to a community
4189 development and renewal agency ~~[in accordance with]~~ as described in Section ~~[63M-1-2404]~~
4190 63N-2-104, a statement providing the name and taxpayer identification number of the
4191 community development and renewal agency to which the local government entity seeks to
4192 assign the tax credit;

4193 (e) (i) with respect to a business entity, a document that expressly directs and
4194 authorizes the State Tax Commission to disclose to the office the business entity's returns and
4195 other information that would otherwise be subject to confidentiality under Section ~~59-1-403~~ or
4196 Section 6103, Internal Revenue Code~~[- to the office];~~

4197 (ii) with respect to a local government entity that seeks to claim the tax credit:

4198 (A) a document that expressly directs and authorizes the State Tax Commission to
4199 disclose to the office the local government entity's returns and other information that would
4200 otherwise be subject to confidentiality under Section ~~59-1-403~~ or Section 6103, Internal
4201 Revenue Code~~[- to the office];~~ and

4202 (B) if the new state revenues collected as a result of a new commercial project are
4203 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4204 business service within a new commercial project within the area of the local government
4205 entity, a document signed by an authorized representative of the new or expanded industrial,
4206 manufacturing, distribution, or business service that:

4207 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4208 the returns of [~~that~~] the new or expanded industrial, manufacturing, distribution, or business
4209 service and other information that would otherwise be subject to confidentiality under Section
4210 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and

4211 (II) lists the taxpayer identification number of [~~that~~] the new or expanded industrial,
4212 manufacturing, distribution, or business service; or

4213 (iii) with respect to a local government entity that seeks to assign the tax credit to a
4214 community development and renewal agency:

4215 (A) a document signed by the members of the governing body of the community
4216 development and renewal agency that expressly directs and authorizes the State Tax
4217 Commission to disclose to the office the returns of the community development and renewal
4218 agency and other information that would otherwise be subject to confidentiality under Section
4219 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and

4220 (B) if the new state revenues collected as a result of a new commercial project are
4221 attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or
4222 business service within a new commercial project within the community development and
4223 renewal agency, a document signed by an authorized representative of the new or expanded
4224 industrial, manufacturing, distribution, or business service that:

4225 (I) expressly directs and authorizes the State Tax Commission to disclose to the office
4226 the returns of [~~that~~] the new or expanded industrial, manufacturing, distribution, or business
4227 service and other information that would otherwise be subject to confidentiality under Section
4228 59-1-403 or Section 6103, Internal Revenue Code[~~, to the office~~]; and

4229 (II) lists the taxpayer identification number of [~~that~~] the new or expanded industrial,

4230 manufacturing, distribution, or business service; and

4231 (f) for a business entity only, documentation that the business entity has satisfied the
4232 performance benchmarks outlined in the written agreement described in Subsection
4233 [~~63M-1-2404(3)(a)~~] 63N-2-104(3), including:

4234 (i) significant capital investment;

4235 (ii) the creation of high paying jobs;

4236 (iii) significant purchases from Utah vendors and providers; or

4237 (iv) [~~any combination of Subsections (2)(f)(i), (ii), and (iii)~~] a combination of these
4238 benchmarks.

4239 (3) (a) The office shall submit the documents described in Subsection (2)(e) to the
4240 State Tax Commission.

4241 (b) Upon receipt of a document described in Subsection (2)(e), the State Tax
4242 Commission shall provide the office with the returns and other information requested by the
4243 office that the State Tax Commission is directed or authorized to provide to the office in
4244 accordance with Subsection (2)(e).

4245 (4) If, after review of the returns and other information provided by the State Tax
4246 Commission, or after review of the ongoing performance of the business entity or local
4247 government entity, the office determines that the returns and other information are inadequate
4248 to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

4249 (a) (i) deny the tax credit; or

4250 (ii) terminate the agreement described in Subsection [~~63M-1-2404(3)(a)~~] 63N-2-104(3)
4251 for failure to meet the performance standards established in the agreement; or

4252 (b) inform the business entity or local government entity that the returns or other
4253 information were inadequate and ask the business entity or local government entity to submit
4254 new documentation.

4255 (5) If after review of the returns and other information provided by the State Tax
4256 Commission, the office determines that the returns and other information provided by the
4257 business entity or local government entity provide reasonable justification for authorizing a tax

4258 credit, the office shall, based upon the returns and other information:

4259 (a) determine the amount of the tax credit to be granted to the business entity, local
4260 government entity, or if the local government entity assigns the tax credit [~~in accordance with~~
4261 as described in Section [~~63M-1-2404~~] 63N-2-104, to the community development and renewal
4262 agency to which the local government entity assigns the tax credit;

4263 (b) issue a tax credit certificate to the business entity, local government entity, or if the
4264 local government entity assigns the tax credit [~~in accordance with~~] as described in Section
4265 [~~63M-1-2404~~] 63N-2-104, to the community development and renewal agency to which the
4266 local government entity assigns the tax credit; and

4267 (c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

4268 (6) A business entity, local government entity, or community development and renewal
4269 agency may not claim a tax credit unless the business entity, local government entity, or
4270 community development and renewal agency has a tax credit certificate issued by the office.

4271 (7) (a) A business entity, local government entity, or community development and
4272 renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its
4273 tax return.

4274 (b) A business entity, local government entity, or community development and renewal
4275 agency that claims a tax credit under this section shall retain the tax credit certificate in
4276 accordance with Section 59-7-614.2 or 59-10-1107.

4277 Section 71. Section **63N-2-106**, which is renumbered from Section 63M-1-2406 is
4278 renumbered and amended to read:

4279 ~~[63M-1-2406]~~. **63N-2-106. Reports -- Posting monthly and annual reports --**
4280 **Audit and study of tax credits.**

4281 (1) The office shall include the following information in the annual written report
4282 described in Section [~~63M-1-206~~] 63N-1-301:

4283 (a) the office's success in attracting new commercial projects to development zones
4284 under this part and the corresponding increase in new incremental jobs;

4285 (b) the estimated amount of tax credit commitments made by the office and the period

4286 of time over which tax credits will be paid;

4287 (c) the economic impact on the state [~~related to generating~~] from new state revenues
4288 and [~~providing~~] the provision of tax credits under this part;

4289 (d) the estimated costs and economic benefits of the tax credit commitments [~~that~~]
4290 made by the office [~~made~~];

4291 (e) the actual costs and economic benefits of the tax credit commitments [~~that~~] made
4292 by the office [~~made~~]; and

4293 (f) tax credit commitments [~~that~~] made by the office [~~made~~], with the associated
4294 calculation.

4295 (2) [~~The~~] Each month, the office shall [~~monthly~~] post on its website and on a state
4296 website:

4297 (a) the new tax credit commitments [~~that~~] made by the office [~~made~~] during the
4298 previous month; and

4299 (b) the estimated costs and economic benefits of those tax credit commitments.

4300 (3) (a) On or before November 1, 2014, and every five years after November 1, 2014,
4301 the office shall:

4302 (i) conduct an audit of the tax credits allowed under Section [~~63M-1-2405~~] 63N-2-105;

4303 (ii) study the tax credits allowed under Section [~~63M-1-2405~~] 63N-2-105; and

4304 (iii) make recommendations concerning whether the tax credits should be continued,
4305 modified, or repealed.

4306 (b) [~~An~~] The audit [~~under Subsection (3)(a)(i)~~] shall include an evaluation of:

4307 (i) the cost of the tax credits;

4308 (ii) the purposes and effectiveness of the tax credits; and

4309 (iii) the extent to which the state benefits from the tax credits.

4310 Section 72. Section **63N-2-107**, which is renumbered from Section 63M-1-2407 is
4311 renumbered and amended to read:

4312 [~~63M-1-2407~~]. **63N-2-107. Reports of new state revenues, partial rebates,**
4313 **and tax credits.**

4314 (1) Before December 1 of each year, the office shall submit a report to the Governor's
4315 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
4316 of Finance identifying:

4317 (a) (i) the total estimated amount of new state revenues created from new commercial
4318 projects in ~~[the]~~ development zones; and

4319 (ii) the estimated amount of new state revenues from new commercial projects in ~~[the]~~
4320 development zones that will be generated from:

4321 (A) sales tax;

4322 (B) income tax; and

4323 (C) corporate franchise and income tax; and

4324 ~~[(b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408~~
4325 ~~that the office projects will be required to be paid in the next fiscal year; and]~~

4326 ~~[(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are~~
4327 ~~attributable to:]~~

4328 ~~[(A) sales tax;]~~

4329 ~~[(B) income tax; and]~~

4330 ~~[(C) corporate franchise and income tax; and]~~

4331 ~~[(c)]~~ (b) the total estimated amount of tax credits that the office projects that business
4332 entities, local government entities, or community development and renewal agencies will
4333 qualify to claim under this part.

4334 (2) By the first business day of each month, the office shall submit a report to the
4335 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
4336 Division of Finance identifying:

4337 (a) each new agreement entered into by the office since the last report;

4338 (b) the estimated amount of new state revenues that will be generated under each
4339 agreement; and

4340 (c) the estimated maximum amount of tax credits that a business entity, local
4341 government entity, or community development and renewal agency could qualify for under

4342 each agreement.

4343 Section 73. Section **63N-2-108**, which is renumbered from Section 63M-1-2409 is
4344 renumbered and amended to read:

4345 ~~[63M-1-2409]~~. **63N-2-108. Expenditure of amounts received by a local**
4346 **government entity or community development and renewal agency as a tax credit --**
4347 **Commingling of tax credit amounts with certain other amounts.**

4348 (1) Subject to Subsections (2) and (3), a local government entity or community
4349 development and renewal agency may expend amounts the local government entity or
4350 community development and renewal agency receives as a tax credit under Section [59-7-614.2](#):

4351 (a) for infrastructure, including real property or personal property, if that infrastructure
4352 is related to the new commercial project with respect to which the local government entity or
4353 community development and renewal agency claims the tax credit under Section [59-7-614.2](#); or

4354 (b) for another economic development purpose related to the new commercial project
4355 with respect to which the local government entity or community development and renewal
4356 agency claims the tax credit under Section [59-7-614.2](#).

4357 (2) A local government entity may:

4358 (a) commingle amounts the local government entity receives as a tax credit under
4359 Section [59-7-614.2](#) with amounts the local government entity receives under Title ~~[63M]~~ 63N,
4360 Chapter ~~[†]~~ 3, Part ~~[9]~~ 1, Industrial Assistance ~~[Fund]~~ Account; and

4361 (b) expend the commingled amounts described in Subsection (2)(a) for a purpose
4362 described in Title ~~[63M]~~ 63N, Chapter ~~[†]~~ 3, Part ~~[9]~~ 1, Industrial Assistance ~~[Fund]~~ Account,
4363 if that purpose is related to the new commercial project with respect to which the local
4364 government entity claims the tax credit under Section [59-7-614.2](#).

4365 (3) A community development and renewal agency may:

4366 (a) commingle amounts the community development and renewal agency receives as a
4367 tax credit under Section [59-7-614.2](#) with amounts the community development and renewal
4368 agency receives under Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax; and

4369 (b) expend the commingled amounts described in Subsection (3)(a) for a purpose

4370 described in Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax, if that purpose is
4371 related to the new commercial project with respect to which the community development and
4372 renewal agency claims the tax credit under Section [59-7-614.2](#).

4373 Section 74. Section **63N-2-201**, which is renumbered from Section 63M-1-401 is
4374 renumbered and amended to read:

4375 **Part 2. Enterprise Zone Act**

4376 ~~[63M-1-401]~~. **63N-2-201. Title.**

4377 This part is known as the "Enterprise Zone Act."

4378 Section 75. Section **63N-2-202**, which is renumbered from Section 63M-1-402 is
4379 renumbered and amended to read:

4380 ~~[63M-1-402]~~. **63N-2-202. Definitions.**

4381 As used in this part:

4382 (1) "Business entity" means an entity, sole proprietorship, or individual:

4383 (a) including a claimant, estate, or trust; and

4384 (b) under which or by whom business is conducted or transacted.

4385 (2) "Claimant" means a resident or nonresident person that has:

4386 (a) Utah taxable income as defined in Section [59-7-101](#); or

4387 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and

4388 Reporting of Tax Liability and Information.

4389 (3) "County applicant" means the governing authority of a county that meets the
4390 requirements for designation as an enterprise zone under Section ~~[63M-1-404]~~ [63N-2-204](#).

4391 (4) "Estate" means a nonresident estate or a resident estate that has state taxable
4392 income under Title 59, Chapter 10, Part 2, Trusts and Estates.

4393 (5) "Municipal applicant" means the governing authority of a city or town that meets
4394 the requirements for designation as an enterprise zone under Section ~~[63M-1-404]~~ [63N-2-204](#).

4395 (6) "New full-time employee position" means a position that has been newly created
4396 and then filled by an employee working at least 30 hours per week:

4397 (a) for a period of not less than six consecutive months; and

- 4398 (b) where the period ends in the tax year for which the credit is claimed.
- 4399 (7) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity
- 4400 may:
- 4401 (a) claim:
- 4402 (i) as provided by statute; and
- 4403 (ii) in an amount that does not exceed the business entity's tax liability for a taxable
- 4404 year under:
- 4405 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
- 4406 (B) Title 59, Chapter 10, Individual Income Tax Act; and
- 4407 (b) carry forward or carry back:
- 4408 (i) if allowed by statute; and
- 4409 (ii) to the extent that the amount of the tax credit exceeds the business entity's tax
- 4410 liability for a taxable year under:
- 4411 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
- 4412 (B) Title 59, Chapter 10, Individual Income Tax Act.
- 4413 (8) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in
- 4414 Section [~~63M-1-413~~] [63N-2-213](#).
- 4415 (9) "Trust" means a nonresident trust or a resident trust that has state taxable income
- 4416 under Title 59, Chapter 10, Part 2, Trusts and Estates.
- 4417 Section 76. Section **63N-2-203**, which is renumbered from Section 63M-1-403 is
- 4418 renumbered and amended to read:
- 4419 ~~[63M-1-403]~~. **63N-2-203. Powers of the office.**
- 4420 The office shall:
- 4421 (1) monitor the implementation and operation of this part and conduct a continuing
- 4422 evaluation of the progress made in the enterprise zones;
- 4423 (2) evaluate an application for designation as an enterprise zone from a county
- 4424 applicant or a municipal applicant and determine if the applicant qualifies for that designation;
- 4425 (3) provide technical assistance to county applicants and municipal applicants in

4426 developing applications for designation as enterprise zones;

4427 (4) assist county applicants and municipal applicants designated as enterprise zones in
4428 obtaining assistance from the federal government and agencies of the state;

4429 (5) assist a qualified business entity in obtaining the benefits of an incentive or
4430 inducement program authorized by this part; and

4431 (6) as part of the annual written report described in Section [~~63M-1-206~~] [63N-2-301](#),
4432 prepare an annual evaluation based, in part, on data provided by the State Tax Commission that
4433 evaluates the effectiveness of the program and any suggestions for legislation.

4434 Section 77. Section **63N-2-204**, which is renumbered from Section 63M-1-404 is
4435 renumbered and amended to read:

4436 [~~63M-1-404~~]. **63N-2-204. Criteria for designation of enterprise zones --**
4437 **Application.**

4438 (1) A county applicant seeking designation as an enterprise zone shall file an
4439 application with the office that, in addition to complying with the other requirements of this
4440 part:

4441 (a) verifies that the county has a population of not more than 50,000; and

4442 (b) provides clear evidence of the need for development in the county.

4443 (2) A municipal applicant seeking designation as an enterprise zone shall file an
4444 application with the office that, in addition to complying with other requirements of this part:

4445 (a) verifies that the municipality has a population that does not exceed 15,000;

4446 (b) verifies that the municipality is within a county that has a population of not more
4447 than 50,000; and

4448 (c) provides clear evidence of the need for development in the municipality.

4449 (3) An application filed under Subsection (1) or (2) shall be in a form and in
4450 accordance with procedures approved by the office, and shall include the following
4451 information:

4452 (a) a plan developed by the county applicant or municipal applicant that identifies local
4453 contributions meeting the requirements of Section [~~63M-1-405~~] [63N-2-205](#);

- 4454 (b) the county applicant or municipal applicant has a development plan that outlines:
4455 (i) the types of investment and development within the zone that the county applicant
4456 or municipal applicant expects to take place if the incentives specified in this part are provided;
4457 (ii) the specific investment or development reasonably expected to take place;
4458 (iii) any commitments obtained from businesses;
4459 (iv) the projected number of jobs that will be created and the anticipated wage level of
4460 those jobs;
4461 (v) any proposed emphasis on the type of jobs created, including any affirmative action
4462 plans; and
4463 (vi) a copy of the county applicant's or municipal applicant's economic development
4464 plan to demonstrate coordination between the zone and overall county or municipal goals;
4465 (c) the county applicant's or municipal applicant's proposed means of assessing the
4466 effectiveness of the development plan or other programs within the zone once they have been
4467 implemented within the zone;
4468 (d) any additional information required by the office; and
4469 (e) any additional information the county applicant or municipal applicant considers
4470 relevant to its designation as an enterprise zone.

4471 Section 78. Section **63N-2-205**, which is renumbered from Section 63M-1-405 is
4472 renumbered and amended to read:

4473 ~~**63M-1-405**~~. **63N-2-205. Qualifying local contributions.**

- 4474 (1) An area may be designated as an enterprise zone only if the county applicant or
4475 municipal applicant agrees to make a qualifying local contribution.
4476 (2) The qualifying local contribution may vary depending on available resources, and
4477 may include such elements as:
4478 (a) simplified procedures for obtaining permits;
4479 (b) dedication of available government grants;
4480 (c) dedication of training funds;
4481 (d) waiver of business license fees;

- 4482 (e) infrastructure improvements;
- 4483 (f) private contributions;
- 4484 (g) utility rate concessions;
- 4485 (h) small business incubator programs; or
- 4486 (i) management assistance programs.

4487 Section 79. Section **63N-2-206**, which is renumbered from Section 63M-1-406 is
4488 renumbered and amended to read:

4489 ~~[63M-1-406]~~. **63N-2-206. Eligibility review.**

4490 (1) The office shall:

4491 (a) review and evaluate the applications submitted under Section [~~63M-1-404~~]

4492 63N-2-204; and

4493 (b) determine whether each county applicant or municipal applicant is eligible for
4494 designation as an enterprise zone.

4495 (2) (a) The office shall designate enterprise zones.

4496 (b) The office shall consider and evaluate an application using the following criteria:

4497 (i) the pervasiveness of poverty, unemployment, and general distress in the proposed
4498 zone;

4499 (ii) the extent of chronic abandonment, deterioration, or reduction in value of
4500 commercial, industrial, or residential structures in the proposed zone, and the extent of property
4501 tax arrearages in the proposed zone;

4502 (iii) the potential for new investment and economic development in the proposed zone;

4503 (iv) the county applicant's or municipal applicant's proposed use of other state and
4504 federal development funds or programs to increase the probability of new investment and
4505 development occurring;

4506 (v) the extent to which the projected development in the zone will provide employment
4507 to residents of the county and particularly individuals who are unemployed or who are
4508 economically disadvantaged;

4509 (vi) the degree to which the county applicant's or municipal applicant's application

4510 promotes innovative solutions to economic development problems and demonstrates local
4511 initiative; and

4512 (vii) other relevant factors that the office specifies in its recommendation.

4513 Section 80. Section **63N-2-207**, which is renumbered from Section 63M-1-407 is
4514 renumbered and amended to read:

4515 **~~[63M-1-407].~~ 63N-2-207. Quarterly consideration.**

4516 The office shall consider designating enterprise zones quarterly.

4517 Section 81. Section **63N-2-208**, which is renumbered from Section 63M-1-408 is
4518 renumbered and amended to read:

4519 **~~[63M-1-408].~~ 63N-2-208. Duration of designation.**

4520 Each enterprise zone has a duration of five years, at the end of which the county may
4521 reapply for the designation.

4522 Section 82. Section **63N-2-209**, which is renumbered from Section 63M-1-409 is
4523 renumbered and amended to read:

4524 **~~[63M-1-409].~~ 63N-2-209. Contingent designations.**

4525 (1) The office may accept applications for, and may at any time grant, a contingent
4526 designation of any county as an enterprise zone for purposes of seeking a designation of the
4527 county as a federally designated zone.

4528 (2) This designation does not entitle a business operating in that county to the tax
4529 incentives under this part.

4530 Section 83. Section **63N-2-210**, which is renumbered from Section 63M-1-410 is
4531 renumbered and amended to read:

4532 **~~[63M-1-410].~~ 63N-2-210. Revocation of designations.**

4533 (1) The office may revoke the designation of an enterprise zone, if no businesses utilize
4534 the tax incentives during any calendar year.

4535 (2) Prior to that action, the office shall conduct a public hearing to determine reasons
4536 for inactivity and explore possible alternative actions.

4537 Section 84. Section **63N-2-211**, which is renumbered from Section 63M-1-411 is

4538 renumbered and amended to read:

4539 ~~[63M-1-411]~~. 63N-2-211. **Disqualifying transfers.**

4540 Except in counties of the first or second class, tax incentives provided by this part are
4541 not available to companies that close or permanently curtail operations in another part of the
4542 state in connection with a transfer of any part of its business operations to an enterprise zone, if
4543 the closure or permanent curtailment is reasonably expected to diminish employment in that
4544 part of the state.

4545 Section 85. Section 63N-2-212, which is renumbered from Section 63M-1-412 is
4546 renumbered and amended to read:

4547 ~~[63M-1-412]~~. 63N-2-212. **Business entities qualifying for tax incentives.**

4548 (1) Except as otherwise provided in Subsection (2), the tax incentives described in this
4549 part are available only to a business entity for which at least 51% of the employees employed at
4550 facilities of the business entity located in the enterprise zone are individuals who, at the time of
4551 employment, reside in:

4552 (a) the county in which the enterprise zone is located; or

4553 (b) an enterprise zone that is immediately adjacent and contiguous to the county in
4554 which the enterprise zone is located.

4555 (2) Subsection (1) does not apply to a business entity that has no employees.

4556 Section 86. Section 63N-2-213, which is renumbered from Section 63M-1-413 is
4557 renumbered and amended to read:

4558 ~~[63M-1-413]~~. 63N-2-213. **State tax credits.**

4559 (1) Subject to the limitations of Subsections (2) through (4), the following
4560 nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and
4561 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an
4562 enterprise zone:

4563 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
4564 employee position created within the enterprise zone;

4565 (b) an additional \$500 tax credit may be claimed if the new full-time employee position

4566 created within the enterprise zone pays at least 125% of:

4567 (i) the county average monthly nonagricultural payroll wage for the respective industry
4568 as determined by the Department of Workforce Services; or

4569 (ii) if the county average monthly nonagricultural payroll wage is not available for the
4570 respective industry, the total average monthly nonagricultural payroll wage in the respective
4571 county where the enterprise zone is located;

4572 (c) an additional tax credit of \$750 may be claimed if the new full-time employee
4573 position created within the enterprise zone is in a business entity that adds value to agricultural
4574 commodities through manufacturing or processing;

4575 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
4576 new full-time employee position created within the enterprise zone that is filled by an
4577 employee who is insured under an employer-sponsored health insurance program if the
4578 employer pays at least 50% of the premium cost for the year for which the credit is claimed;

4579 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
4580 corporation, except that the credit claimed may not exceed \$100,000:

4581 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
4582 Revenue Code;

4583 (ii) whose primary purpose is community and economic development; and

4584 (iii) that has been accredited by the Governor's Rural Partnership Board;

4585 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
4586 enterprise zone that has been vacant for two years or more; and

4587 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
4588 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
4589 property.

4590 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax
4591 credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time
4592 employee positions per taxable year.

4593 (b) A business entity that received a tax credit for one or more new full-time employee

4594 positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for
4595 a new full-time employee position in a subsequent taxable year under Subsections (1)(a)
4596 through (d) if:

4597 (i) the business entity has created a new full-time position within the enterprise zone;
4598 and

4599 (ii) the total number of full-time employee positions at the business entity at any point
4600 during the tax year for which the tax credit is being claimed is greater than the number of
4601 full-time employee positions that existed at the business entity at any point during the taxable
4602 year immediately preceding the taxable year for which the credit is being claimed.

4603 (c) Construction jobs are not eligible for the tax credits under Subsections (1)(a)
4604 through (d).

4605 (3) If the amount of a tax credit under this section exceeds a business entity's tax
4606 liability under this chapter for a taxable year, the business entity may carry forward the amount
4607 of the tax credit exceeding the liability for a period that does not exceed the next three taxable
4608 years.

4609 (4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business
4610 entity primarily engaged in retail trade or by a public utilities business.

4611 (5) A business entity that has no employees:

4612 (a) may not claim tax credits under Subsections (1)(a) through (d); and

4613 (b) may claim tax credits under Subsections (1)(e) through (g).

4614 (6) A business entity may not claim or carry forward a tax credit available under this
4615 part for a taxable year during which the business entity has claimed the targeted business
4616 income tax credit available under Section [63M-1-504](#).

4617 Section 87. Section **63N-2-214**, which is renumbered from Section 63M-1-414 is
4618 renumbered and amended to read:

4619 ~~[63M-1-414]~~. **63N-2-214. Annual report.**

4620 Each county applicant or municipal applicant designated as an enterprise zone shall
4621 annually report to the office regarding the economic activity that has occurred in the zone

4622 following the designation.

4623 Section 88. Section **63N-2-215**, which is renumbered from Section 63M-1-415 is
4624 renumbered and amended to read:

4625 ~~[63M-1-415]~~. **63N-2-215. Indian tribes -- Application.**

4626 (1) For purposes of this section:

4627 (a) "Indian reservation" ~~[is]~~ has the same meaning as defined in Section 9-9-210.

4628 (b) "Indian tribe" ~~[is]~~ has the same meaning as defined in Subsection 9-9-402(6).

4629 (c) "Tribal applicant" means the governing authority of a tribe that meets the
4630 requirements for designation as an enterprise zone under Subsection (2).

4631 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
4632 enterprise zone.

4633 (3) The tribal applicant shall follow the application procedure for a municipal applicant
4634 in this part except for the population requirement in Subsections ~~[63M-1-404]~~ 63N-2-204(2)(a)
4635 and (b).

4636 Section 89. Section **63N-2-301** is enacted to read:

4637 **Part 3. Targeted Business Income Tax Credit in an Enterprise Zone**

4638 **63N-2-301. Title.**

4639 This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."

4640 Section 90. Section **63N-2-302**, which is renumbered from Section 63M-1-501 is
4641 renumbered and amended to read:

4642 ~~[63M-1-501]~~. **63N-2-302. Definitions.**

4643 As used in this part:

4644 (1) "Allocated cap amount" means the total amount of the targeted business income tax
4645 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
4646 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
4647 ~~[63M-1-504]~~ 63N-2-305(2).

4648 (2) "Business applicant" means a business that:

4649 (a) is a:

- 4650 (i) claimant;
- 4651 (ii) estate; or
- 4652 (iii) trust; and
- 4653 (b) meets the criteria established in Section [~~63M-1-503~~] [63N-2-304](#).
- 4654 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
- 4655 nonresident person.
- 4656 (b) "Claimant" does not include an estate or trust.
- 4657 (4) "Community investment project" means a project that includes one or more of the
- 4658 following criteria in addition to the normal operations of the business applicant:
- 4659 (a) substantial new employment;
- 4660 (b) new capital development; or
- 4661 (c) a combination of both Subsections (4)(a) and (b).
- 4662 (5) "Community investment project period" means the total number of years that the
- 4663 office determines a business applicant is eligible for a targeted business income tax credit for
- 4664 each community investment project.
- 4665 (6) "Enterprise zone" means an area within a county or municipality that has been
- 4666 designated as an enterprise zone by the office under Part [~~4~~] 2, Enterprise Zone Act.
- 4667 (7) "Estate" means a nonresident estate or a resident estate.
- 4668 (8) "Local zone administrator" means a person:
- 4669 (a) designated by the governing authority of the county or municipal applicant as the
- 4670 local zone administrator in an enterprise zone application; and
- 4671 (b) approved by the office as the local zone administrator.
- 4672 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
- 4673 trust may claim:
- 4674 (a) as provided by statute; and
- 4675 (b) regardless of whether, for the taxable year for which the claimant, estate, or trust
- 4676 claims the tax credit, the claimant, estate, or trust has a tax liability under:
- 4677 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

4678 (ii) Title 59, Chapter 10, Individual Income Tax Act.

4679 (10) "Targeted business income tax credit" means a refundable tax credit available
4680 under Section [~~63M-1-504~~] [63N-2-305](#).

4681 (11) "Targeted business income tax credit eligibility form" means a document provided
4682 annually to the business applicant by the office that complies with the requirements of
4683 Subsection [~~63M-1-504~~] [63N-2-305](#)(8).

4684 (12) "Trust" means a nonresident trust or a resident trust.

4685 Section 91. Section **63N-2-303**, which is renumbered from Section 63M-1-502 is
4686 renumbered and amended to read:

4687 ~~[63M-1-502]~~. **63N-2-303. Rulemaking authority.**

4688 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for
4689 purposes of this ~~[section]~~ part, the office shall make rules:

4690 (1) to determine what constitutes:

4691 (a) substantial new employment;

4692 (b) new capital development; and

4693 (c) a project; and

4694 (2) to establish a formula for determining the allocated cap amount for each business
4695 applicant.

4696 Section 92. Section **63N-2-304**, which is renumbered from Section 63M-1-503 is
4697 renumbered and amended to read:

4698 ~~[63M-1-503]~~. **63N-2-304. Application for targeted business income tax**
4699 **credit.**

4700 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
4701 may elect to claim a targeted business income tax credit available under Section [~~63M-1-504~~]
4702 [63N-2-305](#) if the business applicant:

4703 (i) is located in:

4704 (A) an enterprise zone; and

4705 (B) a county with:

- 4706 (I) a population of less than 25,000; and
4707 (II) an unemployment rate that for six months or more of each calendar year is at least
4708 one percentage point higher than the state average;
- 4709 (ii) meets the requirements of Section [~~63M-1-412~~] [63N-2-212](#);
- 4710 (iii) provides:
- 4711 (A) a community investment project within the enterprise zone; and
4712 (B) a portion of the community investment project during each taxable year for which
4713 the business applicant claims the targeted business tax incentive; and
- 4714 (iv) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is
4715 not engaged in the following, as defined by the State Tax Commission by rule:
- 4716 (A) construction;
4717 (B) retail trade; or
4718 (C) public utility activities.
- 4719 (b) For a taxable year for which a business applicant claims a targeted business income
4720 tax credit available under this part, the business applicant may not claim or carry forward a tax
4721 credit available under Section [59-7-610](#), [59-10-1007](#), or [~~63M-1-413~~] [63N-2-213](#).
- 4722 (2) (a) A business applicant seeking to claim a targeted business income tax credit
4723 under this part shall file an application as provided in Subsection (2)(b) with the local zone
4724 administrator by no later than June 1 of the year in which the business applicant is seeking to
4725 claim a targeted business income tax credit.
- 4726 (b) The application described in Subsection (2)(a) shall include:
- 4727 (i) any documentation required by the local zone administrator to demonstrate that the
4728 business applicant meets the requirements of Subsection (1);
- 4729 (ii) a plan developed by the business applicant that outlines:
- 4730 (A) if the community investment project includes substantial new employment, the
4731 projected number and anticipated wage level of the jobs that the business applicant plans to
4732 create as the basis for qualifying for a targeted business income tax credit;
- 4733 (B) if the community investment project includes new capital development, a

4734 description of the capital development the business applicant plans to make as the basis for
4735 qualifying for a targeted business income tax credit; and

4736 (C) a description of how the business applicant's plan coordinates with:

4737 (I) the goals of the enterprise zone in which the business applicant is providing a
4738 community investment project; and

4739 (II) the overall economic development goals of the county or municipality in which the
4740 business applicant is providing a community investment project; and

4741 (iii) any additional information required by the local zone administrator.

4742 (3) (a) The local zone administrator shall:

4743 (i) evaluate an application filed under Subsection (2); and

4744 (ii) determine whether the business applicant is eligible for a targeted business income
4745 tax credit.

4746 (b) If the local zone administrator determines that the business applicant is eligible for
4747 a targeted business income tax credit, the local zone administrator shall:

4748 (i) certify that the business applicant is eligible for the targeted business income tax
4749 credit;

4750 (ii) structure the targeted business income tax credit for the business applicant in
4751 accordance with Section [~~63M-1-504~~] [63N-2-305](#); and

4752 (iii) monitor a business applicant to ensure compliance with this section.

4753 (4) A local zone administrator shall report to the office by no later than June 30 of each
4754 year:

4755 (a) (i) any application approved by the local zone administrator during the last fiscal
4756 year; and

4757 (ii) the information established in Subsections [~~63M-1-504~~] [63N-2-305](#)(4)(a) through
4758 (d) for each new business applicant; and

4759 (b) (i) the status of any existing business applicants that the local zone administrator
4760 monitors; and

4761 (ii) any information required by the office to determine the status of an existing

4762 business applicant.

4763 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
 4764 of the allocated cap amount that each business applicant that the local zone administrator
 4765 monitors is eligible to claim.

4766 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
 4767 each business applicant that the local zone administrator monitors of the allocated cap amount
 4768 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
 4769 for a taxable year.

4770 Section 93. Section **63N-2-305**, which is renumbered from Section 63M-1-504 is
 4771 renumbered and amended to read:

4772 ~~**[63M-1-504].**~~ **63N-2-305. Targeted business income tax credit structure --**
 4773 **Duties of the local zone administrator -- Duties of the State Tax Commission.**

4774 (1) [~~For taxable years beginning on or after January 1, 2002, a~~] A business applicant
 4775 that is certified under Subsection [~~63M-1-503~~] 63N-2-304(3) and issued a targeted business tax
 4776 credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

4777 (a) against the business applicant's tax liability under:

- 4778 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
- 4779 (ii) Title 59, Chapter 10, Individual Income Tax Act; and

4780 (b) subject to requirements and limitations provided by this part.

4781 (2) The total amount of the targeted business income tax credits allowed under this part
 4782 for all business applicants may not exceed \$300,000 in any fiscal year.

4783 (3) (a) A targeted business income tax credit allowed under this part for each
 4784 community investment project provided by a business applicant may not:

4785 (i) be claimed by a business applicant for more than seven consecutive taxable years
 4786 from the date the business applicant first qualifies for a targeted business income tax credit on
 4787 the basis of a community investment project;

4788 (ii) be carried forward or carried back;

4789 (iii) exceed \$100,000 in total amount for the community investment project period

4790 during which the business applicant is eligible to claim a targeted business income tax credit;

4791 or

4792 (iv) exceed in any year that the targeted business income tax credit is claimed the lesser

4793 of:

4794 (A) 50% of the maximum amount allowed by the local zone administrator; or

4795 (B) the allocated cap amount determined by the office under Subsection [~~63M-1-503~~]

4796 63N-2-304(5).

4797 (b) A business applicant may apply to the local zone administrator to claim a targeted

4798 business income tax credit allowed under this part for each community investment project

4799 provided by the business applicant as the basis for its eligibility for a targeted business income

4800 tax credit.

4801 (4) Subject to other provisions of this section, the local zone administrator shall

4802 establish for each business applicant that qualifies for a targeted business income tax credit:

4803 (a) criteria for maintaining eligibility for the targeted business income tax credit that

4804 are reasonably related to the community investment project that is the basis for the business

4805 applicant's targeted business income tax credit;

4806 (b) the maximum amount of the targeted business income tax credit the business

4807 applicant is allowed for the community investment project period;

4808 (c) the time period over which the total amount of the targeted business income tax

4809 credit may be claimed;

4810 (d) the maximum amount of the targeted business income tax credit that the business

4811 applicant will be allowed to claim each year; and

4812 (e) requirements for a business applicant to report to the local zone administrator

4813 specifying:

4814 (i) the frequency of the business applicant's reports to the local zone administrator,

4815 which shall be made at least quarterly; and

4816 (ii) the information needed by the local zone administrator to monitor the business

4817 applicant's compliance with this Subsection (4) or Section [~~63M-1-503~~] 63N-2-304 that shall

4818 be included in the report.

4819 (5) In accordance with Subsection (4)(e), a business applicant allowed a targeted
4820 business income tax credit under this part shall report to the local zone administrator.

4821 (6) The amount of a targeted business income tax credit that a business applicant is
4822 allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office
4823 or the local zone administrator determines that the business applicant has failed to comply with
4824 a requirement of Subsection (3) or Section [~~63M-1-503~~] [63N-2-304](#).

4825 (7) The office or local zone administrator may audit a business applicant to ensure:

4826 (a) eligibility for a targeted business income tax credit; or

4827 (b) compliance with Subsection (3) or Section [~~63M-1-503~~] [63N-2-304](#).

4828 (8) The office shall issue a targeted business income tax credit eligibility form in a
4829 form jointly developed by the State Tax Commission and the office no later than 30 days after
4830 the last day of the business applicant's taxable year showing:

4831 (a) the maximum amount of the targeted business income tax credit that the business
4832 applicant is eligible for that taxable year;

4833 (b) any reductions in the maximum amount of the targeted business income tax credit
4834 because of failure to comply with a requirement of Subsection (3) or Section [~~63M-1-503~~]
4835 [63N-2-304](#);

4836 (c) the allocated cap amount that the business applicant may claim for that taxable
4837 year; and

4838 (d) the actual amount of the targeted business income tax credit that the business
4839 applicant may claim for that taxable year.

4840 (9) (a) A business applicant shall retain the targeted business income tax credit
4841 eligibility form provided by the office under this Subsection (9).

4842 (b) The State Tax Commission may audit a business applicant to ensure:

4843 (i) eligibility for a targeted business income tax credit; or

4844 (ii) compliance with Subsection (3) or Section [~~63M-1-503~~] [63N-2-304](#).

4845 Section 94. Section **63N-2-401**, which is renumbered from Section 63M-1-1101 is

4846 renumbered and amended to read:

4847 **Part 4. Recycling Market Development Zone Act**

4848 **[~~63M-1-1101~~]. 63N-2-401. Title.**

4849 This part is known as the "Recycling Market Development Zone Act."

4850 Section 95. Section **63N-2-402**, which is renumbered from Section 63M-1-1102 is

4851 renumbered and amended to read:

4852 **[~~63M-1-1102~~]. 63N-2-402. Definitions.**

4853 As used in this part:

4854 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
4855 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
4856 organisms.

4857 (2) "Postconsumer waste material" means any product generated by a business or
4858 consumer that has served its intended end use, and that has been separated from solid waste for
4859 the purposes of collection, recycling, and disposition and that does not include secondary waste
4860 material.

4861 (3) (a) "Recovered materials" means waste materials and by-products that have been
4862 recovered or diverted from solid waste.

4863 (b) "Recovered materials" does not include those materials and by-products generated
4864 from, and commonly reused within, an original manufacturing process.

4865 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
4866 the beneficial use of the materials and includes a series of activities by which materials that
4867 would become or otherwise remain waste are diverted from the waste stream for collection,
4868 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
4869 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
4870 the materials as substitutes for goods made from virgin materials.

4871 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

4872 (5) "Recycling market development zone" or "zone" means an area designated by the
4873 office as meeting the requirements of this part.

4874 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
4875 facilities and waste generated after completion of a manufacturing process.

4876 (b) "Secondary waste material" does not include internally generated scrap commonly
4877 returned to industrial or manufacturing processes, such as home scrap and mill broke.

4878 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
4879 tax credits available under Sections [59-7-608](#) and [59-10-1007](#).

4880 Section 96. Section **63N-2-403**, which is renumbered from Section 63M-1-1103 is
4881 renumbered and amended to read:

4882 ~~**[63M-1-1103]**~~. **63N-2-403. Duties of the office.**

4883 The office shall:

4884 (1) facilitate recycling development zones through state support of county incentives
4885 which encourage development of manufacturing enterprises that use recycling materials
4886 currently collected;

4887 (2) evaluate an application from a county or municipality executive authority to be
4888 designated as a recycling market development zone and determine if the county or municipality
4889 qualifies for that designation;

4890 (3) provide technical assistance to municipalities and counties in developing
4891 applications for designation as a recycling market development zone;

4892 (4) assist counties and municipalities designated as recycling market development
4893 zones in obtaining assistance from the federal government and agencies of the state;

4894 (5) assist a qualified business in obtaining the benefits of an incentive or inducement
4895 program authorized by this part;

4896 (6) monitor the implementation and operation of this part and conduct a continuing
4897 evaluation of the progress made in the recycling market development zone; and

4898 (7) include in the annual written report described in Section ~~[\[63M-1-206\]](#)~~ [63N-2-301](#),
4899 an evaluation of the effectiveness of the program and recommendations for legislation.

4900 Section 97. Section **63N-2-404**, which is renumbered from Section 63M-1-1104 is
4901 renumbered and amended to read:

4902 ~~[63M-1-1104]~~. 63N-2-404. **Criteria for recycling market development zone**

4903 -- **Application process and fees.**

4904 (1) An area may be designated as a recycling market development zone only if:

4905 (a) the county or municipality agrees to make a qualifying local contribution under

4906 Section ~~[63M-1-1105]~~ 63N-2-405; and

4907 (b) the county or municipality provides for postconsumer waste collection for recycling
4908 within the county or municipality.

4909 (2) The executive authority of any municipality or county desiring to be designated as a
4910 recycling market development zone shall:

4911 (a) obtain the written approval of the municipality or county's legislative body; and

4912 (b) file an application with the office demonstrating the county or municipality meets
4913 the requirements of this part.

4914 (3) The application shall be in a form prescribed by the office, and shall include:

4915 (a) a plan developed by the county or municipality that identifies local contributions
4916 meeting the requirements of Section ~~[63M-1-1105]~~ 63N-2-405;

4917 (b) a county or municipality development plan that outlines:

4918 (i) the specific investment or development reasonably expected to take place;

4919 (ii) any commitments obtained from businesses to participate, and in what capacities
4920 regarding recycling markets;

4921 (iii) the county's or municipality's economic development plan and demonstration of
4922 coordination between the zone and the county or municipality in overall development goals;

4923 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
4924 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
4925 businesses;

4926 (v) the county's or municipality's long-term waste management plan and evidence that
4927 the zone will be adequately served by the plan; and

4928 (vi) the county or municipality postconsumer waste collection infrastructure;

4929 (c) the county's or municipality's proposed means of assessing the effectiveness of the

4930 development plan or other programs implemented within the zone;

4931 (d) state whether within the zone either of the following will be established:

4932 (i) commercial manufacturing or industrial processes that will produce end products
4933 that consist of not less than 50% recovered materials, of which not less than 25% is
4934 postconsumer waste material; or

4935 (ii) commercial composting;

4936 (e) any additional information required by the office; and

4937 (f) any additional information the county or municipality considers relevant to its
4938 designation as a recycling market development zone.

4939 (4) A county or municipality applying for designation as a recycling market
4940 development zone shall pay to the office an application fee determined under Section
4941 [63J-1-504](#).

4942 Section 98. Section **63N-2-405**, which is renumbered from Section 63M-1-1105 is
4943 renumbered and amended to read:

4944 ~~[63M-1-1105]~~. **63N-2-405. Qualifying local contributions.**

4945 Qualifying local contributions to the recycling market development zone may vary
4946 depending on available resources, and may include:

4947 (1) simplified procedures for obtaining permits;

4948 (2) dedication of available government grants;

4949 (3) waiver of business license or permit fees;

4950 (4) infrastructure improvements;

4951 (5) private contributions;

4952 (6) utility rate concessions;

4953 (7) suspension or relaxation of locally originated zoning laws or general plans; and

4954 (8) other proposed local contributions as the office finds promote the purposes of this

4955 part.

4956 Section 99. Section **63N-2-406**, which is renumbered from Section 63M-1-1106 is
4957 renumbered and amended to read:

4958 ~~[63M-1-1106]~~. 63N-2-406. **Eligibility review.**

4959 (1) The office shall:

4960 (a) review and evaluate an application submitted under Section ~~[63M-1-1104]~~

4961 63N-2-404; and

4962 (b) determine whether the municipality or county is eligible for designation as a
4963 recycling market development zone.

4964 (2) In designating recycling market development zones, the office shall consider:

4965 (a) whether the current waste management practices and conditions of the county or
4966 municipality are favorable to the development of postconsumer waste material markets;

4967 (b) whether the creation of the zone is necessary to assist in attracting private sector
4968 recycling investments to the area; and

4969 (c) the amount of available landfill capacity to serve the zone.

4970 Section 100. Section **63N-2-407**, which is renumbered from Section 63M-1-1107 is
4971 renumbered and amended to read:

4972 ~~[63M-1-1107]~~. 63N-2-407. **Quarterly consideration.**

4973 The office shall take action quarterly on any application requesting designation as a
4974 recycling market development zone.

4975 Section 101. Section **63N-2-408**, which is renumbered from Section 63M-1-1108 is
4976 renumbered and amended to read:

4977 ~~[63M-1-1108]~~. 63N-2-408. **Duration of designation.**

4978 A recycling market development zone designation ends five years from the date the
4979 office designates the area as a recycling market development zone, at the end of which the
4980 county or municipality may reapply for the designation.

4981 Section 102. Section **63N-2-409**, which is renumbered from Section 63M-1-1109 is
4982 renumbered and amended to read:

4983 ~~[63M-1-1109]~~. 63N-2-409. **Revocation of designations.**

4984 (1) The office may revoke the designation of a recycling market development zone if
4985 no businesses utilize the tax incentives during any calendar year.

4986 (2) Before revocation of the zone, the office shall conduct a public hearing within a
4987 reasonable distance of the zone to determine reasons for inactivity and explore possible
4988 alternative actions.

4989 Section 103. Section **63N-2-410**, which is renumbered from Section 63M-1-1110 is
4990 renumbered and amended to read:

4991 ~~[63M-1-1110]~~. **63N-2-410**. **Recycling market development zone credit.**

4992 For a taxpayer within a recycling market development zone, there are allowed the
4993 nonrefundable credits against tax as provided by Sections [59-7-610](#) and [59-10-1007](#).

4994 Section 104. Section **63N-2-411**, which is renumbered from Section 63M-1-1111 is
4995 renumbered and amended to read:

4996 ~~[63M-1-1111]~~. **63N-2-411**. **Annual report.**

4997 (1) A county or municipality designated as a recycling market development zone shall
4998 report by no later than July 31 of each year to the office regarding the economic activity that
4999 has occurred in the zone following the designation.

5000 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5001 office may make rules providing for the form and content of the annual reports.

5002 Section 105. Section **63N-2-412**, which is renumbered from Section 63M-1-1112 is
5003 renumbered and amended to read:

5004 ~~[63M-1-1112]~~. **63N-2-412**. **Technology Commercialization and Innovation**
5005 **Program.**

5006 In accordance with ~~[Part 6]~~ Chapter 12, Part 1, State Advisory Council on Science and
5007 Technology, the office may award grants to the Technology Commercialization and Innovation
5008 Program, as defined by Section ~~[63M-1-703]~~ [63N-3-203](#), to fund development of new
5009 technology for recycling if the program funded is a cooperative effort between the Technology
5010 Commercialization and Innovation Program and one or more recycling market development
5011 zones created under this part.

5012 Section 106. Section **63N-2-501**, which is renumbered from Section 63M-1-3401 is
5013 renumbered and amended to read:

5014 **Part 5. New Convention Facility Development Incentives**

5015 ~~[63M-1-3401]~~. 63N-2-501. **Title.**

5016 This part is known as ~~[the]~~ "New Convention Facility Development ~~[Incentive Act]~~
5017 Incentives."

5018 Section 107. Section **63N-2-502**, which is renumbered from Section 63M-1-3402 is
5019 renumbered and amended to read:

5020 ~~[63M-1-3402]~~. 63N-2-502. **Definitions.**

5021 As used in this part:

5022 (1) "Agreement" means an agreement described in Section ~~[63M-1-3403]~~ 63N-2-503.

5023 (2) "Commission" means the Utah State Tax Commission.

5024 (3) "Community development and renewal agency" has the same meaning as defined in
5025 Section 17C-1-102.

5026 (4) "Eligibility period" means:

5027 (a) the period that:

5028 (i) begins the date construction of a qualified hotel begins; and

5029 (ii) ends:

5030 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
5031 qualified hotel; or

5032 (B) for purposes of the local portion, 25 years after the date of initial occupancy of that
5033 hotel; or

5034 (b) as provided in an agreement between the office and a qualified hotel owner or host
5035 local government, a period that:

5036 (i) begins no earlier than the date construction of a qualified hotel begins; and

5037 (ii) is shorter than the period described in Subsection (4)(a).

5038 (5) "Endorsement letter" means a letter:

5039 (a) from the county in which a qualified hotel is located or is proposed to be located;

5040 (b) signed by the county executive; and

5041 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting

5042 all the county's criteria for receiving the county's endorsement.

5043 (6) "Host agency" means the community development and renewal agency of the host
5044 local government.

5045 (7) "Host local government" means:

5046 (a) a county that enters into an agreement with the office for the construction of a
5047 qualified hotel within the unincorporated area of the county; or

5048 (b) a city or town that enters into an agreement with the office for the construction of a
5049 qualified hotel within the boundary of the city or town.

5050 (8) "Hotel property" means a qualified hotel and any property that is included in the
5051 same development as the qualified hotel, including convention, exhibit, and meeting space,
5052 retail shops, restaurants, parking, and other ancillary facilities and amenities.

5053 (9) "Incremental property tax revenue" means the amount of property tax revenue
5054 generated from hotel property that equals the difference between:

5055 (a) the amount of property tax revenue generated in any tax year by all taxing entities
5056 from hotel property, using the current assessed value of the hotel property; and

5057 (b) the amount of property tax revenue that would be generated that tax year by all
5058 taxing entities from hotel property, using a base taxable value of the hotel property as
5059 established by the county in which the hotel property is located.

5060 (10) "Local portion" means:

5061 (a) the portion of new tax revenue that is not the state portion; and

5062 (b) incremental property tax revenue.

5063 (11) "New tax revenue" means:

5064 (a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5065 Act, on transactions occurring during the eligibility period as a result of the construction of the
5066 hotel property, including purchases made by a qualified hotel owner and its subcontractors;

5067 (b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
5068 Act, on transactions occurring on hotel property during the eligibility period; and

5069 (c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax

5070 Act, on transactions by a third-party seller occurring other than on hotel property during the
5071 eligibility period, if:

5072 (i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
5073 and

5074 (ii) the third-party seller voluntarily consents to the disclosure of information to the
5075 office, as provided in Subsection [~~63M-1-3405~~] [63N-2-505](#)(1)(b)(i)(E).

5076 (12) "Public infrastructure" means:

5077 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
5078 systems and lines;

5079 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
5080 transportation facilities; and

5081 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

5082 (13) "Qualified hotel" means a full-service hotel development constructed in the state
5083 on or after July 1, 2014 that:

5084 (a) requires a significant capital investment;

5085 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
5086 room; and

5087 (c) is located within 1,000 feet of a convention center that contains at least 500,000
5088 square feet of convention, exhibit, and meeting space.

5089 (14) "Qualified hotel owner" means a person who owns a qualified hotel.

5090 (15) "Review committee" means the independent review committee established under
5091 Section [~~63M-1-3404~~] [63N-2-205](#).

5092 (16) "Significant capital investment" means an amount of at least \$200,000,000.

5093 (17) "State portion" means the portion of new tax revenue that is attributable to a tax
5094 imposed under Subsection [59-12-103](#)(2)(a)(i)(A).

5095 (18) "Tax credit" means a tax credit under Section [59-7-616](#) or [59-10-1110](#).

5096 (19) "Tax credit applicant" means a qualified hotel owner or host local government
5097 that:

- 5098 (a) has entered into an agreement with the office; and
- 5099 (b) pursuant to that agreement, submits an application for the issuance of a tax credit
- 5100 certificate.
- 5101 (20) "Tax credit certificate" means a certificate issued by the office that includes:
- 5102 (a) the name of the tax credit recipient;
- 5103 (b) the tax credit recipient's taxpayer identification number;
- 5104 (c) the amount of the tax credit authorized under this part for a taxable year; and
- 5105 (d) other information as determined by the office.
- 5106 (21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit
- 5107 certificate.
- 5108 (22) "Third-party seller" means a person who is a seller in a transaction:
- 5109 (a) occurring other than on hotel property;
- 5110 (b) that is:
- 5111 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
- 5112 facilities on hotel property; or
- 5113 (ii) the sale of tangible personal property or a service that is part of a bundled
- 5114 transaction, as defined in Section [59-12-102](#), with a sale, rental, or lease described in
- 5115 Subsection (22)(b)(i); and
- 5116 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
- 5117 Section 108. Section **63N-2-503**, which is renumbered from Section 63M-1-3403 is
- 5118 renumbered and amended to read:
- 5119 **~~[63M-1-3403]~~. 63N-2-503. Agreement for development of new convention**
- 5120 **hotel -- Tax credit authorized -- Agreement requirements.**
- 5121 (1) The office, with the board's advice, may enter into an agreement with a qualified
- 5122 hotel owner or a host local government:
- 5123 (a) for the development of a qualified hotel; and
- 5124 (b) to authorize a tax credit:
- 5125 (i) to the qualified hotel owner or host local government, but not both;

5126 (ii) for a period not to exceed the eligibility period;
5127 (iii) if:
5128 (A) the county in which the qualified hotel is proposed to be located has issued an
5129 endorsement letter endorsing the qualified hotel owner; and
5130 (B) all applicable requirements of this part and the agreement are met; and
5131 (iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility
5132 period, as described in Subsection (2)(c).
5133 (2) An agreement shall:
5134 (a) specify the requirements for a tax credit recipient to qualify for a tax credit;
5135 (b) require compliance with the terms of the endorsement letter issued by the county in
5136 which the qualified hotel is proposed to be located;
5137 (c) require the amount of a tax credit listed in a tax credit certificate issued during the
5138 first two years of the eligibility period to be reduced by \$1,900,000 per year;
5139 (d) with respect to the state portion of any tax credit that the tax credit recipient may
5140 receive during the eligibility period:
5141 (i) specify the maximum dollar amount that the tax credit recipient may receive,
5142 subject to a maximum of:
5143 (A) for any taxable year, the amount of the state portion of new tax revenue in that
5144 taxable year; and
5145 (B) \$75,000,000 in the aggregate for any tax credit recipient during an eligibility
5146 period, calculated as though the two \$1,900,000 reductions of the tax credit amount under
5147 Subsection (1)(b)(iv) had not occurred; and
5148 (ii) specify the maximum percentage of the state portion of new tax revenue that may
5149 be used in calculating a tax credit that a tax credit recipient may receive during the eligibility
5150 period for each taxable year and in the aggregate;
5151 (e) establish a shorter period of time than the period described in Subsection
5152 [~~63M-1-3402~~] 63N-2-502(5)(a) during which the tax credit recipient may claim a tax credit or
5153 that the host agency may be paid incremental property tax revenue, if the office and qualified

5154 hotel owner or host local government agree to a shorter period of time;

5155 (f) require the tax credit recipient to retain books and records supporting a claim for a
5156 tax credit as required by Section [59-1-1406](#);

5157 (g) allow the transfer of the agreement to a third party if the third party assumes all
5158 liabilities and responsibilities in the agreement;

5159 (h) limit the expenditure of funds received under a tax credit as provided in Section
5160 [\[63M-1-3412\]](#) [63N-2-512](#); and

5161 (i) require the tax credit recipient to submit to any audit the office considers
5162 appropriate for verification of any tax credit or claimed tax credit.

5163 Section 109. Section **63N-2-504**, which is renumbered from Section 63M-1-3404 is
5164 renumbered and amended to read:

5165 ~~**[63M-1-3404].**~~ **63N-2-504. Independent review committee.**

5166 (1) In accordance with rules adopted by the office under Section [\[63M-1-3408\]](#)
5167 [63N-2-508](#), the board shall establish a separate, independent review committee to:

5168 (a) review each initial tax credit application submitted under this part for compliance
5169 with the requirements of this part and the agreement; and

5170 (b) consult with the office, as provided in this part.

5171 (2) The review committee shall consist of:

5172 (a) one member appointed by the director to represent the office;

5173 (b) two members appointed by the mayor or chief executive of the county in which the
5174 qualified hotel is located or proposed to be located;

5175 (c) two members appointed by:

5176 (i) the mayor of the municipality in which the qualified hotel is located or proposed to
5177 be located, if the qualified hotel is located or proposed to be located within the boundary of a
5178 municipality; or

5179 (ii) the mayor or chief executive of the county in which the qualified hotel is located or
5180 proposed to be located, in addition to the two members appointed under Subsection (2)(b), if
5181 the qualified hotel is located or proposed to be located outside the boundary of a municipality;

5182 (d) an individual representing the hotel industry, appointed by the Utah Hotel and
5183 Lodging Association;

5184 (e) an individual representing the commercial development and construction industry,
5185 appointed by the president or chief executive officer of the local chamber of commerce;

5186 (f) an individual representing the convention and meeting planners industry, appointed
5187 by the president or chief executive officer of the local convention and visitors bureau; and

5188 (g) one member appointed by the board.

5189 (3) (a) A member serves an indeterminate term and may be removed from the review
5190 committee by the appointing authority at any time.

5191 (b) A vacancy may be filled in the same manner as an appointment under Subsection
5192 (2).

5193 (4) A member of the review committee may not be paid for serving on the review
5194 committee and may not receive per diem or expense reimbursement.

5195 (5) The office shall provide any necessary staff support to the review committee.

5196 Section 110. Section **63N-2-505**, which is renumbered from Section 63M-1-3405 is
5197 renumbered and amended to read:

5198 **[63M-1-3405]. 63N-2-505. Submission of written application for tax credit**
5199 **certificate -- Disclosure of tax returns and other information -- Determination of tax**
5200 **credit application.**

5201 (1) For each taxable year for which a tax credit applicant seeks the issuance of a tax
5202 credit certificate, the tax credit applicant shall submit to the office:

5203 (a) a written application for a tax credit certificate;

5204 (b) (i) for an application submitted by a qualified hotel owner:

5205 (A) a certification by the individual signing the application that the individual is duly
5206 authorized to sign the application on behalf of the qualified hotel owner;

5207 (B) documentation of the new tax revenue generated during the preceding year;

5208 (C) a document in which the qualified hotel owner expressly directs and authorizes the
5209 commission to disclose to the office the qualified hotel owner's tax returns and other

5210 information that would otherwise be subject to confidentiality under Section 59-1-403 or
5211 Section 6103, Internal Revenue Code;

5212 (D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors,
5213 as applicable, expressly direct and authorize the commission to disclose to the office the tax
5214 returns and other information of those vendors, lessees, or subcontractors that would otherwise
5215 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

5216 (E) a document in which a third-party seller expressly and voluntarily directs and
5217 authorizes the commission to disclose to the office the third-party seller's tax returns and other
5218 information that would otherwise be subject to confidentiality under Section 59-1-403 or
5219 Section 6103, Internal Revenue Code; and

5220 (F) documentation verifying that the qualified hotel owner is in compliance with the
5221 terms of the agreement;

5222 (ii) for an application submitted by a host local government, documentation of the new
5223 tax revenue generated during the preceding year;

5224 (c) if the host local government intends to assign the tax credit sought in the tax credit
5225 application to a community development and renewal agency:

5226 (i) the taxpayer identification number of the community development and renewal
5227 agency; and

5228 (ii) a document signed by the governing body members of the community development
5229 and renewal agency that expressly directs and authorizes the commission to disclose to the
5230 office the agency's tax returns and other information that would otherwise be subject to
5231 confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

5232 (d) a statement provided by an independent certified public accountant, at the tax credit
5233 applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

5234 (2) (a) The office shall submit to the commission the documents described in
5235 Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and
5236 other information.

5237 (b) Upon receipt of the documents described in Subsection (2)(a), the commission shall

5238 provide to the office the tax returns and other information described in those documents.

5239 (3) If the office determines that the tax returns and other information is inadequate to
5240 validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant
5241 that the tax returns and other information were inadequate and request the tax credit applicant
5242 to submit additional documentation to validate the issuance of a tax credit certificate.

5243 (4) If the office determines that the returns and other information, including any
5244 additional documentation provided under Subsection (3), provide reasonable justification for
5245 the issuance of a tax credit certificate, the office shall:

5246 (a) determine the amount of the tax credit to be listed on the tax credit certificate;

5247 (b) issue a tax credit certificate to the tax credit applicant for the amount of that tax
5248 credit; and

5249 (c) provide a copy of the tax credit certificate to the commission.

5250 Section 111. Section **63N-2-506**, which is renumbered from Section 63M-1-3406 is
5251 renumbered and amended to read:

5252 **[63M-1-3406]. 63N-2-506. Effect of tax credit certificate -- Retaining tax**
5253 **credit certificate.**

5254 (1) A person may not claim a tax credit unless the office has issued the person a tax
5255 credit certificate.

5256 (2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in
5257 a tax credit certificate.

5258 (3) A tax credit recipient shall retain the tax credit certificate in accordance with the
5259 requirements of Section **59-1-1406** for retaining books and records.

5260 (4) The amount of a tax credit indicated on a tax credit certificate issued during the
5261 eligibility period may not exceed the amount of eligible new tax revenue generated during the
5262 taxable year preceding the taxable year for which the tax credit certificate is issued.

5263 Section 112. Section **63N-2-507**, which is renumbered from Section 63M-1-3407 is
5264 renumbered and amended to read:

5265 **[63M-1-3407]. 63N-2-507. Assigning tax credit.**

5266 (1) A host local government that enters into an agreement with the office may, by
5267 resolution, assign a tax credit to a community development and renewal agency, in accordance
5268 with rules adopted by the office.

5269 (2) A host local government that adopts a resolution assigning a tax credit under
5270 Subsection (1) shall provide a copy of the resolution to the office and the commission.

5271 Section 113. Section **63N-2-508**, which is renumbered from Section 63M-1-3408 is
5272 renumbered and amended to read:

5273 ~~[63M-1-3408]~~. **63N-2-508. Payment of incremental property tax revenue.**

5274 (1) (a) In accordance with rules adopted by the office, a host agency shall be paid
5275 incremental property tax revenue during the eligibility period.

5276 (b) Incremental property tax revenue may be used only for:

5277 (i) the purchase of or payment for, or reimbursement of a previous purchase of or
5278 payment for:

5279 (A) tangible personal property used in the construction of convention, exhibit, or
5280 meeting space on hotel property;

5281 (B) tangible personal property that, upon the construction of hotel property, becomes
5282 affixed to hotel property as real property; or

5283 (C) any labor and overhead costs associated with the construction described in
5284 Subsections (1)(b)(i)(A) and (B);

5285 (ii) public infrastructure; and

5286 (iii) other purposes as approved by the host agency.

5287 (2) A county that collects property tax on hotel property during the eligibility period
5288 shall pay and distribute to the host agency the incremental property tax revenue that the host
5289 agency is entitled to collect under Subsection (1), in the manner and at the time provided in
5290 Section [59-2-1365](#).

5291 Section 114. Section **63N-2-509**, which is renumbered from Section 63M-1-3409 is
5292 renumbered and amended to read:

5293 ~~[63M-1-3409]~~. **63N-2-509. Rulemaking authority -- Requirements for rules.**

5294 (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative
5295 Rulemaking Act, make rules to carry out its responsibilities under this part and to implement
5296 the provisions of this part.

5297 (2) The rules the office makes under Subsection (1) shall:

5298 (a) establish, consistent with this part, the conditions that a tax credit applicant is
5299 required to meet to qualify for a tax credit;

5300 (b) require that a significant capital investment be made in the development of the
5301 hotel property;

5302 (c) require a tax credit applicant to meet all applicable requirements in order to receive
5303 a tax credit certificate;

5304 (d) require that a qualified hotel owner meet the county's requirements to receive an
5305 endorsement letter; and

5306 (e) provide for the establishment of an independent review committee, in accordance
5307 with the requirements of Section ~~[63M-1-3404]~~ [63N-2-504](#).

5308 Section 115. Section **63N-2-510**, which is renumbered from Section 63M-1-3410 is
5309 renumbered and amended to read:

5310 ~~[63M-1-3410]~~. **63N-2-510. Report by office.**

5311 (1) ~~[Before November 1 of each year, the]~~ The office shall [submit a written report to
5312 the Economic Development and Workforce Services Interim Committee of the Legislature, the
5313 Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst
5314 describing] include the following information in the office's annual written report described in
5315 Section [63N-1-301](#):

5316 (a) the state's success in attracting new conventions and corresponding new state
5317 revenue;

5318 (b) the estimated amount of tax credit commitments and the associated calculation
5319 made by the office and the period of time over which tax credits are expected to be paid;

5320 (c) the economic impact on the state related to generating new state revenue and
5321 providing tax credits; and

5322 (d) the estimated and actual costs and economic benefits of the tax credit commitments
5323 that the office made.

5324 [~~(2) The office shall post the annual report under Subsection (1) on its website and on a~~
5325 ~~state website.]~~

5326 [~~(2)~~] (2) Upon the commencement of the construction of a qualified hotel, the office
5327 shall send a written notice to the Division of Finance:

5328 (a) referring to the two annual deposits required under Subsection 59-12-103(14); and

5329 (b) notifying the Division of Finance that construction on the qualified hotel has begun.

5330 Section 116. Section **63N-2-511**, which is renumbered from Section 63M-1-3411 is

5331 renumbered and amended to read:

5332 ~~[63M-1-3411].~~ **63N-2-511. Stay Another Day and Bounce Back Fund.**

5333 (1) As used in this section:

5334 (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created
5335 in Subsection (2).

5336 (b) "Tourism board" means the Board of Tourism Development created in Section
5337 63M-1-1401.

5338 (2) There is created an expendable special revenue fund known as the Stay Another
5339 Day and Bounce Back Fund.

5340 (3) The bounce back fund shall:

5341 (a) be administered by the tourism board;

5342 (b) earn interest; and

5343 (c) be funded by:

5344 (i) annual payments under Section 17-31-9 from the county in which a qualified hotel
5345 is located;

5346 (ii) money transferred to the bounce back fund under Section [~~63M-1-3412]~~

5347 ~~63N-2-512~~; and

5348 (iii) any money that the Legislature chooses to appropriate to the bounce back fund.

5349 (4) Interest earned by the bounce back fund shall be deposited into the bounce back

5350 fund.

5351 (5) The tourism board may use money in the bounce back fund to pay for a tourism
5352 program of advertising, marketing, and branding of the state, taking into consideration the
5353 long-term strategic plan, economic trends, and opportunities for tourism development on a
5354 statewide basis.

5355 Section 117. Section **63N-2-512**, which is renumbered from Section 63M-1-3412 is
5356 renumbered and amended to read:

5357 ~~[63M-1-3412]~~. **63N-2-512. Hotel Impact Mitigation Fund.**

5358 (1) As used in this section:

5359 (a) "Affected hotel" means a hotel built in the state before July 1, 2014.

5360 (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to
5361 the qualified hotel room supply being added to the market in the state.

5362 (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection
5363 (2).

5364 (2) There is created an expendable special revenue fund known as the Hotel Impact
5365 Mitigation Fund.

5366 (3) The mitigation fund shall:

5367 (a) be administered by the board;

5368 (b) earn interest; and

5369 (c) be funded by:

5370 (i) payments required to be deposited into the mitigation fund by the Division of
5371 Finance under Subsection [59-12-103](#)(14);

5372 (ii) money required to be deposited into the mitigation fund under Subsection
5373 [17-31-9](#)(2) by the county in which a qualified hotel is located; and

5374 (iii) any money deposited into the mitigation fund under Subsection (6).

5375 (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

5376 (5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of
5377 money in the mitigation fund:

5378 (i) to affected hotels;
5379 (ii) for four consecutive years, beginning 12 months after the date of initial occupancy
5380 of the qualified hotel occurs; and
5381 (iii) to mitigate direct losses.

5382 (b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than
5383 \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in
5384 Section [~~63M-1-3411~~] 63N-2-511, the difference between \$2,100,000 and the amount paid
5385 under Subsection (5)(a).

5386 (ii) The board shall make any required payment under Subsection (5)(b)(i) within 90
5387 days after the end of the year for which a determination is made of how much the board is
5388 required to pay to affected hotels under Subsection (5)(a).

5389 (6) A host local government or qualified hotel owner may make payments to the
5390 Division of Finance for deposit into the mitigation fund.

5391 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5392 office shall, in consultation with the Utah Hotel and Lodging Association and the county in
5393 which the qualified hotel is located, make rules establishing procedures and criteria governing
5394 payments under Subsection (5)(a) to affected hotels.

5395 Section 118. Section **63N-2-513**, which is renumbered from Section 63M-1-3413 is
5396 renumbered and amended to read:

5397 ~~[63M-1-3413]~~. **63N-2-513. Authorized expenditures of tax credit money.**

5398 (1) A tax credit recipient may spend money received as a direct result of the state
5399 portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous
5400 purchase of or payment for:

5401 (a) tangible personal property used in the construction of convention, exhibit, or
5402 meeting space on hotel property;

5403 (b) tangible personal property that, upon the construction of hotel property, becomes
5404 affixed to hotel property as real property; or

5405 (c) any labor and overhead costs associated with the construction described in

5406 Subsections (1)(a) and (b).

5407 (2) A tax credit recipient may spend money received as a direct result of the local
5408 portion of a tax credit only for:

- 5409 (a) a purpose described in Subsection (1);
- 5410 (b) public infrastructure; and
- 5411 (c) other purposes as approved by the host agency.

5412 Section 119. Section **63N-2-601**, which is renumbered from Section 63M-1-3501 is
5413 renumbered and amended to read:

5414 **Part 6. Utah Small Business Jobs Act**

5415 **~~63M-1-3501~~. 63N-2-601. Title.**

5416 This part is known as the "Utah Small Business Jobs Act."

5417 Section 120. Section **63N-2-602**, which is renumbered from Section 63M-1-3502 is
5418 renumbered and amended to read:

5419 **~~63M-1-3502~~. 63N-2-602. Definitions.**

5420 As used in this part:

5421 (1) "Affiliate" means an entity that directly, or indirectly through one or more
5422 intermediaries, controls, or is controlled by, or is under common control with, the entity
5423 specified.

5424 (2) "Applicable percentage" means:

- 5425 (a) 0% for the first two credit allowance dates;
- 5426 (b) 12% for the next three credit allowance dates; and
- 5427 (c) 11% for the next two credit allowance dates.

5428 (3) "Community Development Financial Institutions Fund" means the fund created in
5429 12 U.S.C. Sec. 4703.

5430 (4) "Credit allowance date" means with respect to a qualified equity investment:

- 5431 (a) the date on which the qualified equity investment is initially made; and
- 5432 (b) each of the six anniversary dates of the date described in Subsection (4)(a).

5433 (5) "Federal New Markets Tax Credit Program" means the program created under

5434 Section 45D, Internal Revenue Code.

5435 (6) "Long-term debt security" means a debt instrument issued by a qualified
5436 community development entity:

5437 (a) with an original maturity date of at least seven years from the date of its issuance;
5438 and

5439 (b) with no repayment, amortization, or prepayment features before its original
5440 maturity date.

5441 (7) "Purchase price" means the amount paid to the qualified community development
5442 entity that issues a qualified equity investment for the qualified equity investment that may not
5443 exceed the amount of qualified equity investment authority certified pursuant to Section
5444 [\[63M-1-3503\]](#) [63N-2-603](#).

5445 (8) (a) "Qualified active low-income community business" is as defined in Section
5446 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses
5447 meeting the United States Small Business Administration size eligibility standards established
5448 in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is
5449 made.

5450 (b) Notwithstanding Subsection (8)(a), "qualified active low-income community
5451 business" does not include a business that derives or projects to derive 15% or more of its
5452 annual revenue from the rental or sale of real estate, unless the business is controlled by or
5453 under common control with another business if the second business:

5454 (i) does not derive or project to derive 15% or more of its annual revenue from the
5455 rental or sale of real estate; and

5456 (ii) is the primary tenant of the real estate leased from the initial business.

5457 (c) A business is considered a qualified active low-income community business for the
5458 duration of the qualified community development entity's investment in, or loan to, the
5459 business if the qualified community development entity reasonably expects, at the time it
5460 makes the investment or loan, that the business will continue to satisfy the requirements for
5461 being a qualified active low-income community business, other than the United States Small

5462 Business Administration size standards, throughout the entire period of the investment or loan.

5463 (9) (a) "Qualified community development entity" is as defined in Section 45D,
5464 Internal Revenue Code, if the entity has entered into an allocation agreement with the
5465 Community Development Financial Institutions Fund of the United States Treasury
5466 Department with respect to credits authorized by Section 45D, Internal Revenue Code, that
5467 includes Utah within the service area set forth in the allocation agreement.

5468 (b) An entity may not be considered to be controlled by another entity solely as a result
5469 of the entity having made a direct or indirect equity investment in the other entity that earns tax
5470 credits under Section 45D, Internal Revenue Code, or in a similar state program.

5471 (c) "Qualified community development entity" includes a subsidiary community
5472 development entity of a qualified community development entity.

5473 (10) (a) "Qualified equity investment" means an equity investment in, or long-term
5474 debt security issued by, a qualified community development entity that:

5475 (i) is acquired on or after September 2, 2014, at its original issuance solely in exchange
5476 for cash;

5477 (ii) has at least 85% of its cash purchase price used by the qualified community
5478 development entity to make qualified low-income community investments in qualified active
5479 low-income community businesses located in this state by the first anniversary of the initial
5480 credit allowance date; and

5481 (iii) is designated by the qualified community development entity as a qualified equity
5482 investment and is certified by the office pursuant to Section [~~63M-1-3503~~] [63N-2-603](#).

5483 (b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a
5484 qualified equity investment that does not meet the provisions of Subsection (10)(a) if the
5485 investment was a qualified equity investment in the hands of a prior holder.

5486 (11) "Qualified low-income community investment" means a capital or equity
5487 investment in, or a loan to, a qualified active low-income community business, except, with
5488 respect to any one qualified active low-income community business, the maximum amount of
5489 qualified low-income community investments made in such business, on a collective basis with

5490 all of the business's affiliates, with the proceeds of qualified equity investments certified under
5491 Section [~~63M-1-3503~~] 63N-2-603 shall be \$4,000,000, exclusive of qualified low-income
5492 community investments made with repaid or redeemed qualified low-income community
5493 investments or interest or profits realized on the repaid or redeemed qualified low-income
5494 community investments.

5495 (12) "Tax credit certificate" is a certificate issued by the office under Subsection
5496 [~~63M-1-3503~~] 63N-2-603(11) to an entity eligible for a tax credit under Section 59-9-107 that:

- 5497 (a) lists the name of the entity eligible for a tax credit;
- 5498 (b) lists the entity's taxpayer identification number;
- 5499 (c) lists the amount of tax credit that the office determines the entity is eligible for the
5500 calendar year; and
- 5501 (d) may include other information as determined by the office.

5502 Section 121. Section **63N-2-603**, which is renumbered from Section 63M-1-3503 is
5503 renumbered and amended to read:

5504 ~~[63M-1-3503]~~. **63N-2-603. Certification of qualified equity investments --**
5505 **Issuance of tax credit related certificates.**

5506 (1) (a) A qualified community development entity that seeks to have an equity
5507 investment or long-term debt security certified as a qualified equity investment and as eligible
5508 for tax credits under Section 59-9-107 shall apply to the office.

5509 (b) The office shall begin accepting applications on September 2, 2014.

5510 (c) The qualified community development entity shall include the following in the
5511 qualified community development entity's application:

5512 [~~(a)~~] (i) evidence of the applicant's certification as a qualified community development
5513 entity, including evidence of the service area of the applicant that includes this state;

5514 [~~(b)~~] (ii) a copy of an allocation agreement executed by the applicant, or its controlling
5515 entity, and the Community Development Financial Institutions Fund;

5516 [~~(c)~~] (iii) a certificate executed by an executive officer of the applicant attesting that:

5517 [~~(i)~~] (A) the applicant or its controlling entity has received more than one allocation of

5518 qualified equity investment authority under the Federal New Markets Tax Credit Program; and
5519 ~~[(ft)]~~ (B) the allocation agreement submitted with the application remains in effect and
5520 has not been revoked or cancelled by the Community Development Financial Institutions Fund;
5521 ~~[(ft)]~~ (iv) a description of the proposed amount, structure, and purchaser of the
5522 qualified equity investment;
5523 ~~[(e)]~~ (v) examples of the types of qualified active low-income businesses in which the
5524 applicant, its controlling entity, or affiliates of its controlling entity have invested under the
5525 Federal New Markets Tax Credit Program, except that when submitting an application an
5526 applicant is not required to identify qualified active low-income community businesses in
5527 which the applicant will invest;
5528 ~~[(ft)]~~ (vi) the amount of qualified equity investment authority the applicant agrees to
5529 designate as a federal qualified equity investment under Section 45D, Internal Revenue Code,
5530 including a copy of the screen shot from the Community Development Financial Institutions
5531 Fund's Allocation Tracking System of the applicant's remaining federal qualified equity
5532 investment authority;
5533 ~~[(g)]~~ (vii) if applicable, the refundable performance deposit required by Subsection
5534 [63M-1-3506\(1\)](#);
5535 ~~[(h)]~~ (viii) a copy of a certificate of qualified equity investment authority under another
5536 state's new markets tax credit program; and
5537 ~~[(t)]~~ (ix) evidence that the applicant, its controlling entity, and subsidiary qualified
5538 community development entities of the controlling entity have collectively made at least
5539 \$40,000,000 in qualified low-income community investments under the Federal New Markets
5540 Tax Credit Program and other state's new markets tax credit programs with a maximum
5541 qualified low-income community investment size of \$4,000,000 per business.
5542 (2) (a) Within 30 days after receipt of a completed application containing the
5543 information set forth in Subsection (1), including, if applicable, the refundable performance
5544 deposit, the office shall grant or deny the application in full or in part.
5545 (b) If the office denies any part of the application, the office shall inform the applicant

5546 of the grounds for the denial. If the applicant provides additional information required by the
5547 office or otherwise completes its application within 15 days of the notice of denial, the
5548 application shall be considered completed as of the original date of submission.

5549 (c) If the applicant fails to provide the information or complete its application within
5550 the 15-day period:

5551 (i) the application is denied;

5552 (ii) the applicant shall resubmit an application in full with a new submission date; and

5553 (iii) the office shall return any refundable performance deposit required by Subsection
5554 [~~63M-1-3506~~] 63N-2-606(1).

5555 (3) (a) If the application is complete, the office shall certify the proposed equity
5556 investment or long-term debt security as a qualified equity investment, subject to the limitation
5557 contained in Subsection (6).

5558 (b) The office shall provide written notice of the certification to the qualified
5559 community development entity.

5560 (4) The office shall certify qualified equity investments in the order applications are
5561 received by the office. Applications received on the same day are considered to have been
5562 received simultaneously.

5563 (5) For applications that are complete and received on the same day, the office shall
5564 certify, consistent with remaining qualified equity investment capacity, qualified equity
5565 investments of applicants as follows:

5566 (a) First, the office shall certify applications by applicants that agree to designate
5567 qualified equity investments as federal qualified equity investments in accordance with
5568 Subsection (1)[~~(f)~~](c)(vi) in proportionate percentages based upon the ratio of the amount of
5569 qualified equity investments requested in an application to be designated as federal qualified
5570 equity investments to the total amount of qualified equity investments to be designated as
5571 federal qualified equity investments requested in all applications received on the same day.

5572 (b) After complying with Subsection (5)(a), the office shall certify the qualified equity
5573 investments of all other applicants, including the remaining qualified equity investment

5574 authority requested by applicants not designated as federal qualified equity investments in
5575 accordance with Subsection (1)~~(f)~~(c)(vi), in proportionate percentages based upon the ratio of
5576 the amount of qualified equity investments requested in the applications to the total amount of
5577 qualified equity investments requested in all applications received on the same day.

5578 (6) (a) (i) The office shall certify \$50,000,000 in qualified equity investments pursuant
5579 to this section.

5580 (ii) If a pending request cannot be fully certified due to this limit, the office shall
5581 certify the portion that may be certified unless the qualified community development entity
5582 elects to withdraw its request rather than receive partial certification.

5583 (b) If a qualified community development entity withdraws its request pursuant to
5584 Subsection (6)(a), the office shall return any refundable performance deposit required by
5585 Subsection ~~[63M-1-3506]~~ [63N-2-606](#)(1).

5586 (c) A partial certification does not decrease the amount of the refundable performance
5587 deposit required under Subsection ~~[63M-1-3506]~~ [63N-2-606](#)(1).

5588 (7) An approved applicant may transfer all or a portion of its certified qualified equity
5589 investment authority to its controlling entity or a subsidiary qualified community development
5590 entity of the controlling entity, provided that the applicant and the transferee notify the office of
5591 the transfer with the notice set forth in Subsection (8) and include with the notice the
5592 information required in the application with respect to the transferee.

5593 (8) (a) Within 45 days of the applicant receiving notice of certification, the qualified
5594 community development entity or any transferee under Subsection (7) shall:

- 5595 (i) issue the qualified equity investment;
- 5596 (ii) receive cash in the amount of the certified amount; and
- 5597 (iii) if applicable, designate the required amount of qualified equity investment
5598 authority as federal qualified equity investments.

5599 (b) The qualified community development entity or transferee under Subsection (7)
5600 shall provide the office with evidence of the receipt of the cash investment and designation of
5601 the qualified equity investment as a federal qualified equity investment within 50 days of the

5602 applicant receiving notice of certification.

5603 (c) The certification under this section lapses and the qualified community
5604 development entity may not issue the qualified equity investment without reapplying to the
5605 office for certification if, within 45 days following receipt of the certification notice, the
5606 qualified community development entity or any transferee under Subsection (7) does not:

- 5607 (i) receive the cash investment;
- 5608 (ii) issue the qualified equity investment; and
- 5609 (iii) if applicable, designate the required amount of qualified equity investment
5610 authority as federal qualified equity investments.

5611 (d) A lapsed certification under this Subsection (8) reverts back to the office and shall
5612 be reissued as follows:

- 5613 (i) first, pro rata to applicants whose qualified equity investment allocations were
5614 reduced under Subsection (5)(a), if applicable;
- 5615 (ii) second, pro rata to applicants whose qualified equity investment allocations were
5616 reduced under Subsection (5)(b); and
- 5617 (iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the
5618 application process.

5619 (e) (i) The office shall:

5620 (A) calculate an annual fee to be paid by each applicant certified pursuant to
5621 Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing
5622 \$100,000 by the number of applications certified pursuant to Subsection (3)(a); and

5623 (B) notify each successful applicant of the amount of the annual fee.

5624 (ii) (A) The initial annual fee shall be due and payable to the office with the evidence
5625 of receipt of cash investment set forth in Subsection (8)(b).

5626 (B) After the initial annual fee, an annual fee shall be due and payable to the office
5627 with each report submitted pursuant to Section [~~63M-1-3510~~] 63N-2-610.

5628 (iii) An annual fee may not be required once a qualified community development entity
5629 together with all transferees under Subsection (7) have decertified all qualified equity

5630 investments in accordance with Subsection [~~63M-1-3507~~] 63N-2-607(2).

5631 (iv) To maintain an aggregate annual fee of \$100,000 for all qualified community
5632 development entities, the office shall recalculate the annual fee as needed upon:

5633 (A) the lapse of any certification under Subsection (8)(c);

5634 (B) the recapture of tax credits pursuant to Section [~~63M-1-3504~~] 63N-2-604; or

5635 (C) the decertification of qualified equity investments pursuant to Subsection
5636 [~~63M-1-3507~~] 63N-2-607(2).

5637 (v) An annual fee collected under this Subsection (8)(e) shall be deposited into the
5638 General Fund as a dedicated credit for use by the office to implement this part.

5639 (9) (a) A qualified community development entity that issues a debt instrument
5640 described in Subsection [~~63M-1-3502~~] 63N-2-602(6) may not make cash interest payments on
5641 the debt instrument during the period beginning on the date of issuance and ending on the final
5642 credit allowance date in an amount that exceeds the cumulative operating income, as defined
5643 by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community
5644 development entity for that period before giving effect to the interest expense of the long-term
5645 debt security.

5646 (b) This Subsection (9) does not limit the holder of the debt instrument's ability to
5647 accelerate payments on the debt instrument in situations when the qualified community
5648 development entity has defaulted on covenants designed to ensure compliance with this part or
5649 Section 45D, Internal Revenue Code.

5650 (10) (a) A qualified community development entity that issues qualified equity
5651 investments shall notify the office of the names of the entities that are eligible to use tax credits
5652 under this section and Section 59-9-107:

5653 (i) pursuant to an allocation of tax credits;

5654 (ii) pursuant to a change in allocation of tax credits; or

5655 (iii) due to a transfer of a qualified equity investment.

5656 (b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah
5657 Administrative Rulemaking Act, provide for the form and content of the notice required under

5658 this Subsection (10).

5659 (11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability
5660 under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:

5661 (i) makes a qualified equity investment; and

5662 (ii) obtains a tax credit certificate in accordance with Subsection (11)(b).

5663 (b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a
5664 tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax
5665 credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of
5666 the tax credit certificate.

5667 (c) On each credit allowance date of the qualified equity investment, the entity that
5668 made the qualified equity investment, or the subsequent holder of the qualified equity
5669 investment, may claim a portion of the tax credit during the calendar year that includes the
5670 credit allowance date.

5671 (d) The office shall calculate the tax credit amount and the tax credit amount shall be
5672 equal to the applicable percentage for the credit allowance date multiplied by the purchase
5673 price paid to the qualified community development entity for the qualified equity investment.

5674 (e) A tax credit allowed to a partnership, limited liability company, or S-corporation
5675 shall be allocated to the partners, members, or shareholders of the partnership, limited liability
5676 company, or S-corporation for the partners', members', or shareholders' direct use in accordance
5677 with the provisions of any agreement among the partners, members, or shareholders.

5678 (f) An entity may not sell a tax credit allowed under this section on the open market.

5679 (12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall
5680 provide the office with a document that expressly directs and authorizes the State Tax
5681 Commission to disclose to the office the entity's tax returns and other information concerning
5682 the entity that are required by the office and that would otherwise be subject to confidentiality
5683 under Section 59-1-403 or Section 6103, Internal Revenue Code~~[, to the office]~~.

5684 (b) The office shall submit the document described in Subsection (12)(a) to the State
5685 Tax Commission.

5686 (c) Upon receipt of the document described in Subsection (12)(a), the State Tax
5687 Commission shall provide the office with the information requested by the office that the entity
5688 authorized the State Tax Commission to provide to the office in the document described in
5689 Subsection (12)(a).

5690 Section 122. Section **63N-2-604**, which is renumbered from Section 63M-1-3504 is
5691 renumbered and amended to read:

5692 ~~**63M-1-3504**~~. **63N-2-604. Recapture.**

5693 (1) The office may recapture a tax credit from an entity that claimed the tax credit
5694 allowed under Section **59-9-107** on a return, if any of the following occur:

5695 (a) If any amount of a federal tax credit available with respect to a qualified equity
5696 investment that is eligible for a tax credit under this part is recaptured under Section 45D,
5697 Internal Revenue Code, the office may recapture the tax credit in an amount that is
5698 proportionate to the federal recapture with respect to the qualified equity investment.

5699 (b) If the qualified community development entity redeems or makes principal
5700 repayment with respect to a qualified equity investment before the seventh anniversary of the
5701 issuance of the qualified equity investment, the office may recapture an amount proportionate
5702 to the amount of the redemption or repayment with respect to the qualified equity investment.

5703 (c) (i) If the qualified community development entity fails to invest an amount equal to
5704 85% of the purchase price of the qualified equity investment in qualified low-income
5705 community investments in Utah within 12 months of the issuance of the qualified equity
5706 investment and maintains at least 85% of the level of investment in qualified low-income
5707 community investments in Utah until the last credit allowance date for the qualified equity
5708 investment, the office may recapture the tax credit.

5709 (ii) For purposes of this part, an investment is considered held by a qualified
5710 community development entity even if the investment has been sold or repaid if the qualified
5711 community development entity reinvests an amount equal to the capital returned to or
5712 recovered by the qualified community development entity from the original investment,
5713 exclusive of any profits realized, in another qualified low-income community investment

5714 within 12 months of the receipt of the capital.

5715 (iii) Periodic amounts received as repayment of principal pursuant to regularly
5716 scheduled amortization payments on a loan that is a qualified low-income community
5717 investment shall be treated as continuously invested in a qualified low-income community
5718 investment if the amounts are reinvested in one or more qualified low-income community
5719 investments by the end of the following calendar year.

5720 (iv) A qualified community development entity is not required to reinvest capital
5721 returned from a qualified low-income community investment after the sixth anniversary of the
5722 issuance of the qualified equity investment, and the qualified low-income community
5723 investment shall be considered held by the qualified community development entity through
5724 the seventh anniversary of the qualified equity investment's issuance.

5725 (d) If a qualified community development entity makes a distribution or debt payment
5726 in violation of Subsection [~~63M-1-3507~~] [63N-2-607](#)(1), the office may recapture the tax credit.

5727 (e) If there is a violation of Section [~~63M-1-3509~~] [63N-2-609](#), the office may recapture
5728 the tax credit.

5729 (2) A recaptured tax credit and the related qualified equity investment authority revert
5730 back to the office and shall be reissued:

5731 (a) first, pro rata to applicants whose qualified equity investment allocations were
5732 reduced under Subsection [~~63M-1-3503~~] [63N-2-603](#)(5)(a);

5733 (b) second, pro rata to applicants whose qualified equity investment allocations were
5734 reduced under Subsection [~~63M-1-3503~~] [63N-2-603](#)(5)(b); and

5735 (c) after complying with Subsections (2)(a) and (b), in accordance with the application
5736 process.

5737 Section 123. Section **63N-2-605**, which is renumbered from Section 63M-1-3505 is
5738 renumbered and amended to read:

5739 [~~63M-1-3505~~]. **63N-2-605. Notice of noncompliance.**

5740 (1) Enforcement of a recapture provision under Subsection [~~63M-1-3504~~]
5741 [63N-2-604](#)(1) is subject to a six-month cure period.

5742 (2) The office may not recapture a tax credit until the office notifies the qualified
5743 community development entity of noncompliance and affords the qualified community
5744 development entity six months from the date of the notice to cure the noncompliance.

5745 Section 124. Section **63N-2-606**, which is renumbered from Section 63M-1-3506 is
5746 renumbered and amended to read:

5747 ~~[63M-1-3506].~~ **63N-2-606. Refundable performance deposit -- Small**
5748 **Business Jobs Performance Guarantee Account.**

5749 (1) (a) A qualified community development entity that seeks to have an equity
5750 investment or long-term debt security certified as a qualified equity investment and as eligible
5751 for tax credits under Section **59-9-107** shall pay a deposit in the amount of .5% of the amount
5752 of the equity investment or long-term debt security requested in an application to be certified as
5753 a qualified equity investment to the office for deposit into the Small Business Jobs
5754 Performance Guarantee Account.

5755 (b) (i) There is created in the General Fund a restricted account known as the "Small
5756 Business Jobs Performance Guarantee Account" that consists of deposits made under
5757 Subsection (1)(a).

5758 (ii) The Small Business Jobs Performance Guarantee Account does not earn interest.

5759 (iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance
5760 Guarantee Account that a qualified community development entity forfeits under this section is
5761 to be transferred to the General Fund.

5762 (iv) The office shall work with the Division of Finance to ensure that money in the
5763 Small Business Jobs Performance Guarantee Account is properly accounted for at the end of
5764 each fiscal year.

5765 (c) A qualified community development entity shall forfeit the deposit required under
5766 Subsection (1)(a) in its entirety if:

5767 (i) the qualified community development entity and its subsidiary qualified community
5768 development entities fail to issue the total amount of qualified equity investments certified by
5769 the office and receive cash in the total amount certified under Section ~~[63M-1-3503]~~

5770 [63N-2-603](#); or

5771 (ii) the qualified community development entity or any subsidiary qualified community
5772 development entity that issues a qualified equity investment certified under this part fails to
5773 make qualified low-income community investments in qualified active low-income community
5774 businesses in Utah equal to at least 85% of the purchase price of the qualified equity
5775 investment by the second credit allowance date of such qualified equity investment.

5776 (d) The six-month cure period established under Section [~~63M-1-3505~~] [63N-2-605](#) is
5777 not applicable to the forfeiture of a deposit under Subsection (1)(c).

5778 (2) (a) A deposit required under Subsection (1) shall be paid to the office and held in
5779 the Small Business Jobs Performance Guarantee Account until such time as compliance with
5780 this Subsection (2) is established.

5781 (b) A qualified community development entity may request a refund of the deposit
5782 from the office no sooner than 30 days after the qualified community development entity and
5783 all transferees under Subsection [~~63M-1-3503~~] [63N-2-603](#)(7) have invested 85% of the
5784 purchase price of the qualified equity investment authority certified by the office pursuant to
5785 Subsection [~~63M-1-3503~~] [63N-2-603](#)(3).

5786 (c) The office has 30 days to comply with the request for a refund or give notice of
5787 noncompliance.

5788 Section 125. Section **63N-2-607**, which is renumbered from Section 63M-1-3507 is
5789 renumbered and amended to read:

5790 [~~63M-1-3507~~]. **63N-2-607. 150% investment requirement -- Ceasing of**
5791 **certification.**

5792 (1) (a) Once certified under Section [~~63M-1-3503~~] [63N-2-603](#), a qualified equity
5793 investment shall remain certified until all of the requirements of Subsection (2) have been met.

5794 (b) Until such time as the qualified equity investments issued by a qualified community
5795 development entity are no longer certified, the qualified community development entity may
5796 not distribute to its equity holders or make cash payments on long-term debt securities that
5797 have been certified as qualified equity investments in an amount that exceeds the sum of:

5798 (i) the cumulative operating income, as defined by regulations adopted under Section
5799 45D, Internal Revenue Code, earned by the qualified community development entity since
5800 issuance of the qualified equity investment, before giving effect to any interest expense from
5801 long-term debt securities certified as qualified equity investments; and

5802 (ii) 50% of the purchase price of the qualified equity investments issued by the
5803 qualified community development entity.

5804 (2) Subject to the other provisions of this section, a qualified equity investment ceases
5805 to be certified when:

5806 (a) it is beyond its seventh credit allowance date;

5807 (b) the qualified community development entity issuing the qualified equity investment
5808 has been in compliance with Section [~~63M-1-3504~~] 63N-2-604 through its seventh credit
5809 allowance date, including any cures under Section [~~63M-1-3505~~] 63N-2-605;

5810 (c) the qualified community development entity issuing such qualified equity
5811 investment has used the cash purchase of such qualified equity investment, together with
5812 capital returned, repaid, or redeemed or profits realized with qualified low-income community
5813 investments, to invest in qualified active low-income community businesses such that the total
5814 qualified low-income community investments made, cumulatively including reinvestments,
5815 exceeds 150% of the qualified equity investment; and

5816 (d) the qualified community development complies with Subsection (4).

5817 (3) For purposes of making the calculation under Subsection (2)(c), qualified
5818 low-income community investments to any one qualified active low-income community
5819 business, on a collective basis with its affiliates, in excess of \$4,000,000 may not be included,
5820 unless such investments are made with capital returned or repaid from qualified low-income
5821 community investments made by the qualified community development entity in other
5822 qualified active low-income community businesses or interest earned on or profits realized
5823 from any qualified low-income community investments.

5824 (4) (a) A qualified community development entity shall file a request for ceasing
5825 certification of a qualified equity investment in a form, provided by the office, that establishes

5826 that the qualified community development entity has met the requirements of Subsection (2)
5827 along with evidence supporting the request for ceasing certification.

5828 (b) Subsection (2)(b) shall be considered to be met if no recapture action has been
5829 commenced by the office as of the seventh credit allowance date.

5830 (5) (a) A request for ceasing certification may not be unreasonably denied and the
5831 office shall respond to the request within 30 days of the office receiving the request.

5832 (b) Upon grant of a request for ceasing certification, the qualified community
5833 development entity is no longer subject to Section [~~63M-1-3510~~] [63N-2-610](#).

5834 (c) If the request is denied for any reason, the office has the burden of proof in any
5835 administrative or legal proceeding that follows.

5836 Section 126. Section **63N-2-608**, which is renumbered from Section 63M-1-3508 is
5837 renumbered and amended to read:

5838 [~~63M-1-3508~~]. **63N-2-608. Limitation on fees.**

5839 (1) A qualified community development entity or purchaser of a qualified equity
5840 investment may not pay to any qualified community development entity or affiliate of a
5841 qualified community development entity any fee in connection with any activity under this part
5842 before meeting the requirements of Subsection [~~63M-1-3507~~] [63N-2-607](#)(2) with respect to all
5843 qualified equity investments issued by such qualified community development entity and its
5844 affiliates.

5845 (2) Subsection (1) does not prohibit the allocation or distribution of income earned by a
5846 qualified community development entity or purchaser of a qualified equity investment to the
5847 qualified community development entity's or purchaser's equity owners or the payment of
5848 reasonable interest on amounts lent to a qualified community development entity or purchaser
5849 of a qualified equity investment.

5850 Section 127. Section **63N-2-609**, which is renumbered from Section 63M-1-3509 is
5851 renumbered and amended to read:

5852 [~~63M-1-3509~~]. **63N-2-609. New capital requirement.**

5853 (1) A qualified active low-income community business that receives a qualified

5854 low-income community investment from a qualified community development entity that issues
5855 qualified equity investments under this part, or any affiliates of a qualified active low-income
5856 community business, may not directly or indirectly:

5857 (a) own or have the right to acquire an ownership interest in a qualified community
5858 development entity or member or affiliate of a qualified community development entity,
5859 including a holder of a qualified equity investment issued by the qualified community
5860 development entity; or

5861 (b) loan to or invest in a qualified community development entity or member or
5862 affiliate of a qualified community development entity, including a holder of a qualified equity
5863 investment issued by a qualified community development entity when the proceeds of the loan
5864 or investment are directly or indirectly used to fund or refinance the purchase of a qualified
5865 equity investment under this part.

5866 (2) For purposes of this section, a qualified community development entity may not be
5867 considered an affiliate of a qualified active low-income community business solely as a result
5868 of its qualified low-income community investment in the business.

5869 Section 128. Section **63N-2-610**, which is renumbered from Section 63M-1-3510 is
5870 renumbered and amended to read:

5871 ~~**63M-1-3510**~~. **63N-2-610. Reporting.**

5872 (1) (a) A qualified community development entity that issues qualified equity
5873 investments shall submit a report to the office within the first five business days after the first
5874 anniversary of the initial credit allowance date that provides documentation as to the
5875 investment of 85% of the purchase price in qualified low-income community investments in
5876 qualified active low-income community businesses located in Utah.

5877 (b) The report shall include:

5878 ~~(a)~~ (i) a bank statement of the qualified community development entity evidencing
5879 each qualified low-income community investment; and

5880 ~~(b)~~ (ii) evidence that the business was a qualified active low-income community
5881 business at the time of the qualified low-income community investment.

5882 (2) (a) After the initial report under Subsection (1), a qualified community
5883 development entity shall submit an annual report to the office within 60 days of the beginning
5884 of the calendar year during the compliance period. [~~Am~~]

5885 (b) The annual report is not due before the first anniversary of the initial credit
5886 allowance date.

5887 (c) The annual report shall include the following:

5888 [~~(a)~~] (i) the number of employment positions created and retained as a result of
5889 qualified low-income community investments;

5890 [~~(b)~~] (ii) the average annual salary of positions described in Subsection (2)[~~(a)~~](c)(i);
5891 and

5892 [~~(c)~~] (iii) certification from the qualified community development entity that the
5893 grounds for recapture under Section [~~63M-1-3504~~] 63N-2-604 have not occurred.

5894 Section 129. Section **63N-2-611**, which is renumbered from Section 63M-1-3511 is
5895 renumbered and amended to read:

5896 [~~63M-1-3511~~]. **63N-2-611. Revenue impact assessment.**

5897 (1) Before making a qualified low-income community investment, a qualified
5898 community development entity shall submit to the office a revenue impact assessment prepared
5899 using a nationally recognized economic development model that demonstrates that the
5900 qualified low-income community investment will have a revenue positive impact on the state
5901 over 10 years against the 58% tax credit utilization over the same 10-year period.

5902 (2) The office [~~must~~] shall notify the qualified community development entity within
5903 five business days if the qualified low-income community investment does not have a revenue
5904 positive impact on the state over 10 years against the 58% tax credit utilization over the same
5905 10-year period using the revenue impact assessment submitted.

5906 (3) If the office determines that the revenue impact assessment does not reflect a
5907 revenue positive qualified low-income community investment, the office may waive the
5908 requirement under this section if the office determines that the proposed qualified low-income
5909 community investment will further economic development.

5910 Section 130. Section **63N-2-612**, which is renumbered from Section 63M-1-3512 is
5911 renumbered and amended to read:

5912 **~~[63M-1-3512]~~. 63N-2-612. Scope of part.**

5913 This part applies only to a return or report originally due on or after September 2, 2014.

5914 Section 131. Section **63N-2-701**, which is renumbered from Section 63M-1-3101 is
5915 renumbered and amended to read:

5916 **Part 7. Alternative Energy Manufacturing Tax Credit Act**

5917 **~~[63M-1-3101]~~. 63N-2-701. Title.**

5918 This part is known as the "Alternative Energy Manufacturing Tax Credit Act."

5919 Section 132. Section **63N-2-702**, which is renumbered from Section 63M-1-3102 is
5920 renumbered and amended to read:

5921 **~~[63M-1-3102]~~. 63N-2-702. Definitions.**

5922 As used in this [section] part:

5923 (1) "Alternative energy" [is] has the same meaning as defined in Section [59-12-102](#).

5924 (2) (a) "Alternative energy entity" means a person that:

5925 (i) conducts business within the state; and

5926 (ii) enters into an agreement with the office that qualifies the person to receive a tax
5927 credit.

5928 (b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in
5929 Section [59-10-1402](#), of a person described in Subsection (2)(a).

5930 (3) "Alternative energy manufacturing project" means a project produced by an
5931 alternative energy entity if that project involves:

5932 (a) a new or expanding operation in the state of a new or expanding alternative energy
5933 entity; and

5934 (b) the manufacturing of machinery or equipment used directly in the production of
5935 alternative energy.

5936 (4) "New incremental job within the state" means, with respect to an alternative energy
5937 entity, an employment position that:

5938 (a) did not exist within the state before:

5939 (i) the alternative energy entity entered into an agreement with the office in accordance

5940 with Section ~~[63M-1-3103]~~ 63N-2-703; and

5941 (ii) the alternative energy manufacturing project began;

5942 (b) is not shifted from one location in the state to another location in the state; and

5943 (c) is established to the satisfaction of the office, including by amounts paid or

5944 withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax

5945 Act.

5946 (5) "New state revenues" means an increased amount of tax revenues generated as a

5947 result of an alternative energy manufacturing project by an alternative energy entity or a new

5948 incremental job within the state under the following:

5949 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

5950 (b) Title 59, Chapter 10, Individual Income Tax Act; and

5951 (c) Title 59, Chapter 12, Sales and Use Tax Act.

5952 ~~[(6) "Office" means the Governor's Office of Economic Development.]~~

5953 ~~[(7)]~~ (6) "Tax credit" means a tax credit under Section 59-7-614.8 or 59-10-1030.

5954 ~~[(8)]~~ (7) "Tax credit applicant" means an alternative energy entity that applies to the

5955 office to receive a tax credit certificate under this part.

5956 ~~[(9)]~~ (8) "Tax credit certificate" means a certificate issued by the office that:

5957 (a) lists the name of the tax credit certificate recipient;

5958 (b) lists the tax credit certificate recipient's taxpayer identification number;

5959 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under

5960 this part for a taxable year; and

5961 (d) includes other information as determined by the office.

5962 ~~[(10)]~~ (9) "Tax credit certificate recipient" means an alternative energy entity that

5963 receives a tax credit certificate for a tax credit in accordance with this part.

5964 Section 133. Section **63N-2-703**, which is renumbered from Section 63M-1-3103 is

5965 renumbered and amended to read:

5966 ~~[63M-1-3103]~~. 63N-2-703. Tax credits.

5967 (1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5968 the office, with advice from the board, shall make rules establishing standards an alternative
5969 energy entity shall meet to qualify for a tax credit.

5970 (b) Before the office enters into an agreement described in Subsection (2) with an
5971 alternative energy entity, the office shall certify:

5972 (i) that the alternative energy manufacturing project will generate new state revenues;

5973 (ii) the economic life of the alternative energy manufacturing project produced by the
5974 alternative energy entity;

5975 (iii) that local incentives have been committed or will be committed to be provided to
5976 the alternative energy manufacturing project;

5977 (iv) that the alternative energy entity meets the requirements of Section [~~63M-1-3104~~]
5978 63N-2-704; and

5979 (v) that the alternative energy entity has received a Certificate of Good Standing from
5980 the Division of Corporations and Commercial Code.

5981 (2) If an alternative energy entity meets the requirements of this part to receive a tax
5982 credit, the office may enter into an agreement with the alternative energy entity to authorize the
5983 tax credit in accordance with Subsection (3).

5984 (3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a
5985 tax credit under this part that may not exceed 100% of new state revenues generated by the
5986 alternative energy manufacturing project.

5987 (b) As determined by the office, the office may authorize or commit a tax credit under
5988 this section for a time period that does not exceed the lesser of:

5989 (i) the economic life of the alternative energy manufacturing project; or

5990 (ii) 20 years.

5991 (c) The office shall consider economic modeling, including the costs and benefits of an
5992 alternative energy manufacturing project to the state and local governments, in determining:

5993 (i) the amount of tax credit to authorize or commit in accordance with Subsection

5994 (3)(a); and

5995 (ii) the time period for which the office will authorize or commit a tax credit in
5996 accordance with Subsection (3)(b).

5997 (d) For a taxable year, a tax credit under this section may not exceed the new state
5998 revenues generated by an alternative energy manufacturing project during that taxable year.

5999 (4) An alternative energy entity that seeks to receive a tax credit or has entered into an
6000 agreement described in Subsection (2) with the office shall:

6001 (a) annually file a report with the office showing the new state revenues generated by
6002 the alternative energy manufacturing project during the taxable year for which the alternative
6003 energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030;

6004 (b) submit to an audit for verification of a tax credit under Section 59-7-614.8 or
6005 59-10-1030;

6006 (c) provide the office with information required by the office to certify the economic
6007 life of the alternative energy manufacturing project produced by the alternative energy entity,
6008 which may include a power purchase agreement, a lease, or a permit; and

6009 (d) retain records supporting a claim for a tax credit for at least four years after the
6010 alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.

6011 (5) The office shall annually certify the new state revenues generated by an alternative
6012 energy manufacturing project for a taxable year for which an alternative energy entity seeks to
6013 receive a tax credit under Section 59-7-614.8 or 59-10-1030.

6014 Section 134. Section 63N-2-704, which is renumbered from Section 63M-1-3104 is
6015 renumbered and amended to read:

6016 ~~[63M-1-3104]~~. **63N-2-704. Qualifications for tax credit -- Procedure.**

6017 (1) The office, with advice from the board, shall certify an alternative energy entity's
6018 eligibility for a tax credit as provided in this section.

6019 (2) A tax credit applicant shall provide the office with:

6020 (a) an application for a tax credit certificate;

6021 (b) documentation that the tax credit applicant meets the standards and requirements

6022 described in Section [~~63M-1-3103~~] [63N-2-703](#) to the satisfaction of the office for the taxable
6023 year for which the tax credit applicant seeks to claim a tax credit; and

6024 (c) documentation that expressly directs and authorizes the State Tax Commission to
6025 disclose to the office the tax credit applicant's returns and other information concerning the tax
6026 credit applicant that would otherwise be subject to confidentiality under Section [59-1-403](#) or
6027 Section 6103, Internal Revenue Code.

6028 (3) (a) The office shall submit the documentation described in Subsection (2)(c) to the
6029 State Tax Commission.

6030 (b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax
6031 Commission shall provide the office with the documentation described in Subsection (2)(c)
6032 requested by the office that the tax credit applicant directed and authorized the State Tax
6033 Commission to provide to the office.

6034 (4) If, after the office reviews the documentation described in Subsections (2) and (3),
6035 the office determines that the documentation supporting the tax credit applicant's claim for a
6036 tax credit is not substantially accurate, the office shall:

6037 (a) deny the tax credit; or

6038 (b) inform the tax credit applicant that the documentation supporting the tax credit
6039 applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new
6040 documentation.

6041 (5) If, after the office reviews the documentation described in Subsections (2) and (3),
6042 the office determines that the documentation supporting the tax credit applicant's claim for a
6043 tax credit is substantially accurate, the office shall, on the basis of that documentation:

6044 (a) enter into the agreement described in Section [~~63M-1-3103~~] [63N-2-703](#);

6045 (b) issue a tax credit certificate to the tax credit applicant; and

6046 (c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b)
6047 to the State Tax Commission.

6048 (6) An alternative energy entity may not claim a tax credit under this part unless the
6049 alternative energy entity is a tax credit certificate recipient.

6050 (7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit
6051 certificate in accordance with Subsection ~~[63M-1-3103]~~ 63N-2-703(4).

6052 Section 135. Section **63N-2-705**, which is renumbered from Section 63M-1-3105 is
6053 renumbered and amended to read:

6054 ~~[63M-1-3105]~~. **63N-2-705. Reporting.**

6055 The office shall provide the following information in the annual written report
6056 described in Section ~~[63M-1-206]~~ 63N-2-301:

6057 (1) the office's success in attracting alternative energy manufacturing projects to the
6058 state and the resulting increase in new state revenues under this part;

6059 (2) the amount of tax credits the office has granted or will grant and the time period
6060 during which the tax credits have been or will be granted; and

6061 (3) the economic impact on the state by comparing new state revenues to tax credits
6062 that have been or will be granted under this part.

6063 Section 136. Section **63N-2-801**, which is renumbered from Section 63M-1-2901 is
6064 renumbered and amended to read:

6065 **Part 8. Technology and Life Science Economic Development Act**

6066 ~~[63M-1-2901]~~. **63N-2-801. Title.**

6067 This part is known as the "Technology and Life Science Economic Development Act."

6068 Section 137. Section **63N-2-802**, which is renumbered from Section 63M-1-2902 is
6069 renumbered and amended to read:

6070 ~~[63M-1-2902]~~. **63N-2-802. Definitions.**

6071 As used in this part:

6072 ~~[(1) "Board" means the Governor's Office of Economic Development Board of
6073 Directors;]~~

6074 ~~[(2)]~~ (1) "Claimant" [is] has the same meaning as defined in Section 59-10-1002.

6075 ~~[(3)]~~ (2) "Eligible business entity" means a person that:

6076 (a) enters into an agreement with the office in accordance with this part to receive a tax
6077 credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;

- 6078 (b) is:
- 6079 (i) a life science establishment; or
- 6080 (ii) described in NAICS Code 334413, Semiconductor and Related Device
- 6081 Manufacturing, of the 2007 North American Industry Classification System of the federal
- 6082 Executive Office of the President, Office of Management and Budget;
- 6083 (c) has at least 50% of its employees in the state for each day of a taxable year the
- 6084 eligible business entity claims a tax credit under Section [59-7-614.6](#) or [59-10-1109](#); and
- 6085 (d) receives a tax credit certificate from the office in accordance with this part.
- 6086 ~~[(4)]~~ (3) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
- 6087 (a) enters into an agreement with the office in accordance with this part to receive a tax
- 6088 credit certificate for a tax credit under Section [59-10-1025](#); and
- 6089 (b) receives a tax credit certificate from the office in accordance with this part.
- 6090 ~~[(5)]~~ (4) "Eligible new state tax revenues" means an increased amount of tax revenues
- 6091 generated as a result of an eligible product or project by an eligible business entity or a new
- 6092 incremental job within the state under the following:
- 6093 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
- 6094 (b) Title 59, Chapter 10, Individual Income Tax Act; and
- 6095 (c) Title 59, Chapter 12, Sales and Use Tax Act.
- 6096 ~~[(6)]~~ (5) "Eligible product or project" means any product or project produced by an
- 6097 eligible business entity that was not produced prior to the date of an agreement with the office
- 6098 under Section ~~[[63M-1-2908](#)]~~ [63N-2-808](#):
- 6099 (a) by the eligible business entity; and
- 6100 (b) within the state.
- 6101 ~~[(7)]~~ (6) "Life science establishment" ~~[is]~~ has the same meaning as defined in Section
- 6102 [59-10-1025](#).
- 6103 ~~[(8)]~~ (7) "New incremental job within the state" means, with respect to an eligible
- 6104 business entity, an employment position that:
- 6105 (a) did not exist within the state before:

6106 (i) the eligible business entity entered into an agreement with the office in accordance
6107 with this part; and

6108 (ii) the eligible product was produced or the eligible project began;

6109 (b) is not shifted from one location in the state to another location in the state; and

6110 (c) is established to the satisfaction of the office, including by amounts paid or
6111 withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.

6112 [~~(9)~~] "~~Office~~" means the Governor's Office of Economic Development.]

6113 [~~(10)~~] (8) "Tax credit" means a tax credit under:

6114 (a) Section 59-7-614.6;

6115 (b) Section 59-10-1025; or

6116 (c) Section 59-10-1109.

6117 [~~(11)~~] (9) "Tax credit applicant" means a person that applies to the office to receive a
6118 tax credit certificate under this part.

6119 [~~(12)~~] (10) "Tax credit certificate" means a certificate issued by the office that:

6120 (a) lists the name of the tax credit certificate recipient;

6121 (b) lists the tax credit certificate recipient's taxpayer identification number;

6122 (c) lists the amount of the tax credit certificate recipient's tax credits authorized under
6123 this part for a taxable year; and

6124 (d) includes other information as determined by the office.

6125 [~~(13)~~] (11) "Tax credit certificate recipient" means:

6126 (a) an eligible business entity that receives a tax credit certificate in accordance with
6127 this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or

6128 (b) an eligible claimant, estate, or trust that receives a tax credit certificate in
6129 accordance with this part for a tax credit under Section 59-10-1025.

6130 Section 138. Section 63N-2-803, which is renumbered from Section 63M-1-2903 is
6131 renumbered and amended to read:

6132 [~~63M-1-2903~~]. **63N-2-803. Tax credits issued by office.**

6133 (1) (a) The office may issue tax credit certificates under this part only to the extent that

6134 the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates
6135 under this part for a fiscal year.

6136 (b) The Legislature intends that a statutory authorization under Subsection (1)(a)
6137 specify:

6138 (i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and

6139 (ii) the allocation to the tax credit under Section 59-10-1025.

6140 (2) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit
6141 certificates in accordance with this part.

6142 (3) (a) If the total amount of tax credit certificates the office issues in a fiscal year is
6143 less than the amount of tax credit certificates the office may issue under this part in a fiscal
6144 year, the office may issue the remaining amount of tax credit certificates in a fiscal year after
6145 the fiscal year for which there is a remaining amount of tax credit certificates.

6146 (b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates
6147 the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the
6148 office may issue under this part in that quarter, the office may issue the remaining amount of
6149 tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax
6150 credit certificates.

6151 (c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office
6152 issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may
6153 issue in tax credit certificates under Subsection (2), the office:

6154 (i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal
6155 year 2011-12; and

6156 (ii) is not required to allocate the tax credit certificates to any particular quarter.

6157 Section 139. Section **63N-2-804**, which is renumbered from Section 63M-1-2904 is
6158 renumbered and amended to read:

6159 ~~[63M-1-2904]~~. **63N-2-804. Person may not claim or pass through a tax**
6160 **credit without tax credit certificate.**

6161 A person may not claim or pass through a tax credit unless the person has received a tax

6162 credit certificate from the office for the taxable year for which the person claims or passes
6163 through the tax credit.

6164 Section 140. Section **63N-2-805**, which is renumbered from Section 63M-1-2905 is
6165 renumbered and amended to read:

6166 ~~**63M-1-2905**~~. **63N-2-805. Application process.**

6167 (1) A tax credit applicant may apply to the office to receive a tax credit certificate by
6168 filing an application with the office:

6169 (a) on or before the quarterly deadline established by the office by rule made in
6170 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

6171 (b) on a form and in the manner prescribed by the office.

6172 (2) The application shall include:

6173 (a) tax return information as required by the office that is necessary for the office to
6174 determine eligibility for and the amount of a tax credit; and

6175 (b) other documentation as required by the office.

6176 (3) As part of the application required by this section, a tax credit applicant shall sign a
6177 separate document that expressly directs and authorizes the State Tax Commission to disclose
6178 to the office the tax credit certificate recipient's tax returns and other information concerning
6179 the tax credit certificate that:

6180 (a) would otherwise be subject to confidentiality under Section [59-1-403](#) or Section
6181 6103, Internal Revenue Code; and

6182 (b) are necessary for the office to determine eligibility for and the amount of a tax
6183 credit under this part.

6184 (4) Upon receipt of the document described in Subsection (3), the State Tax
6185 Commission shall provide the office with the tax returns and other information requested by
6186 the office that the tax credit applicant directed or authorized the State Tax Commission to
6187 provide to the office, including information necessary to determine eligibility for the amount of
6188 a tax credit.

6189 (5) If the office determines that the information a tax credit applicant provides is

6190 inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

6191 (a) deny the tax credit; or

6192 (b) inform the tax credit applicant that the information is inadequate and ask the tax
6193 credit applicant to submit new or additional documentation.

6194 Section 141. Section **63N-2-806**, which is renumbered from Section 63M-1-2906 is
6195 renumbered and amended to read:

6196 ~~[63M-1-2906]~~. **63N-2-806. Criteria for tax credits.**

6197 (1) A tax credit applicant shall establish as part of the application required by Section
6198 ~~[63M-1-2905]~~ 63N-2-805 that the tax credit applicant:

6199 (a) meets all of the criteria to receive the tax credit for which the tax credit applicant
6200 applies, except for the requirement to obtain a tax credit certificate; and

6201 (b) will provide a long-term economic benefit to the state.

6202 (2) The office may not issue a tax credit certificate to a tax credit applicant that fails to
6203 meet the requirements of Subsection (1)(a).

6204 Section 142. Section **63N-2-807**, which is renumbered from Section 63M-1-2907 is
6205 renumbered and amended to read:

6206 ~~[63M-1-2907]~~. **63N-2-807. Rulemaking authority.**

6207 The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah
6208 Administrative Rulemaking Act, establish:

6209 (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a
6210 manner consistent with this part; and

6211 (2) procedures for documenting the office's application of the criteria described in
6212 Subsection (1).

6213 Section 143. Section **63N-2-808**, which is renumbered from Section 63M-1-2908 is
6214 renumbered and amended to read:

6215 ~~[63M-1-2908]~~. **63N-2-808. Agreement between tax credit applicant and**
6216 **office -- Tax credit certificate.**

6217 (1) (a) Except as provided in Subsection ~~[63M-1-2903]~~ 63N-2-803(3)(b), for each

6218 quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:

6219 (i) 25% of the total amounts made available for allocation in accordance with Section
6220 [~~63M-1-2903~~] 63N-2-803 for the tax credits under Sections 59-7-614.6 and 59-10-1109; and

6221 (ii) 25% of the amounts made available for allocation in accordance with Section
6222 [~~63M-1-2903~~] 63N-2-803 for the tax credit under Section 59-10-1025.

6223 (b) Subject to the other provisions of this part, the office, with advice from the board,
6224 shall determine quarterly:

6225 (i) the tax credit applicant or applicants to which a tax credit certificate may be
6226 provided; and

6227 (ii) the amount of tax credit a tax credit applicant may receive.

6228 (2) The office, with advice from the board, may enter into an agreement to grant a tax
6229 credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit
6230 applicant meets the conditions established in the agreement and under this part.

6231 (3) The agreement described in Subsection (2) shall:

6232 (a) detail the requirements that the tax credit applicant shall meet prior to receiving a
6233 tax credit certificate;

6234 (b) require the tax credit certificate recipient to retain records supporting a claim for a
6235 tax credit for at least four years after the tax credit certificate recipient claims a tax credit under
6236 this part; and

6237 (c) require the tax credit certificate recipient to submit to audits for verification of the
6238 tax credit claimed, including audits by the office and by the State Tax Commission.

6239 Section 144. Section **63N-2-809**, which is renumbered from Section 63M-1-2909 is
6240 renumbered and amended to read:

6241 [~~63M-1-2909~~]. **63N-2-809. Issuance of tax credit certificates.**

6242 (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax
6243 credit certificate to the tax credit applicant:

6244 (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit
6245 and enters into an agreement with the office;

6246 (b) for two taxable years immediately following the taxable year described in
6247 Subsection (1)(a); and

6248 (c) for the seven taxable years immediately following the last of the two taxable years
6249 described in Subsection (1)(b) if:

6250 (i) the agreement with the office described in Section [~~63M-1-2908~~] [63N-2-808](#)
6251 includes a provision that the tax credit applicant will make new capital expenditures of at least
6252 \$1,000,000,000 in the state; and

6253 (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000
6254 in the state in accordance with the agreement with the office described in Section
6255 [~~63M-1-2908~~] [63N-2-808](#).

6256 (2) The office shall provide a duplicate copy of each tax credit certificate to the State
6257 Tax Commission.

6258 Section 145. Section **63N-2-810**, which is renumbered from Section 63M-1-2910 is
6259 renumbered and amended to read:

6260 [~~63M-1-2910~~]. **63N-2-810. Reports on tax credit certificates -- Study by**
6261 **legislative committees.**

6262 (1) The office shall include the following information in the annual written report
6263 described in Section [~~63M-1-206~~] [63N-1-301](#):

6264 (a) the total amount listed on tax credit certificates the office issues under this part;

6265 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
6266 credit applicants under this part; and

6267 (c) the economic impact on the state related to providing tax credits under this part.

6268 (2) (a) On or before November 1, 2016, and every five years after November 1, 2016,
6269 the Revenue and Taxation Interim Committee shall:

6270 (i) study the tax credits allowed under Sections [59-7-614.6](#), [59-10-1025](#), and
6271 [59-10-1109](#); and

6272 (ii) make recommendations concerning whether the tax credits should be continued,
6273 modified, or repealed.

- 6274 (b) The study under Subsection (2)(a) shall include an evaluation of:
- 6275 (i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;
- 6276 (ii) the purposes and effectiveness of the tax credits; and
- 6277 (iii) the extent to which the state benefits from the tax credits.

6278 Section 146. Section 63N-2-811, which is renumbered from Section 63M-1-2911 is
 6279 renumbered and amended to read:

6280 ~~63M-1-2911~~. **63N-2-811. Reports of tax credits.**

6281 (1) Before December 1 of each year, the office shall submit a report to the Governor's
 6282 Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division
 6283 of Finance identifying:

- 6284 (a) the total amount listed on tax credit certificates the office issues under this part; and
- 6285 (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
 6286 credit applicants.

6287 (2) By the first business day of each month, the office shall submit a report to the
 6288 Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the
 6289 Division of Finance identifying:

- 6290 (a) each new agreement entered into by the office since the last report;
- 6291 (b) the total amount listed on tax credit certificates the office issues under this part; and
- 6292 (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax
 6293 credit applicants.

6294 Section 147. Section 63N-3-101, which is renumbered from Section 63M-1-901 is
 6295 renumbered and amended to read:

6296 **CHAPTER 3. ECONOMIC DEVELOPMENT PROGRAMS**

6297 **Part 1. Industrial Assistance Account**

6298 ~~63M-1-901~~. **63N-3-101. Title -- Purpose.**

- 6299 (1) This chapter is known as "Economic Development Programs."
- 6300 (2) This part is known as the "Industrial Assistance Account."
- 6301 (3) The Legislature finds and declares that the fostering and development of industry in

6302 Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its
6303 economy, and adequate employment for its citizens.

6304 Section 148. Section **63N-3-102**, which is renumbered from Section 63M-1-902 is
6305 renumbered and amended to read:

6306 ~~[63M-1-902].~~ **63N-3-102. Definitions.**

6307 As used in this part:

6308 (1) "Administrator" means the executive director or the executive director's designee.

6309 [~~2~~] "Board" means the ~~Board of Business and Economic Development.~~]

6310 [~~3~~] (2) "Company creating an economic impediment" means a company that
6311 discourages economic development within a reasonable radius of its location because of:

6312 (a) odors;

6313 (b) noise;

6314 (c) pollution;

6315 (d) health hazards; or

6316 (e) other activities similar to those described in Subsections (3)(a) through (d).

6317 [~~5~~] (3) "Economically disadvantaged rural area" means a geographic area designated
6318 by the board under Section [~~63M-1-910~~] [63N-3-111](#).

6319 (4) "Economic opportunities" means unique business situations or community
6320 circumstances which lend themselves to the furtherance of the economic interests of the state
6321 by providing a catalyst or stimulus to the growth or retention, or both, of commerce and
6322 industry in the state, including retention of companies whose relocation outside the state would
6323 have a significant detrimental economic impact on the state as a whole, regions of the state, or
6324 specific components of the state as determined by the board.

6325 [~~6~~] (5) "Replacement company" means a company locating its business or part of its
6326 business in a location vacated by a company creating an economic impediment.

6327 [~~7~~] (6) "Restricted Account" means the restricted account known as the Industrial
6328 Assistance Account created in Section [~~63M-1-903~~] [63N-3-103](#).

6329 [~~8~~] (7) "Targeted industry" means an industry or group of industries targeted by the

6330 board under Section [~~63M-1-910~~] [63N-3-111](#), for economic development in the state.

6331 Section 149. Section **63N-3-103**, which is renumbered from Section 63M-1-903 is
6332 renumbered and amended to read:

6333 ~~[63M-1-903]~~. **63N-3-103. Industrial Assistance Account created -- Uses --**
6334 **Administrator duties -- Costs.**

6335 (1) There is created a restricted account within the General Fund known as the
6336 "Industrial Assistance Account" of which:

6337 (a) up to 50% may be used in economically disadvantaged rural areas;

6338 (b) up to 25% may be used to take timely advantage of economic opportunities as they
6339 arise;

6340 (c) up to 4% may be used to promote business and economic development in rural
6341 areas of the state with the Business Expansion and Retention Initiative; and

6342 (d) up to \$3,000,000 may be used for the purpose of incubating technology solutions
6343 related to economic and workforce development.

6344 (2) The administrator shall administer:

6345 (a) the restricted account created under Subsection (1), under the policy direction of the
6346 board; and

6347 (b) the Business Expansion and Retention Initiative for the rural areas of the state.

6348 (3) The administrator may hire appropriate support staff to perform the duties required
6349 under this section.

6350 (4) The cost of administering the restricted account shall be paid from money in the
6351 restricted account.

6352 (5) Interest accrued from investment of money in the restricted account shall remain in
6353 the restricted account.

6354 Section 150. Section **63N-3-104**, which is renumbered from Section 63M-1-904 is
6355 renumbered and amended to read:

6356 ~~[63M-1-904]~~. **63N-3-104. Rural Fast Track Program -- Creation --**
6357 **Funding -- Qualifications for program participation -- Awards -- Reports.**

- 6358 (1) (a) There is created the Rural Fast Track Program.
- 6359 (b) The program is a funded component of the economically disadvantaged rural areas
6360 designation in Subsection [~~63M-1-903~~] 63N-3-103(1)(a).
- 6361 (2) The purpose of the program is to provide an efficient way for small companies in
6362 rural areas of the state to receive incentives for creating high paying jobs in those areas of the
6363 state.
- 6364 (3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance
6365 Account created in Subsection [~~63M-1-903~~] 63N-3-103(1) at the beginning of each fiscal year
6366 shall be used to fund the program.
- 6367 (b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up
6368 to 50% designation for economically disadvantaged rural areas referred to in Subsection
6369 [~~63M-1-903~~] 63N-3-103(1)(a).
- 6370 (c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the
6371 program by the end of the third quarter of each fiscal year, that money may be used for any
6372 other loan, grant, or assistance program offered through the Industrial Assistance Account
6373 during the fiscal year.
- 6374 (4) (a) To qualify for participation in the program a company shall:
- 6375 (i) complete and file with the office an application for participation in the program,
6376 signed by an officer of the company;
- 6377 (ii) be located and conduct its business operations in a county in the state that has:
- 6378 (A) a population of less than 30,000; and
- 6379 (B) an average household income of less than \$60,000 as reflected in the most recently
6380 available data collected and reported by the United States Census Bureau;
- 6381 (iii) have been in business in the state for at least two years; and
- 6382 (iv) have at least two employees.
- 6383 (b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).
- 6384 (ii) The application must be approved by the administrator in order for a company to
6385 receive an incentive or other assistance under this section.

6386 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
6387 administrator may make rules governing:

6388 (i) the content of the application form referred to in Subsection (4)(a)(i);

6389 (ii) who qualifies as an employee under Subsection (4)(a)(iv); and

6390 (iii) the verification procedure referred to in Subsection (4)(b).

6391 (5) (a) The administrator shall make incentive cash awards to small companies under
6392 this section based on the following criteria:

6393 (i) \$1,000 for each new incremental job that pays over 110% of the county's average
6394 annual wage;

6395 (ii) \$1,250 for each incremental job that pays over 115% of the county's average annual
6396 wage; and

6397 (iii) \$1,500 for each incremental job that pays over 125% of the county's average
6398 annual wage.

6399 (b) The administrator shall make a cash award under Subsection (5)(a) when a new
6400 incremental job has been in place for at least 12 months.

6401 (c) The creation of a new incremental job by a company is based on the number of
6402 employees at the company during the previous 24 months.

6403 (d) (i) A small company may also apply for grants, loans, or other financial assistance
6404 under the program to help develop its business in rural Utah and may receive up to \$50,000
6405 under the program if approved by the administrator.

6406 (ii) The board must approve a distribution that exceeds the \$50,000 cap under
6407 Subsection (5)(d)(i).

6408 (6) The administrator shall make a quarterly report to the board of the awards made by
6409 the administrator under this section and submit a report to the office on the awards and their
6410 impact on economic development in the state's rural areas for inclusion in the office's annual
6411 written report described in Section [~~63M-1-206~~] 63N-1-301.

6412 Section 151. Section **63N-3-105**, which is renumbered from Section 63M-1-906 is
6413 renumbered and amended to read:

6414 ~~[63M-1-906]~~. 63N-3-105. Qualification for assistance.

6415 (1) Except as provided in Section [~~63M-1-908, 63M-1-909, or 63M-1-909.5~~]
6416 63N-3-108, 63N-3-109, or 63N-3-110, the administrator shall determine which industries,
6417 companies, and individuals qualify to receive money from the Industrial Assistance Account.
6418 Except as provided by Subsection (2), to qualify for financial assistance from the restricted
6419 account, an applicant shall:

6420 (a) demonstrate to the satisfaction of the administrator that the applicant will expend
6421 funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
6422 proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
6423 year or other more stringent requirements as established from time to time by the board for a
6424 minimum period of five years beginning with the date the loan or grant was approved;

6425 (b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
6426 economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
6427 loan provided by the restricted account; and

6428 (c) satisfy other criteria the administrator considers appropriate.

6429 (2) (a) The administrator may exempt an applicant from the requirements of Subsection
6430 (1)(a) or (b) if:

6431 (i) the financial assistance is provided to an applicant for the purpose of locating all or
6432 any portion of its operations to an economically disadvantaged rural area;

6433 (ii) the applicant is part of a targeted industry;

6434 (iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
6435 Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
6436 Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
6437 significant economic stimulus to the growth of commerce and industry in the state; or

6438 (iv) the applicant is an entity offering an economic opportunity under Section

6439 [~~63M-1-909~~] 63N-3-109.

6440 (b) The administrator may not exempt the applicant from the requirement under
6441 Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be structured so that the repayment or

6442 return to the state equals at least the amount of the assistance together with an annual interest
6443 charge.

6444 (3) The administrator shall:

6445 (a) for applicants not described in Subsection (2)(a):

6446 (i) make findings as to whether or not each applicant has satisfied each of the
6447 conditions set forth in Subsection (1); and

6448 (ii) monitor the continued compliance by each applicant with each of the conditions set
6449 forth in Subsection (1) for five years;

6450 (b) for applicants described in Subsection (2)(a), make findings as to whether the
6451 economic activities of each applicant has resulted in the creation of new jobs on a per capita
6452 basis in the economically disadvantaged rural area or targeted industry in which the applicant is
6453 located;

6454 (c) monitor the compliance by each applicant with the provisions of any contract or
6455 agreement entered into between the applicant and the state as provided in Section [63M-1-907]
6456 [63N-3-107](#); and

6457 (d) make funding decisions based upon appropriate findings and compliance.

6458 Section 152. Section **63N-3-106**, which is renumbered from Section 63M-1-905 is
6459 renumbered and amended to read:

6460 ~~[63M-1-905]~~. **63N-3-106. Loans, grants, and assistance -- Repayment --**
6461 **Earned credits.**

6462 (1) (a) A company that qualifies under Section [63M-1-906] [63N-3-105](#) may receive
6463 loans, grants, or other financial assistance from the Industrial Assistance Account for expenses
6464 related to establishment, relocation, or development of industry in Utah.

6465 (b) A company creating an economic impediment that qualifies under Section
6466 [63M-1-908] [63N-3-108](#) may in accordance with this part receive loans, grants, or other
6467 financial assistance from the restricted account for the expenses of the company creating an
6468 economic impediment related to:

6469 (i) relocation to a rural area in Utah of the company creating an economic impediment;

6470 and

6471 (ii) the siting of a replacement company.

6472 (c) An entity offering an economic opportunity that qualifies under Section

6473 [~~63M-1-909~~] 63N-3-109 may:

6474 (i) receive loans, grants, or other financial assistance from the restricted account for
6475 expenses related to the establishment, relocation, retention, or development of industry in the
6476 state; and

6477 (ii) include infrastructure or other economic development precursor activities that act
6478 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
6479 enlargement of the state's tax base.

6480 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
6481 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted
6482 account.

6483 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
6484 or return to the state, including cash or credit, equals at least the amount of the assistance
6485 together with an annual interest charge as negotiated by the administrator.

6486 (c) Payments resulting from grants awarded from the restricted account shall be made
6487 only after the administrator has determined that the company has satisfied the conditions upon
6488 which the payment or earned credit was based.

6489 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
6490 system of earned credits that may be used to support grant payments or in lieu of cash
6491 repayment of a restricted account loan obligation.

6492 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
6493 determined by the administrator, including:

6494 (A) the number of Utah jobs created;

6495 (B) the increased economic activity in Utah; or

6496 (C) other events and activities that occur as a result of the restricted account assistance.

6497 (b) (i) The administrator shall provide for a system of credits to be used to support

6498 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
6499 a company creating an economic impediment.

6500 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
6501 determined by the administrator, including:

6502 (A) the number of Utah jobs created;

6503 (B) the increased economic activity in Utah; or

6504 (C) other events and activities that occur as a result of the restricted account assistance.

6505 (4) (a) A cash loan repayment or other cash recovery from a company receiving
6506 assistance under this section, including interest, shall be deposited into the restricted account.

6507 (b) The administrator and the Division of Finance shall determine the manner of
6508 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
6509 grant payments as provided in Subsection (3).

6510 (5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the
6511 balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers
6512 of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance
6513 Account in an amount equal to any credit that has accrued under this part.

6514 (ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which
6515 time no subsequent contributions may be made and any interest accrued above the \$50,000,000
6516 cap shall be deposited into the General Fund.

6517 (b) The set aside required by Subsection (5)(a) shall be made after the transfer of
6518 surplus General Fund revenue surplus is made:

6519 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
6520 provided in Section 63J-1-315;

6521 (ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312;
6522 and

6523 (iii) to the State Disaster Recovery Restricted Account, as provided in Section
6524 63J-1-314.

6525 (c) These credit amounts may not be used for purposes of the restricted account as

6526 provided in this part until appropriated by the Legislature.

6527 Section 153. Section **63N-3-107**, which is renumbered from Section 63M-1-907 is
6528 renumbered and amended to read:

6529 **~~[63M-1-907].~~ 63N-3-107. Agreements.**

6530 The administrator shall enter into agreements with each successful applicant that have
6531 specific terms and conditions for each loan or assistance, including:

6532 (1) repayment schedules;

6533 (2) interest rates;

6534 (3) specific economic activity required to qualify for the loan or assistance or for
6535 repayment credits;

6536 (4) collateral or security, if any; and

6537 (5) other terms and conditions considered appropriate by the administrator.

6538 Section 154. Section **63N-3-108**, which is renumbered from Section 63M-1-908 is
6539 renumbered and amended to read:

6540 **~~[63M-1-908].~~ 63N-3-108. Financial assistance to companies that create
6541 economic impediments.**

6542 (1) (a) The administrator may provide money from the Industrial Assistance Account to
6543 a company creating an economic impediment if that company:

6544 (i) applies to the administrator;

6545 (ii) relocates to a rural area in Utah; and

6546 (iii) meets the qualifications of Subsection (1)(b).

6547 (b) Except as provided by Subsection (2), to qualify for financial assistance from the
6548 restricted account, a company creating an economic impediment shall:

6549 (i) demonstrate to the satisfaction of the administrator that the company creating an
6550 economic impediment, its replacement company, or in the aggregate the company creating the
6551 economic impediment and its replacement company:

6552 (A) will expend funds in Utah with employees, vendors, subcontractors, or other
6553 businesses in an amount proportional with money provided from the restricted account at a

6554 minimum ratio of 2 to 1 per year or other more stringent requirements as established from time
6555 to time by the board for a minimum period of five years beginning with the date the loan or
6556 grant was approved; and

6557 (B) can sustain economic activity in the state sufficient to repay, by means of cash or
6558 appropriate credits, the loan provided by the restricted account; and

6559 (ii) satisfy other criteria the administrator considers appropriate.

6560 (2) (a) The administrator may exempt a company creating an economic impediment
6561 from the requirements of Subsection (1)(b)(i)(A) if:

6562 (i) the financial assistance is provided to a company creating an economic impediment
6563 for the purpose of locating all or any portion of its operations to an economically disadvantaged
6564 rural area; or

6565 (ii) its replacement company is part of a targeted industry.

6566 (b) The administrator may not exempt a company creating an economic impediment
6567 from the requirement under Subsection [~~63M-1-905~~] 63N-3-106(2)(b) that the loan be
6568 structured so that the repayment or return to the state equals at least the amount of the
6569 assistance together with an annual interest charge.

6570 (3) The administrator shall:

6571 (a) make findings as to whether or not a company creating an economic impediment,
6572 its replacement company, or both, have satisfied each of the conditions set forth in Subsection
6573 (1);

6574 (b) monitor the compliance by a company creating an economic impediment, its
6575 replacement company, or both, with:

6576 (i) each of the conditions set forth in Subsection (1); and

6577 (ii) any contract or agreement under Section [~~63M-1-907~~] 63N-3-107 entered into
6578 between:

6579 (A) the company creating an economic impediment; and

6580 (B) the state; and

6581 (c) make funding decisions based upon appropriate findings and compliance.

6582 Section 155. Section **63N-3-109**, which is renumbered from Section 63M-1-909 is
6583 renumbered and amended to read:

6584 ~~[63M-1-909]~~. **63N-3-109. Financial assistance to entities offering economic**
6585 **opportunities.**

6586 (1) Subject to the duties and powers of the board under Section [~~63M-1-303~~]
6587 63N-1-402, the administrator may provide money from the Industrial Assistance Account to an
6588 entity offering an economic opportunity if that entity:

6589 (a) applies to the administrator; and
6590 (b) meets the qualifications of Subsection (2).

6591 (2) The applicant shall:

6592 (a) demonstrate to the satisfaction of the administrator the nature of the economic
6593 opportunity and the related benefit to the economic well-being of the state by providing
6594 evidence documenting the logical and compelling linkage, either direct or indirect, between the
6595 expenditure of money necessitated by the economic opportunity and the likelihood that the
6596 state's tax base, regions of the state's tax base, or specific components of the state's tax base
6597 will not be reduced but will be maintained or enlarged;

6598 (b) demonstrate how the funding request will act in concert with other state, federal, or
6599 local agencies to achieve the economic benefit;

6600 (c) demonstrate how the funding request will act in concert with free market principles;

6601 (d) in the case of an economic opportunity that includes the retention of jobs,
6602 demonstrate how the potential relocation of jobs outside the state is related to a merger,
6603 acquisition, consolidation, or similar business reason other than the applicant simply requesting
6604 state assistance to remain in the state;

6605 (e) satisfy other criteria the administrator considers appropriate; and

6606 (f) be either:

6607 (i) an entity whose purpose is to exclusively or substantially promote, develop, or
6608 maintain the economic welfare and prosperity of the state as a whole, regions of the state, or
6609 specific components of the state, including:

6610 (A) an entity that is a sports development organization under contract with the state for
6611 sports development and sporting event attraction and related activities that provide an
6612 economic impact or promotional value to the state; or

6613 (B) an entity that implements technology innovation in public schools, including
6614 whole-school one-to-one mobile device technology deployment for the purpose of incubating
6615 technology solutions related to economic and workforce development.

6616 (ii) a company or individual that does not otherwise qualify under Section [~~63M-1-906~~]
6617 63N-3-105.

6618 (3) Subject to the duties and powers of the board under Section [~~63M-1-303~~]
6619 63N-1-402, the administrator shall:

6620 (a) make findings as to whether an applicant has satisfied each of the conditions set
6621 forth in Subsection (2);

6622 (b) establish benchmarks and timeframes in which progress toward the completion of
6623 the agreed upon activity is to occur;

6624 (c) monitor compliance by an applicant with any contract or agreement entered into by
6625 the applicant and the state as provided by Section [~~63M-1-907~~] 63N-3-107; and

6626 (d) make funding decisions based upon appropriate findings and compliance.

6627 Section 156. Section **63N-3-110**, which is renumbered from Section 63M-1-909.5 is
6628 renumbered and amended to read:

6629 [~~63M-1-909.5~~]. **63N-3-110. Selection of educational technology provider to**
6630 **implement whole-school one-to-one mobile device technology deployment plan for**
6631 **schools.**

6632 The board shall select an educational technology provider to develop and implement a
6633 whole-school one-to-one mobile device technology deployment plan for schools in accordance
6634 with the requirements of this part and Section 53A-1-709.

6635 Section 157. Section **63N-3-111**, which is renumbered from Section 63M-1-910 is
6636 renumbered and amended to read:

6637 [~~63M-1-910~~]. **63N-3-111. Annual policy considerations.**

6638 (1) The board shall determine annually which industries or groups of industries shall be
6639 targeted industries as defined in Section [~~63M-1-902~~] 63N-3-102.

6640 (2) In designating an economically disadvantaged rural area, the board shall consider
6641 the average agricultural and nonagricultural wage, personal income, unemployment, and
6642 employment in the area.

6643 (3) In evaluating the economic impact of applications for assistance, the board shall use
6644 an econometric cost-benefit model or models adopted by the Governor's Office of Management
6645 and Budget.

6646 (4) The board may establish:

6647 (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of
6648 return to the state comparable to prevailing market-based rates such as the prime rate, U.S.
6649 Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators
6650 such as the rate of unemployment; and

6651 (b) minimum applicant expense ratios, as long as they are at least equal to those
6652 required under Subsection [~~63M-1-906~~] 63N-3-105(1)(a) or [~~63M-1-908~~]
6653 63N-3-108(1)(b)(i)(A).

6654 Section 158. Section **63N-3-201**, which is renumbered from Section 63M-1-701 is
6655 renumbered and amended to read:

Part 2. Technology Commercialization and Innovation Act

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

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

6659 Section 159. Section **63N-3-202**, which is renumbered from Section 63M-1-702 is
6660 renumbered and amended to read:

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

6662 (1) (a) The Legislature recognizes that the growth of new industry and expansion of
6663 existing industry requires a strong technology base, new ideas, concepts, innovations, and
6664 prototypes.

6665 (b) Growth in industry frequently results from technological innovation generated by

6666 strong research institutions of higher education and by small businesses.

6667 (c) Technical research in Utah's institutions of higher education should be enhanced
6668 and expanded, particularly in those areas targeted by the state for economic development.

6669 (d) Most states enhance their research base by direct funding, usually on a matching
6670 basis.

6671 (e) The purpose of this part is to catalyze and enhance the growth of these technologies
6672 by:

6673 (i) encouraging interdisciplinary research activities in targeted areas;

6674 (ii) facilitating the transition of these technologies out of the higher education
6675 environment into industry where the technologies can be used to enhance job creation; and

6676 (iii) supporting the commercialization of technologies developed by small business to
6677 enhance job creation.

6678 (f) The Legislature recognizes that one source of funding is to match state funds with
6679 federal funds and industrial support to provide and develop new technologies.

6680 (2) The Legislature recommends that the governor consider matching the allocation of
6681 economic development funds for the Technology Commercialization and Innovation Program
6682 with industry and federal grants.

6683 (3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

6684 (i) to the various institutions of higher education in the state;

6685 (ii) to companies working in partnership with institutions of higher education to
6686 commercialize their technologies; and

6687 (iii) to small businesses that are developing promising technologies.

6688 (b) The funds made available should be used to support:

6689 (i) interdisciplinary research in the Technology Commercialization and Innovation
6690 Program in technologies that are considered to have potential for economic development in the
6691 state and to help transition these technologies out of institutions of higher education and into
6692 industry; and

6693 (ii) small businesses in commercializing their promising technologies that have the

6694 potential to increase economic development in the state.

6695 Section 160. Section **63N-3-203**, which is renumbered from Section 63M-1-703 is
6696 renumbered and amended to read:

6697 ~~[63M-1-703]~~. **63N-3-203. Definitions.**

6698 As used in this part:

6699 (1) "Business team consultant" means an experienced technology executive,
6700 entrepreneur, or business person who:

6701 (a) is recruited by the office through a request for proposal process to work directly
6702 with a college or university in the Technology Commercialization and Innovation Program; and

6703 (b) works with the institution to facilitate the transition of its technology into industry
6704 by assisting the institution in developing strategies, including spin out strategies when
6705 appropriate, and go-to-market plans, and identifying and working with potential customers and
6706 partners.

6707 (2) "Direct license" means a written license agreement between a company and a Utah
6708 institution of higher education related to technology developed at the institution of higher
6709 education with the intent of commercializing the technology or facilitating its transition into
6710 industry.

6711 (3) "Institution of higher education" means:

6712 (a) a state institution of higher education as defined in Section [53B-3-102](#); or

6713 (b) a private institution of higher education in the state accredited by a regional or
6714 national accrediting agency recognized by the United States Department of Education.

6715 (4) "Licensee" means:

6716 (a) a company that executes or is in the process of executing a direct license; or

6717 (b) a sublicensee of the technology from a direct license.

6718 (5) "Small business" means a business that:

6719 (a) meets the size standards for the business's industry classification as identified by the
6720 United States Small Business Administration in 13 C.F.R. Sec. 121.201;

6721 (b) is organized for profit;

- 6722 (c) operates primarily within the United States;
- 6723 (d) has a principal place of business in the state, including a manufacturing or service
- 6724 location; and
- 6725 (e) is independently owned and operated.

6726 (6) "Technology Commercialization and Innovation Program" means:

6727 (a) a federal- and industry-supported cooperative research and development program

6728 based at an institution of higher education; or

6729 (b) a federal- and state-supported program for funding technologically innovative small

6730 businesses.

6731 Section 161. Section **63N-3-204**, which is renumbered from Section 63M-1-704 is

6732 renumbered and amended to read:

6733 ~~[63M-1-704]~~. **63N-3-204. Administration -- Grants and loans.**

6734 (1) The [~~Governor's Office of Economic Development~~] office shall administer this

6735 part.

6736 (2) (a) (i) The office may award Technology Commercialization and Innovation

6737 Program grants or issue loans under this part to an applicant that is:

- 6738 (A) an institution of higher education;
- 6739 (B) a licensee; or
- 6740 (C) a small business.

6741 (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a

6742 fund or account as necessary for the proper accounting of the loans.

6743 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

6744 office shall make rules for a process to determine whether an institution of higher education

6745 that receives a grant under this part must return the grant proceeds or a portion of the grant

6746 proceeds if the technology that is developed with the grant proceeds is licensed to a licensee

6747 that:

6748 (i) does not maintain a manufacturing or service location in the state from which the

6749 licensee or a sublicensee exploits the technology; or

6750 (ii) initially maintains a manufacturing or service location in the state from which the
6751 licensee or a sublicensee exploits the technology, but within five years after issuance of the
6752 license the licensee or sublicensee transfers the manufacturing or service location for the
6753 technology to a location out of the state.

6754 (c) A repayment by an institution of higher education of grant proceeds or a portion of
6755 the grant proceeds may only come from the proceeds of the license established between the
6756 licensee and the institution of higher education.

6757 (d) (i) An applicant that is a licensee or small business that receives a grant under this
6758 part shall return the grant proceeds or a portion of the grant proceeds to the office if the
6759 applicant:

6760 (A) does not maintain a manufacturing or service location in the state from which the
6761 applicant exploits the technology; or

6762 (B) initially maintains a manufacturing or service location in the state from which the
6763 applicant exploits the technology, but within five years after issuance of the grant, the applicant
6764 transfers the manufacturing or service location for the technology to an out-of-state location.

6765 (ii) A repayment by an applicant shall be prorated based on the number of full years the
6766 applicant operated in the state from the date of the awarded grant.

6767 (iii) A repayment by a licensee that receives a grant may only come from the proceeds
6768 of the license to that licensee.

6769 (3) (a) Funding allocations shall be made by the office with the advice of the board.

6770 (b) Each proposal shall receive the best available outside review.

6771 (4) (a) In considering each proposal, the office shall weigh technical merit, the level of
6772 matching funds from private and federal sources, and the potential for job creation and
6773 economic development.

6774 (b) Proposals or consortia that combine and coordinate related research at two or more
6775 institutions of higher education shall be encouraged.

6776 (5) The office shall review the activities and progress of grant recipients on a regular
6777 basis and, as part of the office's annual written report described in Section [[63M-1-206](#)]

6778 [63N-1-301](#), report on the accomplishments and direction of the Technology Commercialization
6779 and Innovation Program.

6780 Section 162. Section **63N-3-205**, which is renumbered from Section 63M-1-705 is
6781 renumbered and amended to read:

6782 ~~**[63M-1-705]**~~. **63N-3-205. Business team consultants.**

6783 (1) The office may enter into work agreements with business team consultants through
6784 a request for proposal process to participate in the Technology Commercialization and
6785 Innovation Program.

6786 (2) Under a work agreement, a business team consultant shall assist a college or
6787 university in facilitating the transition of its technology into industry.

6788 Section 163. Section **63N-3-301**, which is renumbered from Section 63M-1-2701 is
6789 renumbered and amended to read:

6790 **Part 3. Utah Business Resource Centers Act**

6791 ~~**[63M-1-2701]**~~. **63N-3-301. Title.**

6792 This part is known as the "Utah Business Resource Centers Act."

6793 Section 164. Section **63N-3-302**, which is renumbered from Section 63M-1-2702 is
6794 renumbered and amended to read:

6795 ~~**[63M-1-2702]**~~. **63N-3-302. Purpose.**

6796 The Legislature recognizes that:

6797 (1) the development of and assistance to business in Utah is a state public purpose
6798 necessary to assure the growth of the state's economy and provide adequate employment
6799 opportunities for its citizens;

6800 (2) public colleges and universities in the state hereafter, referred to as "host
6801 institutions," have academic and physical resources that can enhance economic development
6802 within the state through a partnership with the Governor's Office of Economic Development;

6803 (3) state funded economic development agencies, hereafter referred to as "agencies"
6804 could broaden and improve services to business clients through better regional and statewide
6805 coordination;

6806 (4) coordination of business clients needs is best done in the regions where they are
6807 established;

6808 (5) this coordination needs to be done under the direction of one designated state
6809 agency;

6810 (6) an important tool in these coordination efforts will be the development of a data
6811 base to identify, track, and assign agencies to be accountable for clients;

6812 (7) agency accountability can be improved through client tracking and monitoring at
6813 the regional level;

6814 (8) the state has historically experienced a high business start-up rate and has
6815 experienced a commensurate failure rate partially due to lack of coordination and
6816 accountability by state agencies;

6817 (9) the state's economy will continue to improve as state agencies and resources
6818 become more responsive to private business by identifying them, focusing on their needs, and
6819 tracking their progress; and

6820 (10) the governor and the Legislature will benefit from an annual report measuring tax
6821 revenue increases, new job creation, and other economic impact as a result of tracking and
6822 measuring state agencies' performance in the various regions of the state.

6823 Section 165. Section **63N-3-303**, which is renumbered from Section 63M-1-2703 is
6824 renumbered and amended to read:

6825 ~~**63M-1-2703**~~. **63N-3-303**. **Definitions.**

6826 As used in this part, "business resource centers" means entities established by the
6827 Governor's Office of Economic Development in partnership with state public institutions of
6828 higher education as certified resource centers to provide private businesses with one-stop
6829 technical assistance and access to statewide resources and programs, and to identify,
6830 coordinate, track, and measure the impact of business resource programs provided by state
6831 agencies in the various regions of the state.

6832 Section 166. Section **63N-3-304**, which is renumbered from Section 63M-1-2704 is
6833 renumbered and amended to read:

6834 ~~[63M-1-2704]~~. 63N-3-304. Establishment and administration of business
6835 **resource centers -- Components.**

6836 (1) The ~~[Governor's Office of Economic Development, hereafter referred to in this part~~
6837 ~~as "the office,"]~~ office shall establish business resource centers in at least four different
6838 geographical regions of the state where host institutions are located and the host institutions
6839 agree to enter into a business resource center partnership with the office.

6840 (2) The office, in partnership with a host institution, shall provide methodology and
6841 oversight for a business resource center.

6842 (3) A host institution shall contribute 50% of a business resource center's operating
6843 costs through cash or in-kind contributions, unless otherwise provided under Subsection
6844 ~~[63M-1-2707]~~ 63N-3-307(7).

6845 (4) The office shall work with the Utah Business Assistance Advisory Board
6846 established under Section ~~[63M-1-2706]~~ 63N-3-306, hereafter referred to in this part as "the
6847 board," to provide operational oversight and coordination of the business resource centers
6848 established under this part.

6849 (5) (a) A business resource center shall work with state agencies in creating methods to
6850 coordinate functions and measure the impact of the efforts provided by the state agencies and
6851 the center.

6852 (b) The host institution, state, local and federal governmental entities,
6853 quasi-governmental entities, and private entities may:

6854 (i) participate in the activities offered by or through a business resource center; and
6855 (ii) provide personnel or other appropriate links to the center.

6856 (c) (i) Other entities that are not initially involved in the establishment of a business
6857 resource center and that are capable of providing supportive services to Utah businesses may
6858 apply to the center to become a provider of services at the center.

6859 (ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a
6860 service plan, to include funding, which would be made available or supplied to cover the
6861 expenses of their services offered at a business resource center.

6862 (iii) The board shall review each application made under Subsection (5)(c)(i) and make
6863 a recommendation for approval by the office as a precondition for providing the service being
6864 offered.

6865 (6) A business resource center may:

6866 (a) partner with the office, other host institutions, and other entities to develop and
6867 establish web-based access to virtual business resource center services over the Internet to
6868 assist in establishing and growing businesses in the state, particularly in those situations where
6869 traveling to a business resource center site is not practical;

6870 (b) develop a data base and software for:

6871 (i) tracking clients and their progress; and

6872 (ii) tracking responses and services provided by state agencies and evaluating their
6873 effectiveness; and

6874 (c) develop outreach programs and services targeted to business clients in rural areas of
6875 the state.

6876 (7) The office shall include in the annual written report described in Section
6877 [~~63M-1-206~~] 63N-1-301, a report on measured performance of economic development
6878 programs offered by or through established business resource centers.

6879 Section 167. Section **63N-3-305**, which is renumbered from Section 63M-1-2705 is
6880 renumbered and amended to read:

6881 ~~**63M-1-2705.**~~ **63N-3-305. Duties and responsibilities.**

6882 (1) A business resource center shall:

6883 (a) have a director;

6884 (b) be the organization responsible for identifying, tracking, coordinating, and
6885 measuring output of assisted business clients in its region;

6886 (c) develop programs to aid business clients in finding the resources they need;

6887 (d) recruit state funded agencies to locate and establish their programs in the business
6888 center's region;

6889 (e) initiate and encourage business education programs, including programs in

6890 collaboration with public, private, and governmental and educational institutions; and
6891 (f) work with the host institution in providing academic resources, including faculty
6892 and student assistance.

6893 (2) A business resource center shall collaborate with the host institution and state
6894 agencies to:

6895 (a) provide research, development, or training programs for new or existing businesses,
6896 industries, or high technology business located in its region;

6897 (b) assist in providing needs assessment relating to new or existing businesses,
6898 industries, or high technology business in conjunction with other public or private economic
6899 development programs or initiatives;

6900 (c) assist in providing business incubator space or services, or both, if considered
6901 feasible and practical, to clients based on criteria established by the office in consultation with
6902 the board;

6903 (d) work with local business leaders and government officials to help them formulate
6904 and implement sound, coordinated, and measurable economic development programs for their
6905 communities; and

6906 (e) work with local government and other entities in its region in developing and
6907 certifying non-state funded satellite business resource centers.

6908 Section 168. Section **63N-3-306**, which is renumbered from Section 63M-1-2706 is
6909 renumbered and amended to read:

6910 ~~[63M-1-2706]~~. **63N-3-306. Utah Business Assistance Advisory Board --**
6911 **Creation -- Membership -- Vacancies -- Chairs.**

6912 (1) There is created the Utah Business Assistance Advisory Board, composed of at
6913 least 13 members appointed by the executive director of the [~~Governor's Office of Economic~~
6914 ~~Development~~] office.

6915 (2) (a) The executive director shall appoint:

6916 (i) one member from three host institutions of business resource centers on a rotating
6917 basis;

- 6918 (ii) three members from urban areas in the state;
- 6919 (iii) two members from rural areas in the state; and
- 6920 (iv) one member from each host institution of a statewide business service provider.

6921 (b) The executive director may appoint ex officio board members who are sponsors of
6922 or partners with statewide business server providers.

6923 (3) Each board member shall have a background or expertise in any one or all of the
6924 following:

- 6925 (a) state or local economic development;
- 6926 (b) business networking, growth, or development;
- 6927 (c) entrepreneurship;
- 6928 (d) business management or administration; or
- 6929 (e) the establishment of partnerships or collaborative efforts with state, local, and
6930 federal agencies and institutions, as well as private entities.

6931 (4) (a) The executive director shall appoint board members for four-year terms.

6932 (b) The board shall, at the time of appointment or reappointment, adjust the length of
6933 terms to ensure that the terms of these members are staggered so that approximately half of the
6934 members are appointed every two years.

6935 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
6936 appointed by the executive director for the unexpired term in the same manner as the vacated
6937 member was chosen.

6938 (5) The board shall elect one of its members as a chair of the board for a two-year term.

6939 (6) The board shall meet at the call of the chair, but at least quarterly.

6940 (7) (a) A majority of the members of the board constitute a quorum.

6941 (b) The action of a majority of a quorum constitutes the action of the board.

6942 (8) A member may not receive compensation or benefits for the member's service, but
6943 may receive per diem and travel expenses in accordance with:

6944 (a) Section [63A-3-106](#);

6945 (b) Section [63A-3-107](#); and

6946 (c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and
6947 63A-3-107.

6948 Section 169. Section 63N-3-307, which is renumbered from Section 63M-1-2707 is
6949 renumbered and amended to read:

6950 ~~63M-1-2707~~. 63N-3-307. Duties.

6951 The board shall:

6952 (1) assist the office in providing operational oversight, coordination, and performance
6953 review and provide advice and improve the effectiveness of state-funded business assistance
6954 programs throughout the state as designated by the executive director;

6955 (2) make recommendations to the office on requirements for the requisite certification
6956 of each business resource center and staff at each center by the executive director;

6957 (3) make recommendations to the office for certification of the business plans the
6958 board is required to review under Subsection ~~63M-1-2704~~ 63N-3-304(5)(c)(iii);

6959 (4) at the direction of the executive director:

6960 (a) assist the office in providing operational oversight to and coordination of the
6961 business resource centers established under this part; and

6962 (b) work closely with the Governor's Office of Economic Development's Board of
6963 Business and Economic Development;

6964 (5) identify issues and make recommendations to the office regarding programs,
6965 policies, and procedures that could be implemented by:

6966 (a) business resource centers in fulfilling their duties and responsibilities under Section
6967 ~~63M-1-2705~~ 63N-3-305; and

6968 (b) state-funded business service providers;

6969 (6) make budget recommendations to the office regarding the operation and staffing of
6970 business resource centers established under this part;

6971 (7) recommend matching fund exceptions under Subsection ~~63M-1-2704~~
6972 63N-3-304(3);

6973 (8) recommend certification of all non-state funded satellite business resource centers;

6974 and

6975 (9) establish metrics to report the performance of economic development output in
6976 each region serviced by a business resource center.

6977 Section 170. Section **63N-3-401**, which is renumbered from Section 63M-1-2201 is
6978 renumbered and amended to read:

6979 **Part 4. Transient Room Tax Fund Act**

6980 ~~[63M-1-2201]~~. **63N-3-401. Title.**

6981 This part is known as the "Transient Room Tax Fund Act."

6982 Section 171. Section **63N-3-402**, which is renumbered from Section 63M-1-2202 is
6983 renumbered and amended to read:

6984 ~~[63M-1-2202]~~. **63N-3-402. Definitions.**

6985 As used in this part, "fund" means the Transient Room Tax Fund created by Section
6986 ~~[63M-1-2203]~~ [63N-3-403](#).

6987 Section 172. Section **63N-3-403**, which is renumbered from Section 63M-1-2203 is
6988 renumbered and amended to read:

6989 ~~[63M-1-2203]~~. **63N-3-403. Transient Room Tax Fund -- Source of revenues**
6990 **-- Interest -- Expenditure or pledge of revenues.**

6991 (1) There is created an expendable special revenue fund known as the Transient Room
6992 Tax Fund.

6993 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
6994 Subsection [59-12-301](#)(2).

6995 (b) (i) The fund shall earn interest.

6996 (ii) Any interest earned on fund money shall be deposited into the fund.

6997 (3) (a) Subject to Subsection (3)(b), the executive director shall expend or pledge the
6998 money deposited into the fund:

6999 (i) to mitigate the impacts of traffic and parking relating to a convention facility within
7000 a county of the first class;

7001 (ii) for a purpose listed in Section [17-31-2](#), except that any requirements in Section

7002 17-31-2 for the expenditure of money do not apply; or

7003 (iii) for a combination of Subsections (3)(a)(i) and (ii).

7004 (b) The executive director may not expend more than \$20,000,000 in total to mitigate
7005 the impacts of traffic and parking relating to a convention facility within a county of the first
7006 class.

7007 Section 173. Section **63N-4-101**, which is renumbered from Section 63M-1-1601 is
7008 renumbered and amended to read:

7009 **CHAPTER 4. RURAL DEVELOPMENT ACT**

7010 **Part 1. Office of Rural Development**

7011 ~~[63M-1-1601]~~. **63N-4-101. Title -- Definitions.**

7012 (1) This [part] chapter is known as the "Rural Development Act."

7013 (2) This part is known as the "Office of Rural Development."

7014 ~~[(2)]~~ (3) As used in this part:

7015 (a) "Office" or "GOED" means the Governor's Office of Economic Development.

7016 (b) "Program" means the Rural Development Program.

7017 Section 174. Section **63N-4-102**, which is renumbered from Section 63M-1-1602 is
7018 renumbered and amended to read:

7019 ~~[63M-1-1602]~~. **63N-4-102. Rural Development Program -- Supervision by**
7020 **office.**

7021 (1) There is created within the Governor's Office of Economic Development the Office
7022 of Rural Development.

7023 (2) The Office of Rural Development is under the administration and general
7024 supervision of the Governor's Office of Economic Development.

7025 Section 175. Section **63N-4-103**, which is renumbered from Section 63M-1-1603 is
7026 renumbered and amended to read:

7027 ~~[63M-1-1603]~~. **63N-4-103. Purpose of the Office of Rural Development.**

7028 The Office of Rural Development is established to:

7029 (1) foster and support economic development programs and activities for the benefit of

7030 rural counties and communities;

7031 (2) foster and support community, county, and resource management planning

7032 programs and activities for the benefit of rural counties and communities;

7033 (3) foster and support leadership training programs and activities for the benefit of:

7034 (a) rural leaders in both the public and private sectors;

7035 (b) economic development and planning personnel; and

7036 (c) rural government officials;

7037 (4) foster and support efforts to coordinate and focus the technical and other resources

7038 of appropriate institutions of higher education, local governments, private sector interests,

7039 associations, nonprofit organizations, federal agencies, and others, in ways that address the

7040 economic development, planning, and leadership challenges and priorities of rural Utah as

7041 identified in the strategic plan required under Subsection [63C-10-103](#)(1)(b);

7042 (5) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]

7043 GOED to address rural economic development, planning, and leadership training challenges

7044 and opportunities by establishing partnerships and positive working relationships with

7045 appropriate public and private sector entities, individuals, and institutions; and

7046 (6) foster government-to-government collaboration and good working relations

7047 between state and rural government regarding economic development and planning issues.

7048 Section 176. Section **63N-4-104**, which is renumbered from Section 63M-1-1604 is

7049 renumbered and amended to read:

7050 ~~[63M-1-1604]~~. **63N-4-104. Duties.**

7051 (1) The Office of Rural Development shall:

7052 (a) provide staff support to the Governor's Rural Partnership Board in accordance with

7053 Subsection [63C-10-102](#)(6);

7054 (b) facilitate within [~~the Governor's Office of Economic Development~~] GOED the

7055 implementation of the strategic plan prepared under Subsection [63C-10-103](#)(1)(b);

7056 (c) work to enhance the capacity of [~~the Governor's Office of Economic Development~~]

7057 GOED to address rural economic development, planning, and leadership training challenges

7058 and opportunities by establishing partnerships and positive working relationships with
7059 appropriate public and private sector entities, individuals, and institutions;

7060 (d) work with the Governor's Rural Partnership Board to coordinate and focus
7061 available resources in ways that address the economic development, planning, and leadership
7062 training challenges and priorities in rural Utah; and

7063 (e) in accordance with economic development and planning policies set by state
7064 government, coordinate relations between:

7065 (i) the state;

7066 (ii) rural governments;

7067 (iii) other public and private groups engaged in rural economic planning and
7068 development; and

7069 (iv) federal agencies.

7070 (2) (a) The Office of Rural Development may:

7071 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
7072 make rules necessary to carry out its duties;

7073 (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural
7074 Utah citizens; and

7075 (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii)
7076 for the use and benefit of rural citizens within the state.

7077 (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General
7078 Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

7079 Section 177. Section **63N-4-105**, which is renumbered from Section 63M-1-1605 is
7080 renumbered and amended to read:

7081 **~~[63M-1-1605]~~. 63N-4-105. Program manager.**

7082 (1) The executive director of [~~the Governor's Office of Economic Development~~]
7083 GOED shall appoint a director for the Office of Rural Development with the approval of the
7084 governor.

7085 (2) The director of the Office of Rural Development shall be a person knowledgeable

7086 in the field of rural economic development and planning and experienced in administration.

7087 (3) Upon change of the executive director of [~~the Governor's Office of Economic~~
7088 ~~Development~~] GOED, the director of the Office of Rural Development may not be dismissed
7089 without cause for at least 180 days.

7090 (4) The director of the Office of Rural Development shall serve as staff to the
7091 Governor's Rural Partnership Board and to the executive committee of the Governor's Rural
7092 Partnership Board in accordance with Subsection 63C-10-102(6).

7093 Section 178. Section 63N-4-106, which is renumbered from Section 63M-1-1606 is
7094 renumbered and amended to read:

7095 ~~[63M-1-1606].~~ 63N-4-106. Annual report.

7096 [~~The office~~] GOED shall include in the annual written report described in Section
7097 ~~[63M-1-206]~~ 63N-1-301, a report of the program's operations and recommendations.

7098 Section 179. Section 63N-4-201, which is renumbered from Section 63M-1-2001 is
7099 renumbered and amended to read:

Part 2. Business Development for Disadvantaged Rural Communities Act

7101 ~~[63M-1-2001].~~ 63N-4-201. Title.

7102 This part is known as the "Business Development for Disadvantaged Rural
7103 Communities Act."

7104 Section 180. Section 63N-4-202, which is renumbered from Section 63M-1-2002 is
7105 renumbered and amended to read:

7106 ~~[63M-1-2002].~~ 63N-4-202. Definitions.

7107 As used in this part:

7108 [~~(1) "Board" means the Board of Business and Economic Development created by~~
7109 ~~Section 63M-1-301.~~]

7110 [~~(2)~~] (1) "Business incubator expense" means an expense relating to funding a program
7111 that is:

7112 (a) designed to provide business support services and resources to one or more
7113 business entities within a project area during the business entities' early stages of development;

7114 and
7115 (b) determined to be a business incubator by the board.
7116 [~~(3)~~] (2) "Business rehabilitation expense" means an expense relating to the renovation
7117 or rehabilitation of an existing building within a project area as determined by the board.
7118 [~~(4)~~] (3) "Debt service" means the payment of debt service on a bond issued to pay a:
7119 (a) business rehabilitation expense relating to a project; or
7120 (b) public infrastructure expense relating to a project.
7121 [~~(5)~~] (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.
7122 [~~(6)~~] (5) "Eligible expense" means an expense:
7123 (a) incurred by an eligible county;
7124 (b) relating to a project; and
7125 (c) that is:
7126 (i) a business incubator expense;
7127 (ii) debt service; or
7128 (iii) a public infrastructure expense.
7129 [~~(7)~~] (6) "Project" means an economic development project:
7130 (a) as determined by the board; and
7131 (b) for which an eligible county applies to the board in accordance with this part for a
7132 loan or grant to assist the eligible county in paying an eligible expense.
7133 [~~(8)~~] (7) "Project area" means the geographic area within which a project is
7134 implemented by an eligible county.
7135 [~~(9)~~] (8) "Public infrastructure expense" means an expense relating to a publicly owned
7136 improvement located within a project area if:
7137 (a) the expense is:
7138 (i) incurred for:
7139 (A) construction;
7140 (B) demolition;
7141 (C) design;

- 7142 (D) engineering;
- 7143 (E) an environmental impact study;
- 7144 (F) environmental remediation; or
- 7145 (G) rehabilitation; or
- 7146 (ii) similar to an expense described in Subsection [~~(9)~~] (8)(a)(i) as determined by the
- 7147 board; and
- 7148 (b) the publicly owned improvement is:
- 7149 (i) not a building as determined by the board; and
- 7150 (ii) necessary to support a project as determined by the board.
- 7151 [~~(10)~~] (9) "Publicly owned improvement" means an improvement to real property if:
- 7152 (a) the real property is owned by:
- 7153 (i) the United States;
- 7154 (ii) the state; or
- 7155 (iii) a political subdivision:
- 7156 (A) as defined in Section 17B-1-102; and
- 7157 (B) of the state; and
- 7158 (b) the improvement relates to:
- 7159 (i) a sewage system including a system for collection, transport, storage, treatment,
- 7160 dispersal, effluent use, or discharge;
- 7161 (ii) a drainage or flood control system, including a system for collection, transport,
- 7162 diversion, storage, detention, retention, dispersal, use, or discharge;
- 7163 (iii) a water system including a system for production, collection, storage, treatment,
- 7164 transport, delivery, connection, or dispersal;
- 7165 (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
- 7166 (v) a rail transportation system;
- 7167 (vi) a system for pedestrian use for travel, ingress, or egress;
- 7168 (vii) a public utility system including a system for electricity, gas, or
- 7169 telecommunications; or

7170 (viii) a system or device that is similar to a system or device described in Subsections
7171 [~~(10)~~] (9)(b)(i) through (vii) as determined by the board.

7172 Section 181. Section **63N-4-203**, which is renumbered from Section 63M-1-2004 is
7173 renumbered and amended to read:

7174 ~~[63M-1-2004]~~. **63N-4-203. Board authority to award a grant or loan to an**
7175 **eligible county -- Interest on a loan -- Eligible county proposal process -- Process for**
7176 **awarding a grant or loan.**

7177 (1) (a) Subject to the provisions of, and funds made available for, this section,
7178 beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible
7179 county of one or more grants or loans to assist in paying an eligible expense relating to a
7180 project.

7181 (b) The total amount of grants and loans that the board may award in accordance with
7182 this section relating to one project is \$75,000.

7183 (c) If the board awards a loan to an eligible county in accordance with this section, the
7184 loan shall be subject to interest as provided by the procedures and methods referred to in
7185 Subsection (6).

7186 (2) (a) Before the board may award an eligible county a grant or loan in accordance
7187 with this section, the eligible county shall submit a written proposal to the board in accordance
7188 with Subsection (2)(b).

7189 (b) The proposal described in Subsection (2)(a) shall:

7190 (i) describe the project area;

7191 (ii) describe the characteristics of the project including a description of how the project
7192 will be implemented;

7193 (iii) provide an economic development plan for the project including a description of
7194 any eligible expenses that will be incurred as part of implementing the project;

7195 (iv) describe the characteristics of the community within which the project area is
7196 located;

7197 (v) establish that the community within which the project area is located is a

- 7198 disadvantaged community on the basis of one or more of the following factors:
- 7199 (A) median income per capita within the community;
- 7200 (B) median property tax revenues generated within the community;
- 7201 (C) median sales and use tax revenues generated within the community; or
- 7202 (D) unemployment rates within the community;
- 7203 (vi) demonstrate that there is a need for the project in the community within which the
- 7204 project area is located;
- 7205 (vii) describe the short-term and long-term benefits of the project to the community
- 7206 within which the project area is located;
- 7207 (viii) demonstrate that there is a need for assistance in paying eligible expenses relating
- 7208 to the project;
- 7209 (ix) indicate the amount of any revenues that will be pledged to match any funds the
- 7210 board may award as a loan or grant under this section; and
- 7211 (x) indicate whether there is support for the implementation of the project from:
- 7212 (A) the community within which the project area is located; and
- 7213 (B) any cities or towns within which the project area is located.
- 7214 (3) At the request of the board, representatives from an eligible county shall appear
- 7215 before the board to:
- 7216 (a) present a proposal submitted to the board in accordance with Subsection (2)(b); and
- 7217 (b) respond to any questions or issues raised by the board relating to eligibility to
- 7218 receive a grant or loan under this section.
- 7219 (4) The board shall:
- 7220 (a) consider a proposal submitted to the board in accordance with Subsection (2);
- 7221 (b) make written findings as to whether the proposal described in Subsection (4)(a)
- 7222 meets the requirements of Subsection (2)(b);
- 7223 (c) make written findings as to whether to award the eligible county that submitted the
- 7224 proposal described in Subsection (4)(a) one or more grants or loans:
- 7225 (i) on the basis of the factors established in Subsection (5);

- 7226 (ii) in consultation with the director; and
- 7227 (iii) in accordance with the procedures established for prioritizing which projects may
7228 be awarded a grant or loan by the board under this section;
- 7229 (d) if the board determines to award an eligible county a grant or loan in accordance
7230 with this section, make written findings in consultation with the director specifying the:
- 7231 (i) amount of the grant or loan;
- 7232 (ii) time period for distributing the grant or loan;
- 7233 (iii) terms and conditions that the eligible county shall meet to receive the grant or
7234 loan;
- 7235 (iv) structure of the grant or loan; and
- 7236 (v) eligible expenses for which the eligible county may expend the grant or loan;
- 7237 (e) if the board determines to award an eligible county a loan in accordance with this
7238 section, make written findings stating:
- 7239 (i) the method of calculating interest applicable to the loan; and
- 7240 (ii) procedures for:
- 7241 (A) applying interest to the loan; and
- 7242 (B) paying interest on the loan; and
- 7243 (f) provide the written findings required by Subsections (4)(b) through (e) to the
7244 eligible county.
- 7245 (5) For purposes of Subsection (4)(c), the board shall consider the following factors in
7246 determining whether to award an eligible county one or more grants or loans authorized by this
7247 part:
- 7248 (a) whether the project is likely to result in economic development in the community
7249 within which the project area is located;
- 7250 (b) whether the community within which the project area is located is a disadvantaged
7251 community on the basis of one or more of the following factors:
- 7252 (i) median income per capita within the community;
- 7253 (ii) median property tax revenues generated within the community;

- 7254 (iii) median sales and use tax revenues generated within the community; or
- 7255 (iv) unemployment rates within the community;
- 7256 (c) whether there is a need for the project in the community within which the project
- 7257 area is located;
- 7258 (d) whether the project is likely to produce short-term and long-term benefits to the
- 7259 community within which the project area is located;
- 7260 (e) whether the project would be successfully implemented without the board awarding
- 7261 a grant or a loan to the eligible county;
- 7262 (f) whether any revenues will be pledged to match any funds the board may award as a
- 7263 grant or loan under this section;
- 7264 (g) whether there is support for the implementation of the project from:
- 7265 (i) the community within which the project area is located; and
- 7266 (ii) any cities or towns within which the project area is located; and
- 7267 (h) any other factor as determined by the board.
- 7268 (6) The office shall establish procedures:
- 7269 (a) for prioritizing which projects may be awarded a grant or loan by the board under
- 7270 this section; and
- 7271 (b) for loans awarded in accordance with this section:
- 7272 (i) the methods of calculating interest applicable to the loans; and
- 7273 (ii) procedures for:
- 7274 (A) applying interest to the loans; and
- 7275 (B) paying interest on the loans.

7276 Section 182. Section **63N-4-204**, which is renumbered from Section 63M-1-2005 is
7277 renumbered and amended to read:

7278 ~~[63M-1-2005]~~. **63N-4-204. Agreement between the executive director and an**
7279 **eligible county -- Failure to meet or violation of a term or condition of an agreement.**

7280 (1) Before an eligible county that has been awarded a grant or loan in accordance with
7281 Section [~~63M-1-2004~~] 63N-4-203 may receive the grant or loan, the eligible county shall enter

7282 into a written agreement with the executive director.

7283 (2) The written agreement described in Subsection (1):

7284 (a) shall:

7285 (i) specify the amount of the grant or loan;

7286 (ii) specify the time period for distributing the grant or loan;

7287 (iii) specify the terms and conditions that the eligible county shall meet to receive the

7288 grant or loan;

7289 (iv) specify the structure of the grant or loan;

7290 (v) specify the eligible expenses for which the eligible county may expend the grant or

7291 loan;

7292 (vi) if the eligible county has been awarded a loan:

7293 (A) specify the repayment schedule for the loan;

7294 (B) specify the method of calculating interest applicable to the loan; and

7295 (C) specify procedures for:

7296 (I) applying interest to the loan; and

7297 (II) paying interest on the loan; and

7298 (vii) subject to Subsection (3), contain provisions governing the failure to meet or the

7299 violation of a term or condition of the agreement; and

7300 (b) may contain any other provision as determined by the director.

7301 (3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an

7302 eligible county fails to meet or violates any provision of the agreement described in Subsection

7303 (2), the board shall impose one or more of the following penalties:

7304 (i) require the eligible county to repay all or a portion of the amount of any grant or

7305 loan the eligible county received in an amount determined by the board;

7306 (ii) provide that an eligible county may not receive any amounts of a grant or loan that

7307 the eligible county has been awarded in accordance with Section [~~63M-1-2004~~] 63N-4-203 but

7308 has not received; or

7309 (iii) provide that an eligible county may not be awarded a grant or loan under this part

7310 for a time period determined by the board.

7311 (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a
7312 penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause
7313 exists for the eligible county failing to meet or violating a provision of the agreement described
7314 in Subsection (2).

7315 (c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible
7316 county, the board shall provide written notice of the penalty to the eligible county within 10
7317 calendar days after the day on which the board determines to impose the penalty.

7318 Section 183. Section **63N-4-205**, which is renumbered from Section 63M-1-2006 is
7319 renumbered and amended to read:

7320 ~~[63M-1-2006]~~. **63N-4-205**. **Report on amount of grants and loans, projects,**
7321 **and outstanding debt.**

7322 The board shall annually provide the following information to the office for inclusion in
7323 the office's annual written report described in Section ~~[63M-1-206]~~ 63N-1-301:

7324 (1) the total amount of grants and loans the board awarded to eligible counties under
7325 this part during the fiscal year that ended on the June 30 immediately preceding the November
7326 interim meeting;

7327 (2) a description of the projects with respect to which the board awarded a grant or loan
7328 under this part;

7329 (3) the total amount of outstanding debt service that is being repaid by a grant or loan
7330 awarded under this part;

7331 (4) whether the grants and loans awarded under this part have resulted in economic
7332 development within project areas; and

7333 (5) whether the board recommends:

7334 (a) that the grants and loans authorized by this part should be continued; or

7335 (b) any modifications to this part.

7336 Section 184. Section **63N-5-101**, which is renumbered from Section 63M-1-3001 is
7337 renumbered and amended to read:

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CHAPTER 5. PRIVATE ACTIVITY BONDS

Part 1. Private Activity Bonds

~~63M-1-3001~~. 63N-5-101. Title -- Purpose.

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

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

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

~~63M-1-3002~~. 63N-5-102. Definitions.

As used in this part:

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

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

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

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

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

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

(7) "Issuing authority" means:

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

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

7366 (c) the state; or

7367 (d) any other entity authorized to issue bonds under state law.

7368 (8) "State" means the state of Utah and any of its agencies, institutions, and divisions
7369 authorized to issue bonds or certificates under state law.

7370 (9) "Volume cap" means the private activity bond volume cap for the state as computed
7371 under Section 146 of the code.

7372 (10) "Year" means each calendar year.

7373 Section 186. Section **63N-5-103**, which is renumbered from Section 63M-1-3003 is
7374 renumbered and amended to read:

7375 ~~[63M-1-3003].~~ **63N-5-103. Private Activity Bond Review Board.**

7376 (1) There is created within the office the Private Activity Bond Review Board,
7377 composed of the following 11 members ~~[as follows]:~~

7378 ~~[(a) five ex officio members who are:]~~

7379 (a) (i) the executive director of the office or the executive director's designee;

7380 ~~[(ii) the director of the Division of Business and Economic Development or the~~
7381 ~~director's designee;]~~

7382 (ii) an employee of the office designated by the executive director;

7383 (iii) the state treasurer or the treasurer's designee;

7384 (iv) the chair of the Board of Regents or the chair's designee; and

7385 (v) the chair of the Utah Housing Corporation or the chair's designee; and

7386 (b) six local government members who are:

7387 (i) three elected or appointed county officials, nominated by the Utah Association of
7388 Counties and appointed by the governor with the consent of the Senate; and

7389 (ii) three elected or appointed municipal officials, nominated by the Utah League of
7390 Cities and Towns and appointed by the governor with the consent of the Senate.

7391 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local
7392 government members of the board of review shall be four-year terms.

7393 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the

7394 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
 7395 board members are staggered so that approximately half of the board is appointed every two
 7396 years.

7397 (c) Members may be reappointed only once.

7398 (3) (a) If a local government member ceases to be an elected or appointed official of
 7399 the city or county the member is appointed to represent, that membership on the board of
 7400 review terminates immediately and there shall be a vacancy in the membership.

7401 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
 7402 appointed within 30 days in the manner of the regular appointment for the unexpired term, and
 7403 until his successor is appointed and qualified.

7404 (4) (a) The chair of the board of review is the executive director of the office or the
 7405 executive director's designee.

7406 (b) The chair is nonvoting except in the case of a tie vote.

7407 (5) Six members of the board of review constitute a quorum.

7408 (6) Formal action by the board of review requires a majority vote of a quorum.

7409 (7) A member may not receive compensation or benefits for the member's service, but
 7410 may receive per diem and travel expenses in accordance with:

7411 (a) Section [63A-3-106](#);

7412 (b) Section [63A-3-107](#); and

7413 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
 7414 [63A-3-107](#).

7415 (8) The chair of the board of review serves as the state official designated under state
 7416 law to make certifications required to be made under Section 146 of the code including the
 7417 certification required by Section 149(e)(2)(F) of the code.

7418 Section 187. Section **63N-5-104**, which is renumbered from Section 63M-1-3004 is
 7419 renumbered and amended to read:

7420 ~~[63M-1-3004]~~. **63N-5-104. Powers, functions, and duties of board of review.**

7421 The board of review shall:

7422 (1) make, subject to the limitations of the code, allocations of volume cap to issuing
7423 authorities;

7424 (2) determine the amount of volume cap to be allocated with respect to approved
7425 applications;

7426 (3) maintain a record of all applications filed by issuing authorities under Section
7427 ~~[63M-1-3005]~~ 63N-5-105 and all certificates of allocation issued under Section ~~[63M-1-3007]~~
7428 63N-5-107;

7429 (4) maintain a record of all bonds issued by issuing authorities during each year;

7430 (5) determine the amount of volume cap to be treated as a carryforward under Section
7431 146(f) of the code and allocate this carryforward to one or more qualified carryforward
7432 purposes;

7433 (6) make available upon reasonable request a certified copy of all or any part of the
7434 records maintained by the board of review under this part or a summary of them, including
7435 information relating to the volume cap for each year and any amounts available for allocation
7436 under this part;

7437 (7) promulgate rules for the allocation of volume cap under this part; and

7438 (8) charge reasonable fees for the performance of duties prescribed by this part,
7439 including application, filing, and processing fees.

7440 Section 188. Section **63N-5-105**, which is renumbered from Section 63M-1-3005 is
7441 renumbered and amended to read:

7442 ~~[63M-1-3005].~~ **63N-5-105. Allocation of volume cap.**

7443 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed
7444 by the board of review to the various allotment accounts as set forth in Section ~~[63M-1-3006]~~
7445 63N-5-106.

7446 (b) The board of review may distribute up to 50% of each increase in the volume cap
7447 ~~[that occurs after March 11, 1999,]~~ for use in development that occurs in quality growth areas,
7448 depending upon the board's analysis of the relative need for additional volume cap between
7449 development in quality growth areas and the allotment accounts under Section ~~[63M-1-3006]~~

7450 [63N-5-106](#).

7451 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the
7452 board of review an application containing information required by the procedures and
7453 processes of the board of review.

7454 (3) (a) The board of review shall establish criteria for making allocations of volume
7455 cap that are consistent with the purposes of the code and this part.

7456 (b) In making an allocation of volume cap the board of review shall consider the
7457 following:

7458 (i) the principal amount of the bonds proposed to be issued;

7459 (ii) the nature and the location of the project or the type of program;

7460 (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

7461 (iv) whether the project or program could obtain adequate financing without an
7462 allocation of volume cap;

7463 (v) the degree to which an allocation of volume cap is required for the project or
7464 program to proceed or continue;

7465 (vi) the social, health, economic, and educational effects of the project or program on
7466 the local community and state as a whole;

7467 (vii) the anticipated economic development created or retained within the local
7468 community and the state as a whole;

7469 (viii) the anticipated number of jobs, both temporary and permanent, created or
7470 retained within the local community and the state as a whole;

7471 (ix) if the project is a residential rental project, the degree to which the residential
7472 rental project:

7473 (A) targets lower income populations; and

7474 (B) is accessible housing; and

7475 (x) whether the project meets the principles of quality growth recommended by the
7476 Quality Growth Commission created under Section [11-38-201](#).

7477 (4) The board of review shall evidence an allocation of volume cap by issuing a

7478 certificate in accordance with Section [~~63M-1-3007~~] [63N-5-107](#).

7479 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small
7480 Issue Bond Account that may be allocated only to manufacturing projects.

7481 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool
7482 Account that may be allocated only to manufacturing projects.

7483 Section 189. Section **63N-5-106**, which is renumbered from Section 63M-1-3006 is
7484 renumbered and amended to read:

7485 ~~[63M-1-3006]~~. **63N-5-106**. **Allotment accounts.**

7486 (1) There are created the following allotment accounts:

7487 (a) the Single Family Housing Account, for which eligible issuing authorities are those
7488 authorized under the code and state statute to issue qualified mortgage bonds under Section 143
7489 of the code;

7490 (b) the Student Loan Account, for which eligible issuing authorities are those
7491 authorized under the code and state statute to issue qualified student loan bonds under Section
7492 144(b) of the code;

7493 (c) the Small Issue Bond Account, for which eligible issuing authorities are those
7494 authorized under the code and state statute to issue:

7495 (i) qualified small issue bonds under Section 144(a) of the code;

7496 (ii) qualified exempt facility bonds for qualified residential rental projects under
7497 Section 142(d) of the code; or

7498 (iii) qualified redevelopment bonds under Section 144(c) of the code;

7499 (d) the Exempt Facilities Account, for which eligible issuing authorities are those
7500 authorized under the code and state statute to issue any bonds requiring an allocation of volume
7501 cap other than for purposes described in Subsections (1)(a), (b), or (c);

7502 (e) the Pool Account, for which eligible issuing authorities are those authorized under
7503 the code and state statute to issue any bonds requiring an allocation of volume cap; and

7504 (f) the Carryforward Account, for which eligible issuing authorities are those with
7505 projects or programs qualifying under Section 146(f) of the code.

7506 (2) (a) The volume cap shall be distributed to the various allotment accounts on
7507 January 1 of each year on the following basis:

- 7508 (i) 42% to the Single Family Housing Account;
- 7509 (ii) 33% to the Student Loan Account;
- 7510 (iii) 1% to the Exempt Facilities Account; and
- 7511 (iv) 24% to the Small Issue Bond Account.

7512 (b) From July 1 to September 30 of each year, the board of review may transfer any
7513 unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account
7514 to the Pool Account.

7515 (c) The board of review, upon written notification by the issuing authorities eligible for
7516 volume cap allocation from the Single Family Housing Account or the Student Loan Account
7517 that all or a portion of volume cap distributed into that allotment account will not be used, may
7518 transfer the unused volume cap between the Single Family Housing Account and the Student
7519 Loan Account.

7520 (d) From October 1 to the third Friday of December of each year, the board of review
7521 shall transfer all unallocated volume cap into the Pool Account.

7522 (e) On the third Saturday of December, the board of review shall transfer uncollected
7523 volume cap or allocated volume cap for which bonds have not been issued prior to the third
7524 Saturday of December into the Carryforward Account.

7525 (f) If the authority to issue bonds designated in any allotment account is rescinded by
7526 amendment to the code, the board of review may transfer any unallocated volume cap from that
7527 allotment account to any other allotment account.

7528 Section 190. Section **63N-5-107**, which is renumbered from Section 63M-1-3007 is
7529 renumbered and amended to read:

7530 ~~[63M-1-3007]~~. **63N-5-107. Certificates of allocation.**

7531 (1) (a) After an allocation of volume cap for a project or program is approved by the
7532 board of review, the board shall issue a numbered certificate of allocation stating the amount of
7533 the allocation, the allotment account for which the allocation is being made, and the expiration

7534 date of the allocation.

7535 (b) The certificates of allocation shall be mailed to the issuing authority within 10
7536 working days of the date of approval.

7537 (c) No bonds are entitled to any allocation of the volume cap unless the issuing
7538 authority received a certificate of allocation with respect to the bonds.

7539 (d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the
7540 date of approval.

7541 (ii) If bonds for which a certificate has been approved are not issued within the 90-day
7542 period, the certificate of allocation is void and volume cap shall be returned to the applicable
7543 allotment account for reallocation by the board of review.

7544 (2) (a) An issuing authority receiving an allocation of volume cap from the
7545 Carryforward Account shall receive a certificate of allocation similar to the certificates of
7546 allocation described in Subsection (1) from the board of review stating the amount of allocation
7547 from the Carryforward Account that has been allocated to the issuing authority and the
7548 expiration of the allocation.

7549 (b) If in the judgment of the board of review an issuing authority or a person or entity
7550 responsible for a project or program receiving an allocation from the Carryforward Account
7551 does not proceed with diligence in providing for the issuance of the bonds with respect to the
7552 project or program, and because of the lack of diligence the volume cap cannot be used, the
7553 board of review may exclude from its consideration for a given period of time, determined by
7554 the board of review, an application of the issuing authority, person, or entity. The board of
7555 review may, at any time, review and modify its decisions relating to this exclusion.

7556 Section 191. Section **63N-5-108**, which is renumbered from Section 63M-1-3008 is
7557 renumbered and amended to read:

7558 ~~[63M-1-3008]~~. **63N-5-108. Issuing authorities -- Limitations -- Duties.**

7559 (1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds
7560 without a certificate of allocation issued under Section ~~[63M-1-3007]~~ 63N-5-107, or an issuing
7561 authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an

7562 allocation of the volume cap for those bonds.

7563 (b) An issuing authority issuing bonds in excess of the amount set forth in the related
7564 certificate of allocation is not entitled to an allocation of the volume cap for the excess.

7565 (2) Each issuing authority shall:

7566 (a) advise the board of review, within 15 days after the issuance of bonds, of the
7567 principal amount of bonds issued under each certificate of allocation by delivering to the board
7568 of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal
7569 Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered
7570 to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of
7571 review with respect to the bonds; and

7572 (b) if all or a stated portion of the bonds for which a certificate of allocation was
7573 received will not be issued, advise the board of review in writing, within 15 days of the earlier
7574 of:

7575 (i) the final decision not to issue all or a stated portion of the bonds; or

7576 (ii) the expiration of the certificate of allocation.

7577 (3) Failure by an issuing authority to notify the board of review under Subsection (2),
7578 including failure to timely deliver a Form 8038, may, in the sole discretion of the board of
7579 review, result in the issuing authority being denied further consideration of applications.

7580 Section 192. Section **63N-5-109**, which is renumbered from Section 63M-1-3009 is
7581 renumbered and amended to read:

7582 ~~[63M-1-3009]~~. **63N-5-109. Procedures -- Adjudicative proceedings.**

7583 The board of review shall comply with the procedures and requirements of Title 63G,
7584 Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

7585 Section 193. Section **63N-5-110** is enacted to read:

7586 **63N-5-110. Duties of office.**

7587 (1) The office is recognized as an issuing authority as defined in Section 63N-5-102,
7588 entitled to issue bonds from the Small Issue Bond Account created in Subsection
7589 63N-5-106(1)(c) as a part of the state's private activity bond volume cap authorized by the

7590 Internal Revenue Code and computed under Section 146, Internal Revenue Code.

7591 (2) To promote and encourage the issuance of bonds from the Small Issue Bond
7592 Account for manufacturing projects, the office may:

7593 (a) develop campaigns and materials that inform qualified small manufacturing
7594 businesses about the existence of the program and the application process;

7595 (b) assist small businesses in applying for and qualifying for these bonds; and

7596 (c) develop strategies to lower the cost to small businesses of applying for and
7597 qualifying for these bonds, including making arrangements with financial advisors,
7598 underwriters, bond counsel, and other professionals involved in the issuance process to provide
7599 their services at a reduced rate when the division can provide them with a high volume of
7600 applicants or issues.

7601 Section 194. Section **63N-6-101**, which is renumbered from Section 63M-1-1201 is
7602 renumbered and amended to read:

7603 **CHAPTER 6. UTAH VENTURE CAPITAL ENHANCEMENT ACT**

7604 **Part 1. General Provisions**

7605 ~~[63M-1-1201]~~. **63N-6-101. Title.**

7606 This ~~[part]~~ chapter is known as the "Utah Venture Capital Enhancement Act."

7607 Section 195. Section **63N-6-102**, which is renumbered from Section 63M-1-1202 is
7608 renumbered and amended to read:

7609 ~~[63M-1-1202]~~. **63N-6-102. Findings -- Purpose.**

7610 (1) The Legislature finds that:

7611 (a) fundamental changes have occurred in national and international financial markets
7612 and in the state's financial markets;

7613 (b) a critical shortage of seed and venture capital resources exists in the state, and that
7614 shortage is impairing the growth of commerce in the state;

7615 (c) a need exists to increase the availability of venture equity capital for emerging,
7616 expanding, and restructuring enterprises in Utah, including enterprises in the life sciences,
7617 advanced manufacturing, and information technology;

7618 (d) increased venture equity capital investments in emerging, expanding, and
7619 restructuring enterprises in Utah will:
7620 (i) create new jobs in the state; and
7621 (ii) help to diversify the state's economic base; and
7622 (e) a well-trained work force is critical for the maintenance and development of Utah's
7623 economy.

7624 (2) This part is enacted to:

7625 (a) mobilize private investment in a broad variety of venture capital partnerships in
7626 diversified industries and locales;

7627 (b) retain the private-sector culture of focusing on rate of return in the investing
7628 process;

7629 (c) secure the services of the best managers in the venture capital industry, regardless
7630 of location;

7631 (d) facilitate the organization of the Utah fund of funds to seek private investments and
7632 to serve as a catalyst in those investments by offering state incentives for private persons to
7633 make investments in the Utah fund of funds;

7634 (e) enhance the venture capital culture and infrastructure in the state so as to increase
7635 venture capital investment within the state and to promote venture capital investing within the
7636 state;

7637 (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner
7638 that would maximize the direct economic impact for the state; and

7639 (g) authorize the issuance and use of contingent tax credits to accomplish the purposes
7640 referred to in Subsections (2)(a) through (e) while protecting the interests of the state by
7641 limiting the manner in which contingent tax credits are issued, registered, transferred, claimed
7642 as an offset to the payment of state income tax, and redeemed.

7643 Section 196. Section **63N-6-103**, which is renumbered from Section 63M-1-1203 is
7644 renumbered and amended to read:

7645 ~~[63M-1-1203]~~. **63N-6-103. Definitions.**

7646 As used in this part:

7647 (1) "Board" means the Utah Capital Investment Board.

7648 (2) "Certificate" means a contract between the board and a designated investor under
7649 which a contingent tax credit is available and issued to the designated investor.

7650 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
7651 nonresident person.

7652 (b) "Claimant" does not include an estate or trust.

7653 (4) "Commitment" means a written commitment by a designated purchaser to purchase
7654 from the board certificates presented to the board for redemption by a designated investor.
7655 Each commitment shall state the dollar amount of contingent tax credits that the designated
7656 purchaser has committed to purchase from the board.

7657 (5) "Contingent tax credit" means a contingent tax credit issued under this part that is
7658 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
7659 Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient
7660 funds in the redemption reserve and the board has not exercised other options for redemption
7661 under Subsection [~~63M-1-1220~~] [63N-6-408\(3\)\(b\)](#).

7662 (6) "Corporation" means the Utah Capital Investment Corporation created under
7663 Section [~~63M-1-1207~~] [63N-6-301](#).

7664 (7) "Designated investor" means:

7665 (a) a person who makes a private investment; or

7666 (b) a transferee of a certificate or contingent tax credit.

7667 (8) "Designated purchaser" means:

7668 (a) a person who enters into a written undertaking with the board to purchase a
7669 commitment; or

7670 (b) a transferee who assumes the obligations to make the purchase described in the
7671 commitment.

7672 (9) "Estate" means a nonresident estate or a resident estate.

7673 (10) "Person" means an individual, partnership, limited liability company, corporation,

7674 association, organization, business trust, estate, trust, or any other legal or commercial entity.

7675 (11) "Private investment" means:

7676 (a) an equity interest in the Utah fund of funds; or

7677 (b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan
7678 refinanced on or after July 1, 2014, that was originated before July 1, 2014.

7679 (12) "Redemption reserve" means the reserve established by the corporation to
7680 facilitate the cash redemption of certificates.

7681 (13) "Taxpayer" means a taxpayer:

7682 (a) of an investor; and

7683 (b) if that taxpayer is a:

7684 (i) claimant;

7685 (ii) estate; or

7686 (iii) trust.

7687 (14) "Trust" means a nonresident trust or a resident trust.

7688 (15) "Utah fund of funds" means a limited partnership or limited liability company
7689 established under Section [~~63M-1-1213~~] 63N-6-401 in which a designated investor purchases
7690 an equity interest.

7691 Section 197. Section **63N-6-201**, which is renumbered from Section 63M-1-1204 is
7692 renumbered and amended to read:

7693 **Part 2. Utah Capital Investment Board**

7694 [~~63M-1-1204~~]. **63N-6-201. Utah Capital Investment Board.**

7695 (1) There is created within the office the Utah Capital Investment Board to exercise the
7696 powers conferred by this part.

7697 (2) The purpose of the board is to mobilize venture equity capital for investment in a
7698 manner that will result in a significant potential to create jobs and to diversify and stabilize the
7699 economy of the state.

7700 (3) In the exercise of its powers and duties, the board is considered to be performing an
7701 essential public purpose.

7702 Section 198. Section **63N-6-202**, which is renumbered from Section 63M-1-1205 is
7703 renumbered and amended to read:

7704 ~~[63M-1-1205]~~. **63N-6-202. Board members -- Meetings -- Expenses.**

7705 (1) (a) The board shall consist of the following five members:

7706 (i) the state treasurer;

7707 (ii) the director or the director's designee; and

7708 (iii) three members appointed by the governor and confirmed by the Senate.

7709 (b) The three members appointed by the governor shall serve four-year staggered terms
7710 with the initial terms of the first three members to be four years for one member, three years for
7711 one member, and two years for one member.

7712 (c) The governor shall appoint members of the board based on demonstrated expertise
7713 and competence in:

7714 (i) the supervision of investment managers;

7715 (ii) the fiduciary management of investment funds; or

7716 (iii) the management and administration of tax credit allocation programs.

7717 (2) When a vacancy occurs in the membership of the board for any reason, the vacancy
7718 shall be:

7719 (a) filled in the same manner as the appointment of the original member; and

7720 (b) for the unexpired term of the board member being replaced.

7721 (3) Appointed members of the board may not serve more than two full consecutive
7722 terms except when the governor determines that an additional term is in the best interest of the
7723 state.

7724 (4) (a) Four members of the board constitute a quorum for conducting business and
7725 exercising board power.

7726 (b) If a quorum is present, the action of a majority of members present is the action of
7727 the board.

7728 (5) A member may not receive compensation or benefits for the member's service, but
7729 may receive per diem and travel expenses in accordance with:

7730 (a) Section [63A-3-106](#);
7731 (b) Section [63A-3-107](#); and
7732 (c) rules made by the Division of Finance [~~according to~~] under Sections [63A-3-106](#) and
7733 [63A-3-107](#).

7734 (6) The board and its members are considered to be a governmental entity with all of
7735 the rights, privileges, and immunities of a governmental entity of the state, including all of the
7736 rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

7737 (7) Meetings of the board, except to the extent necessary to protect the information
7738 identified in Subsection [~~63M-1-1224~~] [63N-6-412](#)(3), are subject to Title 52, Chapter 4, Open
7739 and Public Meetings Act.

7740 Section 199. Section **63N-6-203**, which is renumbered from Section 63M-1-1206 is
7741 renumbered and amended to read:

7742 [~~63M-1-1206~~]. **63N-6-203. Board duties and powers.**

7743 (1) The board shall:

7744 (a) establish criteria and procedures for the allocation and issuance of contingent tax
7745 credits to designated investors by means of certificates issued by the board, provided that a
7746 contingent tax credit may not be issued unless the Utah fund of funds:

7747 (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from
7748 the state to the Utah fund of funds; and

7749 (ii) agrees to repay the loan upon terms and conditions established by the board;

7750 (b) establish criteria and procedures for assessing the likelihood of future certificate
7751 redemptions by designated investors, including:

7752 (i) criteria and procedures for evaluating the value of investments made by the Utah
7753 fund of funds; and

7754 (ii) the returns from the Utah fund of funds;

7755 (c) establish criteria and procedures for registering and redeeming contingent tax
7756 credits by designated investors holding certificates issued by the board;

7757 (d) establish a target rate of return or range of returns for the investment portfolio of

7758 the Utah fund of funds;

7759 (e) establish criteria and procedures governing commitments obtained by the board
7760 from designated purchasers including:

7761 (i) entering into commitments with designated purchasers; and

7762 (ii) drawing on commitments to redeem certificates from designated investors;

7763 (f) have power to:

7764 (i) expend funds;

7765 (ii) invest funds;

7766 (iii) issue debt and borrow funds;

7767 (iv) enter into contracts;

7768 (v) insure against loss; and

7769 (vi) perform any other act necessary to carry out its purpose; and

7770 (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part
7771 and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7772 (2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the
7773 Legislative Management Committee:

7774 (i) whenever made, modified, or repealed; and

7775 (ii) in each even-numbered year.

7776 (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review
7777 Committee from reviewing and taking appropriate action on any rule made, amended, or
7778 repealed by the board.

7779 (3) (a) The criteria and procedures established by the board for the allocation and
7780 issuance of contingent tax credits shall:

7781 (i) include the contingencies that must be met for a certificate and its related tax credits
7782 to be:

7783 (A) issued by the board;

7784 (B) transferred by a designated investor; and

7785 (C) redeemed by a designated investor in order to receive a contingent tax credit; and

7786 (ii) tie the contingencies for redemption of certificates to:
7787 (A) the targeted rates of return and scheduled redemptions of equity interests purchased
7788 by designated investors in the Utah fund of funds; and
7789 (B) the scheduled principal and interest payments payable to designated investors that
7790 have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1,
7791 2014, that was originated before July 1, 2014, to the Utah fund of funds.
7792 (b) The board may not issue contingent tax credits under this part before July 1, 2004.
7793 (4) (a) The board may charge a placement fee to the Utah fund of funds for the
7794 issuance of a certificate and related contingent tax credit to a designated investor.
7795 (b) The fee shall:
7796 (i) be charged only to pay for reasonable and necessary costs of the board; and
7797 (ii) not exceed .5% of the private investment of the designated investor.
7798 (5) The board's criteria and procedures for redeeming certificates:
7799 (a) shall give priority to the redemption amount from the available funds in the
7800 redemption reserve; and
7801 (b) to the extent there are insufficient funds in the redemption reserve to redeem
7802 certificates, shall grant the board the option to redeem certificates:
7803 (i) by certifying a contingent tax credit to the designated investor; or
7804 (ii) by making demand on designated purchasers consistent with the requirements of
7805 Section [~~63M-1-1221~~] [63N-6-409](#).
7806 (6) (a) The board shall, in consultation with the corporation, publish on or before
7807 September 1 an annual report of the activities conducted by the Utah fund of funds, and submit
7808 the report to the governor; the Business, Economic Development, and Labor Appropriations
7809 Subcommittee; the Business and Labor Interim Committee; and the Retirement and
7810 Independent Entities Committee.
7811 (b) The annual report shall:
7812 (i) be designed to provide clear, accurate, and accessible information to the public, the
7813 governor, and the Legislature;

- 7814 (ii) include a copy of the audit of the Utah fund of funds described in Section
7815 ~~[63M-1-1217]~~ [63N-6-405](#);
- 7816 (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow
7817 statement;
- 7818 (iv) include detailed information regarding new fund commitments made during the
7819 year, including the amount of money committed;
- 7820 (v) include the net annual rate of return of the Utah fund of funds for the reported year,
7821 and the net rate of return from the inception of the Utah fund of funds, after accounting for all
7822 expenses, including administrative and financing costs;
- 7823 (vi) include detailed information regarding:
- 7824 (A) realized gains from investments and any realized losses; and
7825 (B) unrealized gains and any unrealized losses based on the net present value of
7826 ongoing investments;
- 7827 (vii) include detailed information regarding all yearly expenditures, including:
- 7828 (A) administrative, operating, and financing costs;
7829 (B) aggregate compensation information separated by full- and part-time employees,
7830 including benefit and travel expenses; and
7831 (C) expenses related to the allocation manager;
- 7832 (viii) include detailed information regarding all funding sources for administrative,
7833 operations, and financing expenses, including expenses charged by or to the Utah fund of
7834 funds, including management and placement fees;
- 7835 (ix) review the progress of the investment fund allocation manager in implementing its
7836 investment plan and provide a general description of the investment plan;
- 7837 (x) for each individual fund that the Utah fund of funds is invested in that represents at
7838 least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total
7839 value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and
7840 the percentage of the total value of the fund held by the Utah fund of funds;
- 7841 (xi) include the number of companies in Utah where an investment was made from a

7842 fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time
7843 employees in the state added by all companies where investments were made by funds that the
7844 Utah fund of funds is invested in;

7845 (xii) include an aggregate total value for all funds the Utah fund of funds is invested in,
7846 and an aggregate total amount of money invested in the state by the funds the Utah fund of
7847 funds is invested in;

7848 (xiii) describe any redemption or transfer of a certificate issued under this part;

7849 (xiv) include actual and estimated potential appropriations the Legislature will be
7850 required to provide as a result of redeemed certificates or tax credits during the following five
7851 years;

7852 (xv) include an evaluation of the state's progress in accomplishing the purposes stated
7853 in Section [~~63M-1-1202~~] [63N-6-102](#); and

7854 (xvi) be directly accessible to the public via a link from the main page of the Utah fund
7855 of fund's website.

7856 (c) The annual report may not identify a specific designated investor who has redeemed
7857 or transferred a certificate.

7858 Section 200. Section **63N-6-301**, which is renumbered from Section 63M-1-1207 is
7859 renumbered and amended to read:

7860 **Part 3. Utah Capital Investment Corporation**

7861 [~~63M-1-1207~~]. **63N-6-301. Utah Capital Investment Corporation -- Powers**
7862 **and purposes.**

7863 (1) (a) There is created an independent quasi-public nonprofit corporation known as the
7864 Utah Capital Investment Corporation.

7865 (b) The corporation:

7866 (i) may exercise all powers conferred on independent corporations under Section
7867 [63E-2-106](#);

7868 (ii) is subject to the prohibited participation provisions of Section [63E-2-107](#); and

7869 (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent

7870 Corporations Act, except as otherwise provided in this part.

7871 (c) The corporation shall file with the Division of Corporations and Commercial Code:

7872 (i) articles of incorporation; and

7873 (ii) any amendment to its articles of incorporation.

7874 (d) In addition to the articles of incorporation, the corporation may adopt bylaws and
7875 operational policies that are consistent with this chapter.

7876 (e) Except as otherwise provided in this part, this part does not exempt the corporation
7877 from the requirements under state law which apply to other corporations organized under Title
7878 63E, Chapter 2, Independent Corporations Act.

7879 (2) The purposes of the corporation are to:

7880 (a) organize the Utah fund of funds;

7881 (b) select a venture capital investment fund allocation manager to make venture capital
7882 fund investments by the Utah fund of funds;

7883 (c) negotiate the terms of a contract with the venture capital investment fund allocation
7884 manager;

7885 (d) execute the contract with the selected venture capital investment fund manager on
7886 behalf of the Utah fund of funds;

7887 (e) receive funds paid by designated investors for the issuance of certificates by the
7888 board for private investment in the Utah fund of funds;

7889 (f) receive investment returns from the Utah fund of funds; and

7890 (g) establish the redemption reserve to be used by the corporation to redeem
7891 certificates.

7892 (3) The corporation may not:

7893 (a) exercise governmental functions;

7894 (b) have members;

7895 (c) pledge the credit or taxing power of the state or any political subdivision of the
7896 state; or

7897 (d) make its debts payable out of any money except money of the corporation.

7898 (4) The obligations of the corporation are not obligations of the state or any political
7899 subdivision of the state within the meaning of any constitutional or statutory debt limitations,
7900 but are obligations of the corporation payable solely and only from the corporation's funds.

7901 (5) The corporation may:

7902 (a) engage consultants and legal counsel;

7903 (b) expend funds;

7904 (c) invest funds;

7905 (d) issue debt and borrow funds;

7906 (e) enter into contracts;

7907 (f) insure against loss;

7908 (g) hire employees; and

7909 (h) perform any other act necessary to carry out its purposes.

7910 Section 201. Section **63N-6-302**, which is renumbered from Section 63M-1-1208 is
7911 renumbered and amended to read:

7912 **~~[63M-1-1208]~~. 63N-6-302. Incorporator -- Appointment committee.**

7913 (1) To facilitate the organization of the corporation, the executive director or the
7914 executive director's designee shall serve as the incorporator as provided in Section **16-6a-201**.

7915 (2) To assist in the organization of the corporation, the Utah Board of Business and
7916 Economic Development shall appoint three individuals to serve on an appointment committee.

7917 (3) The appointment committee shall:

7918 (a) elect the initial board of directors of the corporation;

7919 (b) exercise due care to assure that persons elected to the initial board of directors have
7920 the requisite financial experience necessary in order to carry out the duties of the corporation as
7921 established in this part, including in areas related to:

7922 (i) venture capital investment;

7923 (ii) investment management; and

7924 (iii) supervision of investment managers and investment funds; and

7925 (c) terminate its existence upon the election of the initial board of directors of the

7926 corporation.

7927 (4) The office shall assist the incorporator and the appointment committee in any
7928 manner determined necessary and appropriate by the incorporator and appointment committee
7929 in order to administer this section.

7930 Section 202. Section **63N-6-303**, which is renumbered from Section 63M-1-1209 is
7931 renumbered and amended to read:

7932 ~~**63M-1-1209**~~. **63N-6-303. Board of directors.**

7933 (1) The initial board of directors of the corporation shall consist of five members.

7934 (2) The persons elected to the initial board of directors by the appointment committee
7935 shall include persons who have an expertise, as considered appropriate by the appointment
7936 committee, in the areas of:

7937 (a) the selection and supervision of investment managers;

7938 (b) fiduciary management of investment funds; and

7939 (c) other areas of expertise as considered appropriate by the appointment committee.

7940 (3) After the election of the initial board of directors, vacancies in the board of
7941 directors of the corporation shall be filled by election by the remaining directors of the
7942 corporation.

7943 (4) (a) Board members shall serve four-year terms, except that of the five initial
7944 members:

7945 (i) two shall serve four-year terms;

7946 (ii) two shall serve three-year terms; and

7947 (iii) one shall serve a two-year term.

7948 (b) Board members shall serve until their successors are elected and qualified and may
7949 serve successive terms.

7950 (c) A majority of the board members may remove a board member for cause.

7951 (d) (i) The board shall select a chair by majority vote.

7952 (ii) The chair's term is for one year.

7953 (5) Three members of the board are a quorum for the transaction of business.

- 7954 (6) Members of the board of directors:
- 7955 (a) are subject to any restrictions on conflicts of interest specified in the organizational
- 7956 documents of the corporation; and
- 7957 (b) may have no interest in any:
- 7958 (i) venture capital investment fund allocation manager selected by the corporation
- 7959 under this part; or
- 7960 (ii) investments made by the Utah fund of funds.

- 7961 (7) Directors of the corporation:
- 7962 (a) shall be compensated for direct expenses and mileage; and
- 7963 (b) may not receive a director's fee or salary for service as directors.

7964 Section 203. Section **63N-6-304**, which is renumbered from Section 63M-1-1210 is
7965 renumbered and amended to read:

7966 ~~**[63M-1-1210].**~~ **63N-6-304. Investment manager.**

7967 (1) After incorporation, the corporation shall conduct a national solicitation for
7968 investment plan proposals from qualified venture capital investment fund allocation managers
7969 for the raising and investing of capital by the Utah fund of funds in accordance with the
7970 requirements of this part.

7971 (2) Any proposed investment plan shall address the applicant's:

- 7972 (a) level of:
- 7973 (i) experience; and
- 7974 (ii) quality of management;
- 7975 (b) investment philosophy and process;
- 7976 (c) probability of success in fund-raising;
- 7977 (d) prior investment fund results; and
- 7978 (e) plan for achieving the purposes of this part.

7979 (3) The selected venture capital investment fund allocation manager shall have
7980 substantial, successful experience in the design, implementation, and management of seed and
7981 venture capital investment programs and in capital formation.

7982 (4) The corporation shall only select a venture capital investment fund allocation
7983 manager:

7984 (a) with demonstrated expertise in the management and fund allocation of investments
7985 in venture capital funds; and

7986 (b) considered best qualified to:

7987 (i) invest the capital of the Utah fund of funds; and

7988 (ii) generate the amount of capital required by this part.

7989 Section 204. Section **63N-6-305**, which is renumbered from Section 63M-1-1211 is
7990 renumbered and amended to read:

7991 ~~[63M-1-1211]~~. **63N-6-305. Management fee -- Additional financial**
7992 **assistance.**

7993 (1) The corporation may charge a management fee on assets under management in the
7994 Utah fund of funds.

7995 (2) The fee shall:

7996 (a) be in addition to any fee charged to the Utah fund of funds by the venture capital
7997 investment fund allocation manager selected by the corporation; and

7998 (b) be charged only to pay for reasonable and necessary costs of the corporation.

7999 (3) The corporation may apply for and, when qualified, receive financial assistance
8000 from the Industrial Assistance Account under ~~[Title 63M,]~~ Chapter ~~[†]~~ 3, Part ~~[9]~~ 1, Industrial
8001 Assistance Account, and under rules made by the Board of Business and Economic
8002 Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
8003 to help establish the program authorized under this part.

8004 Section 205. Section **63N-6-306**, which is renumbered from Section 63M-1-1212 is
8005 renumbered and amended to read:

8006 ~~[63M-1-1212]~~. **63N-6-306. Dissolution.**

8007 (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated
8008 and dissolved.

8009 (2) Upon dissolution or privatization of the corporation, any assets owned by the

8010 corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
8011 designated by the Legislature for the purposes listed in Section [~~63M-1-1202~~] 63N-6-102 as
8012 provided in Title 63E, Chapter 1, Independent Entities Act.

8013 Section 206. Section **63N-6-401**, which is renumbered from Section 63M-1-1213 is
8014 renumbered and amended to read:

8015 **Part 4. Utah Fund of Funds**

8016 [~~63M-1-1213~~]. **63N-6-401. Organization of Utah fund of funds.**

8017 (1) The corporation shall organize the Utah fund of funds.

8018 (2) The Utah fund of funds shall make investments in private seed and venture capital
8019 partnerships or entities in a manner and for the following purposes:

8020 (a) to encourage the availability of a wide variety of venture capital in the state;

8021 (b) to strengthen the economy of the state;

8022 (c) to help business in the state gain access to sources of capital;

8023 (d) to help build a significant, permanent source of capital available to serve the needs
8024 of businesses in the state; and

8025 (e) to accomplish all these benefits in a way that minimizes the use of contingent tax
8026 credits.

8027 (3) The Utah fund of funds shall be organized:

8028 (a) as a limited partnership or limited liability company under Utah law having the
8029 corporation as the general partner or manager;

8030 (b) to provide for equity interests for designated investors which provide for a
8031 designated scheduled rate of return and a scheduled redemption in accordance with rules made
8032 by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

8033 (c) to provide for loans by or the issuance of debt obligations to designated investors
8034 which provide for designated payments of principal, interest, or interest equivalent in
8035 accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah
8036 Administrative Rulemaking Act.

8037 (4) Public money may not be invested in the Utah fund of funds.

8038 Section 207. Section **63N-6-402**, which is renumbered from Section 63M-1-1214 is
8039 renumbered and amended to read:

8040 ~~[63M-1-1214]~~. **63N-6-402. Compensation from the Utah fund of funds to**
8041 **the corporation -- Redemption reserve.**

8042 (1) The corporation shall be compensated for its involvement in the Utah fund of funds
8043 through the payment of the management fee described in Section ~~[63M-1-1214]~~ 63N-6-305.

8044 (2) Before any returns may be reinvested in the Utah fund of funds:

8045 (a) any returns shall be paid to designated investors, including the repayment by the
8046 Utah fund of funds of any outstanding loans;

8047 (b) any returns in excess of those payable to designated investors shall be deposited in
8048 the redemption reserve and held by the corporation as a first priority reserve for the redemption
8049 of certificates;

8050 (c) any returns received by the corporation from investment of amounts held in the
8051 redemption reserve shall be added to the redemption reserve until it has reached a total of
8052 \$250,000,000; and

8053 (d) if at the end of a calendar year the redemption reserve exceeds the \$250,000,000
8054 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah
8055 fund of funds.

8056 (3) Funds held by the corporation in the redemption reserve shall be invested in
8057 accordance with Title 51, Chapter 7, State Money Management Act.

8058 Section 208. Section **63N-6-403**, which is renumbered from Section 63M-1-1215 is
8059 renumbered and amended to read:

8060 ~~[63M-1-1215]~~. **63N-6-403. Investments by Utah fund of funds.**

8061 (1) The Utah fund of funds shall invest funds:

8062 (a) principally in high-quality venture capital funds managed by investment managers
8063 who have:

8064 (i) made a commitment to equity investments in businesses located within the state;
8065 and

8066 (ii) have committed to maintain a physical presence within the state;

8067 (b) in private venture capital funds and not in direct investments in individual

8068 businesses; and

8069 (c) in venture capital funds with experienced managers or management teams with

8070 demonstrated expertise and a successful history in the investment of venture capital funds.

8071 (2) (a) The Utah fund of funds shall give priority to investments in private seed and

8072 venture capital partnerships and entities that have demonstrated a commitment to the state as

8073 evidenced by:

8074 (i) the investments they have made in Utah-based entities;

8075 (ii) the correspondent relationships they have established with Utah-based venture

8076 capital funds; or

8077 (iii) the commitment they have made to expand the reach of expertise within the state

8078 by adding additional investment areas of expertise.

8079 (b) The manager of the Utah fund of funds may waive the priorities under Subsection

8080 (2)(a) only if necessary to achieve the targeted investment returns required to attract designated

8081 investors.

8082 (3) The Utah fund of funds may invest funds in a newly created venture capital fund

8083 only if the managers or management team of the fund have the experience, expertise, and a

8084 successful history in the investment of venture capital funds as described in Subsection (1)(c).

8085 (4) (a) An investment or investments by the Utah fund of funds in any venture capital

8086 fund may comprise no more than 20% of the total committed capital in the venture capital

8087 fund.

8088 (b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made

8089 with venture capital entities with offices in the state established prior to July 1, 2002.

8090 (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three

8091 additional venture capital entities open new offices in the state.

8092 Section 209. Section **63N-6-404**, which is renumbered from Section 63M-1-1216 is

8093 renumbered and amended to read:

8094 ~~[63M-1-1216]~~. 63N-6-404. Powers of Utah fund of funds.

8095 (1) The Utah fund of funds may:

8096 (a) engage consultants and legal counsel;

8097 (b) expend funds;

8098 (c) invest funds;

8099 (d) issue debt and borrow funds;

8100 (e) enter into contracts;

8101 (f) insure against loss;

8102 (g) hire employees;

8103 (h) issue equity interests to designated investors that have purchased equity interest

8104 certificates from the board; and

8105 (i) perform any other act necessary to carry out its purposes.

8106 (2) (a) The Utah fund of funds shall engage a venture capital investment fund

8107 allocation manager.

8108 (b) The compensation paid to the fund manager shall be in addition to the management

8109 fee paid to the corporation under Section ~~[63M-1-1211]~~ 63N-6-305.

8110 (3) The Utah fund of funds may:

8111 (a) open and manage bank and short-term investment accounts as considered necessary

8112 by the venture capital investment fund allocation manager; and

8113 (b) expend money to secure investment ratings for investments by designated investors

8114 in the Utah fund of funds.

8115 Section 210. Section **63N-6-405**, which is renumbered from Section 63M-1-1217 is

8116 renumbered and amended to read:

8117 ~~[63M-1-1217]~~. 63N-6-405. Annual audits.

8118 (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be

8119 made as described in this section.

8120 (2) (a) The audit shall be conducted by:

8121 (i) the state auditor; or

- 8122 (ii) an independent auditor engaged by the state auditor.
- 8123 (b) An independent auditor used under Subsection (2)(a)(ii) must have no business,
- 8124 contractual, or other connection to:
 - 8125 (i) the corporation; or
 - 8126 (ii) the Utah fund of funds.
- 8127 (3) The corporation shall pay the costs associated with the annual audit.
- 8128 (4) The annual audit report shall:
 - 8129 (a) be delivered to:
 - 8130 (i) the corporation; and
 - 8131 (ii) the board;
 - 8132 (b) include a valuation of the assets owned by the Utah fund of funds as of the end of
 - 8133 the reporting year;
 - 8134 (c) include an opinion regarding the accuracy of the information provided in the annual
 - 8135 report described in Subsection [~~63M-1-1206~~] [63N-6-203](#)(6); and
 - 8136 (d) be completed on or before September 1 for the previous calendar year so that it may
 - 8137 be included in the annual report described in Section [~~63M-1-1206~~] [63N-6-203](#).
- 8138 Section 211. Section **63N-6-406**, which is renumbered from Section 63M-1-1218 is
- 8139 renumbered and amended to read:
 - 8140 ~~[63M-1-1218]~~. **63N-6-406. Certificates and contingent tax credits.**
 - 8141 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 8142 board, in consultation with the State Tax Commission, shall make rules governing the form,
 - 8143 issuance, transfer, and redemption of certificates.
 - 8144 (2) The board's issuance of certificates and related contingent tax credits to designated
 - 8145 investors is subject to the following:
 - 8146 (a) the aggregate outstanding certificates may not exceed a total of:
 - 8147 (i) \$150,000,000 of contingent tax credits used as collateral or a guarantee on loans for
 - 8148 the debt-based financing of investments in the Utah fund of funds, including a loan refinanced
 - 8149 using debt- or equity-based financing as described in Subsection (2)(e); and

8150 (ii) \$75,000,000 used as a guarantee on equity investments in the Utah fund of funds;

8151 (b) the board shall issue a certificate contemporaneously with an investment in the
8152 Utah fund of funds by a designated investor;

8153 (c) the board shall issue contingent tax credits in a manner that not more than
8154 \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax
8155 credits may be redeemable in a fiscal year;

8156 (d) the credits are certifiable if there are insufficient funds in the redemption reserve to
8157 make a cash redemption and the board does not exercise its other options under Subsection
8158 [~~63M-1-1220~~] [63N-6-408](#)(3)(b);

8159 (e) the board may not issue additional certificates as collateral or a guarantee on a loan
8160 for the debt-based financing of investments in the Utah fund of funds that is initiated after July
8161 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1,
8162 2014, that was originated before July 1, 2014;

8163 (f) after July 1, 2014, and on or before December 31, 2017, the board may issue
8164 certificates that represent a guarantee of no more than 100% of the principal of each equity
8165 investment in the Utah fund of funds; and

8166 (g) the board may not issue certificates after December 31, 2017.

8167 (3) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the
8168 \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection
8169 (2)(c):

8170 (a) the board shall use the cumulative amount of scheduled aggregate returns on
8171 certificates issued by the board to designated investors;

8172 (b) certificates and related contingent tax credits that have expired may not be
8173 included; and

8174 (c) certificates and related contingent tax credits that have been redeemed shall be
8175 included only to the extent of tax credits actually allowed.

8176 (4) Contingent tax credits are subject to the following:

8177 (a) a contingent tax credit may not be redeemed except by a designated investor in

8178 accordance with the terms of a certificate from the board;

8179 (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
8180 funds receives full payment from the designated investor for the certificate;

8181 (c) a contingent tax credit shall be claimed for a tax year that begins during the
8182 calendar year maturity date stated on the certificate;

8183 (d) an investor who redeems a certificate and the related contingent tax credit shall
8184 allocate the amount of the contingent tax credit to the taxpayers of the investor based on the
8185 taxpayer's pro rata share of the investor's earnings; and

8186 (e) a contingent tax credit shall be claimed as a refundable credit.

8187 (5) In calculating the amount of a contingent tax credit:

8188 (a) the board shall certify a contingent tax credit only if the actual return, or payment of
8189 principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or
8190 after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less
8191 than that targeted at the issuance of the certificate;

8192 (b) the amount of the contingent tax credit for a designated investor with an equity
8193 interest may not exceed the difference between the actual principal investment of the
8194 designated investor in the Utah fund of funds and the aggregate actual return received by the
8195 designated investor and any predecessor in interest of the initial equity investment and interest
8196 on the initial equity investment;

8197 (c) the rates, whether fixed rates or variable rates, shall be determined by a formula
8198 stipulated in the certificate; and

8199 (d) the amount of the contingent tax credit for a designated investor with an
8200 outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan
8201 refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to
8202 the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan
8203 or other obligation, as stipulated in the certificate.

8204 (6) The board shall clearly indicate on the certificate:

8205 (a) the targeted return on the invested capital, if the private investment is an equity

8206 interest;

8207 (b) the payment schedule of principal, interest, or interest equivalent, if the private
8208 investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1,
8209 2014, that was originated before July 1, 2014;

8210 (c) the amount of the initial private investment;

8211 (d) the calculation formula for determining the scheduled aggregate return on the initial
8212 equity investment, if applicable; and

8213 (e) the calculation formula for determining the amount of the contingent tax credit that
8214 may be claimed.

8215 (7) Once money is invested by a designated investor, a certificate:

8216 (a) is binding on the board; and

8217 (b) may not be modified, terminated, or rescinded.

8218 (8) Funds invested by a designated investor for a certificate shall be paid to the
8219 corporation for placement in the Utah fund of funds.

8220 (9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah
8221 Administrative Rulemaking Act, and in consultation with the board, make rules to help
8222 implement this section.

8223 Section 212. Section **63N-6-407**, which is renumbered from Section 63M-1-1219 is
8224 renumbered and amended to read:

8225 ~~**63M-1-1219**~~. **63N-6-407. Transfer and registration of certificates.**

8226 (1) A certificate and the related contingent tax credit may be transferred by the
8227 designated investor.

8228 (2) The board, in conjunction with the State Tax Commission, shall develop:

8229 (a) a system for registration of any certificate and related contingent tax credit issued or
8230 transferred under this part; and

8231 (b) a system that permits verification that:

8232 (i) any contingent tax credit claimed is valid; and

8233 (ii) any transfers of the certificate and related contingent tax credit are made in

8234 accordance with the requirements of this part.

8235 (3) A certificate or contingent tax credit issued or transferred under this part may not be
8236 considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

8237 Section 213. Section **63N-6-408**, which is renumbered from Section 63M-1-1220 is
8238 renumbered and amended to read:

8239 **~~[63M-1-1220]~~. 63N-6-408. Redemption of certificates.**

8240 (1) If a designated investor elects to redeem a certificate, the certificate shall be
8241 presented to the board for redemption no later than June 30 of the calendar year maturity date
8242 stated on the certificate.

8243 (2) Upon presentment to the board, it shall determine and certify the amount of the
8244 contingent tax credit that may be claimed by the designated investor based on:

8245 (a) the limitations in Section [~~63M-1-1218~~] 63N-6-406; and

8246 (b) rules made by the board in accordance with Title 63G, Chapter 3, Utah
8247 Administrative Rulemaking Act.

8248 (3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the
8249 corporation to make a cash redemption of the certificate.

8250 (b) If there are insufficient funds in the redemption reserve, the board may elect to
8251 redeem the certificate:

8252 (i) by certifying a contingent tax credit to the designated investor; or

8253 (ii) by making demand on designated purchasers to purchase certificates in accordance
8254 with Section [~~63M-1-1221~~] 63N-6-409.

8255 (4) The board shall certify to the State Tax Commission the contingent tax credit which
8256 can be claimed by the designated investor with respect to the redemption of the certificate.

8257 (5) The board shall cancel all redeemed certificates.

8258 Section 214. Section **63N-6-409**, which is renumbered from Section 63M-1-1221 is
8259 renumbered and amended to read:

8260 **~~[63M-1-1221]~~. 63N-6-409. Use of commitments to redeem certificates.**

8261 (1) The board may elect to draw on a commitment to redeem a certificate from a

8262 designated investor.

8263 (2) If the board makes an election under Subsection (1), it shall:

8264 (a) inform the designated purchaser of the amount of the contingent tax credit that must
8265 be purchased from the board;

8266 (b) specify the date on which the purchase must be consummated; and

8267 (c) use the funds delivered to the board by the designated purchaser to redeem the
8268 certificate from the designated investor.

8269 (3) The board has discretion in determining which commitment or commitments and
8270 what portion of those commitments to use to redeem certificates.

8271 (4) The contingent tax credits acquired by a designated purchaser under this section are
8272 subject to Section [~~63M-1-1218~~] [63N-6-406](#).

8273 Section 215. Section **63N-6-410**, which is renumbered from Section 63M-1-1222 is
8274 renumbered and amended to read:

8275 ~~[63M-1-1222]~~. **63N-6-410. Powers and effectiveness.**

8276 (1) This [~~part~~] chapter may not be construed as a restriction or limitation upon any
8277 power which the board might otherwise have under any other law of this state and the
8278 provisions of this [~~part~~] chapter are cumulative to those powers.

8279 (2) This [~~part~~] chapter shall be construed to provide a complete, additional, and
8280 alternative method for performing the duties authorized and shall be regarded as supplemental
8281 and additional powers to those conferred by any other laws.

8282 (3) The provisions of any contract entered into by the board or the Utah fund of funds
8283 may not be compromised, diminished, invalidated, or affected by the:

8284 (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
8285 in which the Utah fund of funds invests; or

8286 (b) extent to which the investment funds are:

8287 (i) invested in Utah venture capital projects; or

8288 (ii) successful in accomplishing any economic development objectives.

8289 Section 216. Section **63N-6-411**, which is renumbered from Section 63M-1-1223 is

8290 renumbered and amended to read:

8291 ~~[63M-1-1223]~~. 63N-6-411. **Permissible investments.**

8292 Investments by designated investors in the Utah fund of funds are permissible

8293 investments under applicable laws of the state for:

- 8294 (1) state-chartered banks;
- 8295 (2) state-chartered credit unions;
- 8296 (3) state-chartered industrial banks; and
- 8297 (4) domestic insurance companies.

8298 Section 217. Section **63N-6-412**, which is renumbered from Section 63M-1-1224 is
8299 renumbered and amended to read:

8300 ~~[63M-1-1224]~~. 63N-6-412. **Exemption from certain statutes.**

8301 (1) Except as otherwise provided in this part, the corporation is exempt from statutes
8302 governing state agencies, as provided in Section [63E-2-109](#).

8303 (2) The corporation is exempt from:

- 8304 (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- 8305 (b) Title 63G, Chapter 2, Government Records Access and Management Act.

8306 (3) The board is exempt from the requirement to report fund performance of venture
8307 firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access
8308 and Management Act.

8309 Section 218. Section **63N-7-101**, which is renumbered from Section 63M-1-1401 is
8310 renumbered and amended to read:

8311 **CHAPTER 7. TOURISM DEVELOPMENT**

8312 **Part 1. Board of Tourism Development**

8313 ~~[63M-1-1401]~~. 63N-7-101. **Board of Tourism Development.**

8314 (1) This chapter is known as "Tourism Development."

8315 ~~[(1)]~~ (2) There is created within the office the Board of Tourism Development.

8316 ~~[(2)]~~ (3) The board shall advise the office on the office's planning, policies, and
8317 strategies and on trends and opportunities for tourism development that may exist in the

8318 various areas of the state.

8319 ~~[(3)]~~ (4) The board shall perform other duties as required by Section [~~63M-1-1403~~]
8320 [63N-7-103](#).

8321 Section 219. Section **63N-7-102**, which is renumbered from Section 63M-1-1402 is
8322 renumbered and amended to read:

8323 ~~[63M-1-1402]~~. **63N-7-102. Members -- Meetings -- Expenses.**

8324 (1) (a) The board shall consist of 13 members appointed by the governor to four-year
8325 terms ~~[of office]~~ with the consent of the Senate.

8326 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
8327 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
8328 board members are staggered so that approximately half of the board is appointed every two
8329 years.

8330 (2) The members may not serve more than two full consecutive terms unless the
8331 governor determines that an additional term is in the best interest of the state.

8332 (3) Not more than seven members of the board may be of the same political party.

8333 (4) (a) The members shall be representative of:

8334 (i) all areas of the state with six being appointed from separate geographical areas as
8335 provided in Subsection (4)(b); and

8336 (ii) a diverse mix of business ownership or executive management of tourism related
8337 industries.

8338 (b) The geographical representatives shall be appointed as follows:

8339 (i) one member from Salt Lake, Tooele, or Morgan County;

8340 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

8341 (iii) one member from Utah, Summit, Juab, or Wasatch County;

8342 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

8343 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

8344 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

8345 (c) The tourism industry representatives of ownership or executive management shall

8346 be appointed as follows:

8347 (i) one member from ownership or executive management of the lodging industry, as
8348 recommended by the lodging industry for the governor's consideration;

8349 (ii) one member from ownership or executive management of the restaurant industry,
8350 as recommended by the restaurant industry for the governor's consideration;

8351 (iii) one member from ownership or executive management of the ski industry, as
8352 recommended by the ski industry for the governor's consideration; and

8353 (iv) one member from ownership or executive management of the motor vehicle rental
8354 industry, as recommended by the motor vehicle rental industry for the governor's consideration.

8355 (d) One member shall be appointed at large from ownership or executive management
8356 of business, finance, economic policy, or the academic media marketing community.

8357 (e) One member shall be appointed from the Utah Tourism Industry Coalition as
8358 recommended by the coalition for the governor's consideration.

8359 (f) One member shall be appointed to represent the state's counties as recommended by
8360 the Utah Association of Counties for the governor's consideration.

8361 (g) (i) The governor may choose to disregard a recommendation made for a board
8362 member under Subsections (4)(c), (e), and (f).

8363 (ii) The governor shall request additional recommendations if recommendations are
8364 disregarded under Subsection (4)(g)(i).

8365 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
8366 appointed for the unexpired term from the same geographic area or industry representation as
8367 the member whose office was vacated.

8368 (6) Seven members of the board constitute a quorum for conducting board business and
8369 exercising board powers.

8370 (7) The governor shall select one of the board members as chair and one of the board
8371 members as vice chair, each for a four-year term as recommended by the board for the
8372 governor's consideration.

8373 (8) A member may not receive compensation or benefits for the member's service, but

8374 may receive per diem and travel expenses in accordance with:

8375 (a) Section [63A-3-106](#);

8376 (b) Section [63A-3-107](#); and

8377 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and

8378 [63A-3-107](#).

8379 (9) The board shall meet monthly or as often as the board determines to be necessary at
8380 various locations throughout the state.

8381 (10) Members who may have a potential conflict of interest in consideration of fund
8382 allocation decisions shall identify the potential conflict prior to voting on the issue.

8383 (11) (a) The board shall determine attendance requirements for maintaining a
8384 designated board seat.

8385 (b) If a board member fails to attend according to the requirements established
8386 pursuant to Subsection (11)(a), the board member shall be replaced upon written certification
8387 from the board chair or vice chair to the governor.

8388 (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for
8389 the remainder of the board member's unexpired term.

8390 (12) The board's office shall be in Salt Lake City.

8391 Section 220. Section **63N-7-103**, which is renumbered from Section 63M-1-1403 is
8392 renumbered and amended to read:

8393 ~~**63M-1-1403**~~. **63N-7-103**. **Board duties.**

8394 (1) The board shall:

8395 (a) have authority to approve a tourism program of out-of-state advertising, marketing,
8396 and branding, taking into account the long-term strategic plan, economic trends, and
8397 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8398 funds to the office from the Tourism Marketing Performance Account under Section
8399 ~~[63M-1-1406](#)~~ [63N-7-301](#);

8400 (b) have authority to approve a tourism program of advertising, marketing, and
8401 branding of the state, taking into account the long-term strategic plan, economic trends, and

8402 opportunities for tourism development on a statewide basis, as a condition of the distribution of
8403 money to the office from the Stay Another Day and Bounce Back Account, created in Section
8404 [~~63M-1-3411~~] [63N-2-511](#);

8405 (c) review the office programs for coordination and integration of advertising and
8406 branding themes to be used whenever possible in all office programs, including recreational,
8407 scenic, historic, and tourist attractions of the state at large;

8408 (d) encourage and assist in coordination of the activities of persons, firms, associations,
8409 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and
8410 promoting the scenic attractions and tourist advantages of the state; and

8411 (e) (i) advise the office in establishing a Cooperative Program from the money in the
8412 Tourism Marketing Performance Account under Section [~~63M-1-1406~~] [63N-7-301](#) for use by
8413 cities, counties, nonprofit destination marketing organizations, and similar public entities for
8414 the purpose of supplementing money committed by these entities for advertising and promotion
8415 to and for out-of-state residents to attract them to visit sites advertised by and attend events
8416 sponsored by these entities;

8417 (ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the
8418 office from the Tourism Marketing Performance Account;

8419 (iii) the office, with approval from the board, shall establish eligibility, advertising, and
8420 timing requirements and criteria and provide for an approval process for applications;

8421 (iv) an application from an eligible applicant to receive money from the Cooperative
8422 Program must be submitted on or before the appropriate date established by the office; and

8423 (v) Cooperative Program money not used in each fiscal year shall be returned to the
8424 Tourism Marketing Performance Account.

8425 (2) The board may:

8426 (a) solicit and accept contributions of money, services, and facilities from any other
8427 sources, public or private and shall use these funds for promoting the general interest of the
8428 state in tourism; and

8429 (b) establish subcommittees for the purpose of assisting the board in an advisory role

8430 only.

8431 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy
8432 related to the management or operation of the office.

8433 Section 221. Section **63N-7-201**, which is renumbered from Section 63M-1-1404 is
8434 renumbered and amended to read:

8435 **Part 2. Powers and Duties of Office**

8436 ~~[63M-1-1404]~~. **63N-7-201. Powers and duties of office related to tourism**
8437 **development plan -- Annual report and survey.**

8438 (1) The office shall:

8439 (a) be the tourism development authority of the state;

8440 (b) develop a tourism advertising, marketing, and branding program for the state;

8441 (c) receive approval from the Board of Tourism Development under Subsection
8442 ~~[63M-1-1403]~~ 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing,
8443 and branding campaign;

8444 (d) develop a plan to increase the economic contribution by tourists visiting the state;

8445 (e) plan and conduct a program of information, advertising, and publicity relating to the
8446 recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

8447 (f) encourage and assist in the coordination of the activities of persons, firms,
8448 associations, corporations, travel regions, counties, and governmental agencies engaged in
8449 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
8450 state.

8451 (2) Any plan provided for under Subsection (1) shall address, but not be limited to,
8452 enhancing the state's image, promoting Utah as a year-round destination, encouraging
8453 expenditures by visitors to the state, and expanding the markets where the state is promoted.

8454 (3) The office shall:

8455 (a) conduct a regular and ongoing research program to identify statewide economic
8456 trends and conditions in the tourism sector of the economy; and

8457 (b) include in the annual written report described in Section ~~[63M-1-206]~~ 63N-1-301, a

8458 report on the economic efficiency of the advertising and branding campaigns conducted under
8459 this part.

8460 Section 222. Section **63N-7-202**, which is renumbered from Section 63M-1-1405 is
8461 renumbered and amended to read:

8462 **~~[63M-1-1405]~~. 63N-7-202. Agreements with other governmental entities.**

8463 The office may enter into agreements with state or federal agencies to accept services,
8464 quarters, or facilities as a contribution in carrying out the duties and functions of the office.

8465 Section 223. Section **63N-7-301**, which is renumbered from Section 63M-1-1406 is
8466 renumbered and amended to read:

8467 **Part 3. Tourism Marketing Performance Account**

8468 **~~[63M-1-1406]~~. 63N-7-301. Tourism Marketing Performance Account.**

8469 (1) There is created within the General Fund a restricted account known as the Tourism
8470 Marketing Performance Account.

8471 (2) The account shall be administered by the office for the purposes listed in
8472 Subsection (5).

8473 (3) (a) The account shall earn interest.

8474 (b) All interest earned on account money shall be deposited into the account.

8475 (4) The account shall be funded by appropriations made to the account by the
8476 Legislature in accordance with this section.

8477 (5) The director shall use account money appropriated to the office to pay for the
8478 statewide advertising, marketing, and branding campaign for promotion of the state as
8479 conducted by the office.

8480 (6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually
8481 allocate 10% of the account money appropriated to the office to a sports organization for
8482 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
8483 state.

8484 (b) The sports organization shall:

8485 (i) provide an annual written report to the office that gives a complete accounting of

8486 the use of money the sports organization receives under this Subsection (6); and

8487 (ii) partner with the office to promote the state and to encourage economic growth in
8488 the state.

8489 (c) For purposes of this Subsection (6), "sports organization" means an organization
8490 that is:

8491 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
8492 Revenue Code; and

8493 (ii) created to foster national and international sports competitions in the state,
8494 including competitions related to Olympic sports, and to promote and encourage sports tourism
8495 throughout the state, including advertising, marketing, branding, and promoting Utah for the
8496 purpose of attracting sporting events into the state.

8497 (7) Money deposited into the account shall consist of a legislative appropriation from
8498 the cumulative sales and use tax revenue increases identified in Subsection (8), plus any
8499 appropriation made by the Legislature.

8500 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
8501 revenues determined under this Subsection (8) shall be certified as a set-aside for the account
8502 by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

8503 (b) The State Tax Commission shall determine the set-aside under this Subsection (8)
8504 in each fiscal year by applying the following formula: if the increase in the state sales and use
8505 tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal
8506 year two years prior to the fiscal year in which the set-aside is to be made for the account, is at
8507 least 3% over the state sales and use tax revenues derived from the retail sales of
8508 tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
8509 year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
8510 revenues generated above the 3% increase shall be calculated by the commission and set aside
8511 by the state treasurer for appropriation to the account.

8512 (c) The total money appropriated to the account in any fiscal year under Subsections
8513 (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year

8514 immediately preceding the current fiscal year by more than \$3,000,000.

8515 (d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are
8516 those sales by businesses registered with the State Tax Commission under the following codes
8517 of the 1997 North American Industry Classification System of the federal Executive Office of
8518 the President, Office of Management and Budget:

- 8519 (i) NAICS Code 453 Miscellaneous Store Retailers;
- 8520 (ii) NAICS Code 481 Passenger Air Transportation;
- 8521 (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
- 8522 (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
- 8523 (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
- 8524 (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
- 8525 (vii) NAICS Code 721 Accommodations;
- 8526 (viii) NAICS Code 722 Food Services and Drinking Places;
- 8527 (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
- 8528 (x) NAICS Code 4853 Taxi and Limousine Service;
- 8529 (xi) NAICS Code 4855 Charter Bus;
- 8530 (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
- 8531 (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
- 8532 (xiv) NAICS Code 45111 Sporting Goods Stores;
- 8533 (xv) NAICS Code 45112 Hobby Toy and Game Stores;
- 8534 (xvi) NAICS Code 45121 Book Stores and News Dealers;
- 8535 (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
- 8536 (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
- 8537 (xix) NAICS Code 447190 Other Gasoline Stations;
- 8538 (xx) NAICS Code 532111 Passenger Car Rental; and
- 8539 (xxi) NAICS Code 532292 Recreational Goods Rental.

8540 (e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of
8541 ongoing money in the account to the General Fund.

8542 Section 224. Section **63N-8-101**, which is renumbered from Section 63M-1-1801 is
8543 renumbered and amended to read:

8544 **CHAPTER 8. MOTION PICTURE INCENTIVES**

8545 ~~[63M-1-1801]~~. **63N-8-101. Title -- Purpose.**

8546 (1) This chapter is known as "Motion Picture Incentives."

8547 ~~[(1)]~~ (2) The Legislature finds that:

8548 (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety
8549 of magnificent settings from which the motion picture industry can choose to film part or all of
8550 major or independent motion pictures, made-for-television movies, and television series;

8551 (b) the state has an abundance of resources, including a skilled and able workforce, the
8552 required infrastructure, and a friendly and hospitable populace that have been instrumental in
8553 the filming of hundreds of successful motion pictures and several television series; and

8554 (c) further development of the motion picture industry in Utah is a state public purpose
8555 that will significantly impact growth in the state's economy and contribute to the fiscal well
8556 being of the state and its people.

8557 ~~[(2)]~~ (3) The purpose of this ~~[part]~~ chapter is to:

8558 (a) encourage the use of Utah as a site for the production of motion pictures, television
8559 series, and made-for-television movies;

8560 (b) provide financial incentives to the film industry so that Utah might compete
8561 successfully with other states and countries for filming locations; and

8562 (c) help develop a strong motion picture industry presence in the state that will
8563 contribute substantially to improving the state's economy.

8564 Section 225. Section **63N-8-102**, which is renumbered from Section 63M-1-1802 is
8565 renumbered and amended to read:

8566 ~~[63M-1-1802]~~. **63N-8-102. Definitions.**

8567 As used in this ~~[part]~~ chapter:

8568 ~~[(1) "Board" means the Governor's Office of Economic Development Board.]~~

8569 ~~[(2)]~~ (1) "Digital media company" means a company engaged in the production of a

8570 digital media project.

8571 ~~[(3)]~~ (2) "Digital media project" means all or part of a production of interactive
8572 entertainment or animated production that is produced for distribution in commercial or
8573 educational markets, which shall include projects intended for Internet or wireless distribution.

8574 ~~[(4)]~~ (3) "Dollars left in the state" means expenditures made in the state for a
8575 state-approved production, including:

8576 (a) an expenditure that is subject to:

8577 (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise
8578 and Income Taxes;

8579 (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;
8580 and

8581 (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act,
8582 notwithstanding any sales and use tax exemption allowed by law; or

8583 (iv) a combination of Subsections ~~[(4)]~~ (3)(a)(i), (ii), and (iii);

8584 (b) payments made to a nonresident only to the extent of the income tax paid to the
8585 state on the payments, the amount of per diems paid in the state, and other direct
8586 reimbursements transacted in the state; and

8587 (c) payments made to a payroll company or loan-out corporation that is registered to do
8588 business in the state, only to the extent of the amount of withholding under Section [59-10-402](#).

8589 ~~[(5)]~~ (4) "Loan-out corporation" means a corporation owned by one or more artists that
8590 provides services of the artists to a third party production company.

8591 ~~[(6)]~~ (5) "Motion picture company" means a company engaged in the production of:

8592 (a) motion pictures;

8593 (b) television series; or

8594 (c) made-for-television movies.

8595 ~~[(7)]~~ (6) "Motion picture incentive" means either a cash rebate from the Motion Picture
8596 Incentive Account or a refundable tax credit under Section [59-7-614.5](#) or [59-10-1108](#).

8597 ~~[(8)]~~ (7) "New state revenues" means:

8598 (a) incremental new state sales and use tax revenues generated as a result of a digital
 8599 media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax
 8600 Act;

8601 (b) incremental new state tax revenues that a digital media company pays as a result of
 8602 a digital media project under:

8603 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

8604 (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
 8605 Information;

8606 (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

8607 (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

8608 (v) a combination of Subsections ~~[(8)]~~ (7)(b)(i), (ii), (iii), and (iv);

8609 (c) incremental new state revenues generated as individual income taxes under Title
 8610 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by
 8611 employees of the new digital media project as evidenced by payroll records from the digital
 8612 media company; or

8613 (d) a combination of Subsections ~~[(8)]~~ (7)(a), (b), and (c).

8614 ~~[(9)] "Office" means the Governor's Office of Economic Development.]~~

8615 ~~[(10)]~~ (8) "Payroll company" means a business entity that handles the payroll and
 8616 becomes the employer of record for the staff, cast, and crew of a motion picture production.

8617 ~~[(11)]~~ (9) "Refundable tax credit" means a refundable motion picture tax credit
 8618 authorized under Section ~~[63M-1-1803]~~ 63N-8-103 and claimed under Section 59-7-614.5 or
 8619 59-10-1108.

8620 ~~[(12)]~~ (10) "Restricted account" means the Motion Picture Incentive Account created in
 8621 Section ~~[63M-1-1803]~~ 63N-8-103.

8622 ~~[(13)]~~ (11) "State-approved production" means a production under Subsections ~~[(3)]~~
 8623 (2) and ~~[(6)]~~ (5) that is:

8624 (a) approved by the office and ratified by the board; and

8625 (b) produced in the state by a motion picture company.

8626 [(14)] (12) "Tax credit amount" means the amount the office lists as a tax credit on a
8627 tax credit certificate for a taxable year.

8628 [(15)] (13) "Tax credit certificate" means a certificate issued by the office that:

8629 (a) lists the name of the applicant;

8630 (b) lists the applicant's taxpayer identification number;

8631 (c) lists the amount of tax credit that the office awards the applicant for the taxable
8632 year; and

8633 (d) may include other information as determined by the office.

8634 Section 226. Section **63N-8-103**, which is renumbered from Section 63M-1-1803 is
8635 renumbered and amended to read:

8636 ~~[63M-1-1803].~~ **63N-8-103. Motion Picture Incentive Account created --**
8637 **Cash rebate incentives -- Refundable tax credit incentives.**

8638 (1) (a) There is created within the General Fund a restricted account known as the
8639 Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives
8640 for state-approved productions by a motion picture company.

8641 (b) All interest generated from investment of money in the restricted account shall be
8642 deposited in the restricted account.

8643 (c) The restricted account shall consist of an annual appropriation by the Legislature.

8644 (d) The office shall:

8645 (i) with the advice of the board, administer the restricted account; and

8646 (ii) make payments from the restricted account as required under this section.

8647 (e) The cost of administering the restricted account shall be paid from money in the
8648 restricted account.

8649 (2) (a) A motion picture company or digital media company seeking disbursement of
8650 an incentive allowed under an agreement with the office shall follow the procedures and
8651 requirements of this Subsection (2).

8652 (b) The motion picture company or digital media company shall provide the office with
8653 a report identifying and documenting the dollars left in the state or new state revenues

8654 generated by the motion picture company or digital media company for its state-approved
8655 production, including any related tax returns by the motion picture company, payroll company,
8656 digital media company, or loan-out corporation under Subsection (2)(d).

8657 (c) For a motion picture company, an independent certified public accountant shall:

8658 (i) review the report submitted by the motion picture company; and

8659 (ii) attest to the accuracy and validity of the report, including the amount of dollars left
8660 in the state.

8661 (d) The motion picture company, digital media company, payroll company, or loan-out
8662 corporation shall provide the office with a document that expressly directs and authorizes the
8663 State Tax Commission to disclose the entity's tax returns and other information concerning the
8664 entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
8665 6103, Internal Revenue Code, to the office.

8666 (e) The office shall submit the document described in Subsection (2)(d) to the State
8667 Tax Commission.

8668 (f) Upon receipt of the document described in Subsection (2)(d), the State Tax
8669 Commission shall provide the office with the information requested by the office that the
8670 motion picture company, digital media company, payroll company, or loan-out corporation
8671 directed or authorized the State Tax Commission to provide to the office in the document
8672 described in Subsection (2)(d).

8673 (g) Subject to Subsection (3), for a motion picture company the office shall:

8674 (i) review the report from the motion picture company described in Subsection (2)(b)
8675 and verify that it was reviewed by an independent certified public accountant as described in
8676 Subsection (2)(c); and

8677 (ii) based upon the certified public accountant's attestation under Subsection (2)(c),
8678 determine the amount of the incentive that the motion picture company is entitled to under its
8679 agreement with the office.

8680 (h) Subject to Subsection (3), for a digital media company, the office shall:

8681 (i) ensure the digital media project results in new state revenue; and

8682 (ii) based upon review of new state revenue, determine the amount of the incentive that
8683 a digital media company is entitled to under its agreement with the office.

8684 (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
8685 shall pay the incentive from the restricted account to the motion picture company,
8686 notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).

8687 (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
8688 59-10-1108, the office shall:

8689 (i) issue a tax credit certificate to the motion picture company or digital media
8690 company; and

8691 (ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

8692 (k) A motion picture company or digital media company may not claim a motion
8693 picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
8694 or digital media company has received a tax credit certificate for the claim issued by the office
8695 under Subsection (2)(j)(i).

8696 (l) A motion picture company or digital media company may claim a motion picture
8697 tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.

8698 (m) A motion picture company or digital media company that claims a tax credit under
8699 Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
8700 accordance with Subsection [~~63M-1-1804~~] 63N-8-104(6).

8701 (3) (a) Subject to Subsection (3)(b), the office may issue \$6,793,700 in tax credit
8702 certificates under this part in a fiscal year.

8703 (b) If the office does not issue tax credit certificates in a fiscal year totaling the amount
8704 authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent
8705 fiscal years.

8706 Section 227. Section 63N-8-104, which is renumbered from Section 63M-1-1804 is
8707 renumbered and amended to read:

8708 [~~63M-1-1804~~]. **63N-8-104. Motion picture incentives -- Standards to qualify**
8709 **for an incentive -- Limitations -- Content of agreement between office and motion picture**

8710 **company or digital media company.**

8711 (1) In addition to the requirements for receiving a motion picture incentive as set forth
8712 in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative
8713 Rulemaking Act, shall make rules establishing:

8714 (a) the standards that a motion picture company or digital media company must meet to
8715 qualify for the motion picture incentive; and

8716 (b) criteria for determining the amount of the incentive.

8717 (2) The office shall ensure that those standards include the following:

8718 (a) an incentive may only be issued for a state approved production by a motion picture
8719 company or digital media company;

8720 (b) financing has been obtained and is in place for the production; and

8721 (c) the economic impact of the production on the state represents new incremental
8722 economic activity in the state as opposed to existing economic activity.

8723 (3) With respect to a digital media project, the office shall consider economic
8724 modeling, including the costs and benefits of the digital media project to state and local
8725 governments in determining the motion picture incentive amount.

8726 (4) The office may also consider giving preference to a production that stimulates
8727 economic activity in rural areas of the state or that has Utah content, such as recognizing that
8728 the production was made in the state or uses Utah as Utah in the production.

8729 (5) (a) The office, with advice from the board, may enter into an agreement with a
8730 motion picture company or digital media company that meets the standards established under
8731 this section and satisfies the other qualification requirements under this part.

8732 (b) Subject to Subsection [~~63M-1-1803~~] [63N-8-103](#)(3), the office may commit or
8733 authorize a motion picture incentive:

8734 (i) to a motion picture company of up to 20% of the dollars left in the state by the
8735 motion picture company, and a motion picture company can receive an additional 5%, not to
8736 exceed 25% of the dollars left in the state by the motion picture company if the company
8737 fulfills certain requirements determined by the office including:

- 8738 (A) employing a significant percentage of cast and crew from Utah;
- 8739 (B) highlighting the state of Utah and the Utah Film Commission in the motion picture
- 8740 credits; or
- 8741 (C) other promotion opportunities as agreed upon by the office and the motion picture
- 8742 company; and
- 8743 (ii) to a digital media company, if the incentive does not exceed 100% of the new state
- 8744 revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left
- 8745 in the state by the digital media company.
- 8746 (c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may
- 8747 not exceed \$500,000 per state approved production for a motion picture project.
- 8748 (d) The office may not give a cash rebate incentive from the Motion Picture Incentive
- 8749 Restricted Account for a digital media project.
- 8750 (6) The office shall ensure that the agreement entered into with a motion picture
- 8751 company or digital media company under Subsection (5)(a):
- 8752 (a) details the requirements that the motion picture company or digital media company
- 8753 must meet to qualify for an incentive under this part;
- 8754 (b) specifies:
- 8755 (i) the nature of the incentive; and
- 8756 (ii) the maximum amount of the motion picture incentive that the motion picture
- 8757 company or digital media company may earn for a taxable year and over the life of the
- 8758 production;
- 8759 (c) establishes the length of time over which the motion picture company or digital
- 8760 media company may claim the motion picture incentive;
- 8761 (d) requires the motion picture company or digital media company to retain records
- 8762 supporting its claim for a motion picture incentive for at least four years after the motion
- 8763 picture company or digital media company claims the incentive under this part; and
- 8764 (e) requires the motion picture company or digital media company to submit to audits
- 8765 for verification of the claimed motion picture incentive.

8766 Section 228. Section **63N-8-105**, which is renumbered from Section 63M-1-1805 is
8767 renumbered and amended to read:

8768 ~~[63M-1-1805]~~. **63N-8-105. Annual report.**

8769 The office shall include the following information in the annual written report described
8770 in Section ~~[63M-1-206]~~ 63N-1-301:

8771 (1) the office's success in attracting within-the-state production of television series,
8772 made-for-television movies, and motion pictures, including feature films and independent
8773 films;

8774 (2) the amount of incentive commitments made by the office under this part and the
8775 period of time over which the incentives will be paid; and

8776 (3) the economic impact on the state related to:

8777 (a) dollars left in the state; and

8778 (b) providing motion picture incentives under this part.

8779 Section 229. Section **63N-9-101**, which is renumbered from Section 63M-1-3301 is
8780 renumbered and amended to read:

8781 **CHAPTER 9. UTAH OFFICE OF OUTDOOR RECREATION**

8782 ~~[63M-1-3301]~~. **63N-9-101. Title.**

8783 This ~~[part]~~ chapter is known as the "Utah Office of Outdoor Recreation [Office Act]."

8784 Section 230. Section **63N-9-102**, which is renumbered from Section 63M-1-3302 is
8785 renumbered and amended to read:

8786 ~~[63M-1-3302]~~. **63N-9-102. Definitions.**

8787 As used in this ~~[part]~~ chapter:

8788 (1) "Director" means the director of the outdoor recreation office.

8789 (2) "Executive director" means the executive director of ~~[the Governor's Office of~~
8790 ~~Economic Development created in Section ~~63M-1-201~~]~~ GOED.

8791 (3) ~~["Office"]~~ "Outdoor recreation office" means the Utah Office of Outdoor
8792 Recreation [Office] created in Section ~~[63M-1-3304]~~ 63N-9-104.

8793 Section 231. Section **63N-9-103**, which is renumbered from Section 63M-1-3303 is

8794 renumbered and amended to read:

8795 ~~[63M-1-3303]~~. 63N-9-103. **Policy.**

8796 It is the declared policy of the state that outdoor recreation is vital to a diverse economy
8797 and a healthy community.

8798 Section 232. Section **63N-9-104**, which is renumbered from Section 63M-1-3304 is
8799 renumbered and amended to read:

8800 ~~[63M-1-3304]~~. 63N-9-104. **Creation of office and appointment of director --**

8801 **Purposes of office.**

8802 (1) There is created within the Governor's Office of Economic Development [an] the
8803 Utah Office of Outdoor Recreation [~~Office~~].

8804 (2) (a) The executive director shall appoint a director of the outdoor recreation office.

8805 (b) The director shall report to the executive director and may appoint staff.

8806 (3) The purposes of the office are to:

8807 (a) coordinate outdoor recreation policy, management, and promotion:

8808 (i) among state and federal agencies and local government entities in the state; and

8809 (ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if
8810 public land is involved;

8811 (b) promote economic development by:

8812 (i) coordinating with outdoor recreation stakeholders;

8813 (ii) improving recreational opportunities; and

8814 (iii) recruiting outdoor recreation business;

8815 (c) recommend to the governor and Legislature policies and initiatives to enhance
8816 recreational amenities and experiences in the state and help implement those policies and
8817 initiatives;

8818 (d) develop data regarding the impacts of outdoor recreation in the state; and

8819 (e) promote the health and social benefits of outdoor recreation, especially to young
8820 people.

8821 Section 233. Section **63N-9-105**, which is renumbered from Section 63M-1-3305 is

8822 renumbered and amended to read:

8823 ~~[63M-1-3305]~~. 63N-9-105. Duties of director.

8824 (1) The director shall:

8825 (a) assure that the purposes outlined in Subsection ~~[63M-1-3304]~~ 63N-9-104(3) are
8826 fulfilled; and

8827 (b) organize and provide administrative oversight to the outdoor recreation office staff.

8828 (2) By following the procedures and requirements of Title 63J, Chapter 5, Federal
8829 Funds Procedures Act, the outdoor recreation office may:

8830 (a) seek federal grants or loans;

8831 (b) seek to participate in federal programs; and

8832 (c) in accordance with applicable federal program guidelines, administer federally
8833 funded outdoor recreation programs.

8834 (3) For purposes of administering this part, the outdoor recreation office may make
8835 rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

8836 Section 234. Section 63N-9-106, which is renumbered from Section 63M-1-3306 is
8837 renumbered and amended to read:

8838 ~~[63M-1-3306]~~. 63N-9-106. Annual report.

8839 The executive director shall include in the annual written report described in Section
8840 ~~[63M-1-206]~~ 63N-1-301, a report from the director on the activities of the outdoor recreation
8841 office.

8842 Section 235. Section 63N-10-101, which is renumbered from Section 63C-11-101 is
8843 renumbered and amended to read:

8844 **CHAPTER 10. PETE SUAZO UTAH ATHLETIC COMMISSION ACT**

8845 **Part 1. General Provisions**

8846 ~~[63C-11-101]~~. 63N-10-101. Title.

8847 This chapter is known as the "Pete Suazo Utah Athletic Commission Act."

8848 Section 236. Section 63N-10-102, which is renumbered from Section 63C-11-102 is
8849 renumbered and amended to read:

8850 ~~[63C-11-102].~~ 63N-10-102. Definitions.

8851 As used in this chapter:

8852 (1) "Bodily injury" [is] has the same meaning as defined in Section 76-1-601.

8853 (2) "Boxing" means the sport of attack and defense using the fist, which is covered by
8854 an approved boxing glove.

8855 (3) (a) "Club fighting" means any contest of unarmed combat, whether admission is
8856 charged or not, where:

8857 (i) the rules of the contest are not approved by the commission;

8858 (ii) a licensed physician or osteopath approved by the commission is not in attendance;

8859 (iii) a correct HIV negative test regarding each contestant has not been provided to the
8860 commission;

8861 (iv) the contest is not conducted in accordance with commission rules; or

8862 (v) the contestants are not matched by the weight standards established in accordance
8863 with Section 63C-11-316.

8864 (b) "Club fighting" does not include sparring if:

8865 (i) it is conducted for training purposes;

8866 (ii) no tickets are sold to spectators;

8867 (iii) no concessions are available for spectators;

8868 (iv) protective clothing, including protective headgear, a mouthguard, and a protective
8869 cup, is worn; and

8870 (v) for boxing, 16 ounce boxing gloves are worn.

8871 (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this
8872 chapter.

8873 (5) "Contest" means a live match, performance, or exhibition involving two or more
8874 persons engaged in unarmed combat.

8875 (6) "Contestant" means an individual who participates in a contest.

8876 (7) "Designated commission member" means a member of the commission designated
8877 to:

- 8878 (a) attend and supervise a particular contest; and
- 8879 (b) act on the behalf of the commission at a contest venue.
- 8880 (8) "Director" means the director appointed by the commission.
- 8881 (9) "Elimination unarmed combat contest" means a contest where:
- 8882 (a) a number of contestants participate in a tournament;
- 8883 (b) the duration is not more than 48 hours; and
- 8884 (c) the loser of each contest is eliminated from further competition.
- 8885 (10) "Exhibition" means an engagement in which the participants show or display their
- 8886 skills without necessarily striving to win.
- 8887 (11) "Judge" means an individual qualified by training or experience to:
- 8888 (a) rate the performance of contestants;
- 8889 (b) score a contest; and
- 8890 (c) determine with other judges whether there is a winner of the contest or whether the
- 8891 contestants performed equally, resulting in a draw.
- 8892 (12) "Licensee" means an individual licensed by the commission to act as a:
- 8893 (a) contestant;
- 8894 (b) judge;
- 8895 (c) manager;
- 8896 (d) promoter;
- 8897 (e) referee;
- 8898 (f) second; or
- 8899 (g) other official established by the commission by rule.
- 8900 (13) "Manager" means an individual who represents a contestant for the purpose of:
- 8901 (a) obtaining a contest for a contestant;
- 8902 (b) negotiating terms and conditions of the contract under which the contestant will
- 8903 engage in a contest; or
- 8904 (c) arranging for a second for the contestant at a contest.
- 8905 (14) "Promoter" means a person who engages in producing or staging contests and

8906 promotions.

8907 (15) "Promotion" means a single contest or a combination of contests that:

8908 (a) occur during the same time and at the same location; and

8909 (b) is produced or staged by a promoter.

8910 (16) "Purse" means any money, prize, remuneration, or any other valuable

8911 consideration a contestant receives or may receive for participation in a contest.

8912 (17) "Referee" means an individual qualified by training or experience to act as the

8913 official attending a contest at the point of contact between contestants for the purpose of:

8914 (a) enforcing the rules relating to the contest;

8915 (b) stopping the contest in the event the health, safety, and welfare of a contestant or

8916 any other person in attendance at the contest is in jeopardy; and

8917 (c) acting as a judge if so designated by the commission.

8918 (18) "Round" means one of a number of individual time periods that, taken together,

8919 constitute a contest during which contestants are engaged in a form of unarmed combat.

8920 (19) "Second" means an individual who attends a contestant at the site of the contest

8921 before, during, and after the contest in accordance with contest rules.

8922 (20) "Serious bodily injury" [~~is~~] has the same meaning as defined in Section [76-1-601](#).

8923 (21) "Total gross receipts" means the amount of the face value of all tickets sold to a

8924 particular contest plus any sums received as consideration for holding the contest at a particular

8925 location.

8926 (22) "Ultimate fighting" means a live contest, whether or not an admission fee is

8927 charged, in which:

8928 (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling,

8929 hitting, punching, or other combative contact techniques;

8930 (b) contest rules incorporate a formalized system of combative techniques against

8931 which a contestant's performance is judged to determine the prevailing contestant;

8932 (c) contest rules divide nonchampionship contests into three equal and specified rounds

8933 of no more than five minutes per round with a rest period of one minute between each round;

8934 (d) contest rules divide championship contests into five equal and specified rounds of
8935 no more than five minutes per round with a rest period of one minute between each round; and

8936 (e) contest rules prohibit contestants from:

8937 (i) using anything that is not part of the human body, except for boxing gloves, to
8938 intentionally inflict serious bodily injury upon an opponent through direct contact or the
8939 expulsion of a projectile;

8940 (ii) striking a person who demonstrates an inability to protect himself from the
8941 advances of an opponent;

8942 (iii) biting; or

8943 (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of
8944 the neck, and the rear area of the head and neck.

8945 (23) (a) "Unarmed combat" means boxing or any other form of competition in which a
8946 blow is usually struck which may reasonably be expected to inflict bodily injury.

8947 (b) "Unarmed combat" does not include a competition or exhibition between
8948 participants in which the participants engage in simulated combat for entertainment purposes.

8949 (24) "Unlawful conduct" means organizing, promoting, or participating in a contest
8950 which involves contestants that are not licensed under this chapter.

8951 (25) "Unprofessional conduct" means:

8952 (a) entering into a contract for a contest in bad faith;

8953 (b) participating in any sham or fake contest;

8954 (c) participating in a contest pursuant to a collusive understanding or agreement in
8955 which the contestant competes in or terminates the contest in a manner that is not based upon
8956 honest competition or the honest exhibition of the skill of the contestant;

8957 (d) engaging in an act or conduct that is detrimental to a contest, including any foul or
8958 unsportsmanlike conduct in connection with a contest;

8959 (e) failing to comply with any limitation, restriction, or condition placed on a license;

8960 (f) striking of a downed opponent by a contestant while the contestant remains on the
8961 contestant's feet, unless the designated commission member or director has exempted the

8962 contest and each contestant from the prohibition on striking a downed opponent before the start
8963 of the contest;

8964 (g) after entering the ring or contest area, penetrating an area within four feet of an
8965 opponent by a contestant, manager, or second before the commencement of the contest; or

8966 (h) as further defined by rules made by the commission under Title 63G, Chapter 3,
8967 Utah Administrative Rulemaking Act.

8968 (26) "White-collar contest" means a contest conducted at a training facility where no
8969 alcohol is served in which:

8970 (a) for boxing:

8971 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8972 registered with USA Boxing, Inc.;

8973 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

8974 (iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
8975 and for a female contestant a chestguard, is worn;

8976 (iv) 16 ounce boxing gloves are worn;

8977 (v) the contest is no longer than three rounds of no longer than three minutes each;

8978 (vi) no winner or loser is declared or recorded; and

8979 (vii) the contestants do not compete in a cage; and

8980 (b) for ultimate fighting:

8981 (i) neither contestant is or has been a licensed contestant in any state or an amateur
8982 registered with USA Boxing, Inc.;

8983 (ii) no cash prize, or other prize valued at greater than \$35, is awarded;

8984 (iii) protective clothing, including a protective mouthguard and a protective cup, is
8985 worn;

8986 (iv) downward elbow strikes are not allowed;

8987 (v) a contestant is not allowed to stand and strike a downed opponent;

8988 (vi) a closed-hand blow to the head is not allowed while either contestant is on the
8989 ground;

8990 (vii) the contest is no longer than three rounds of no longer than three minutes each;
 8991 and
 8992 (viii) no winner or loser is declared or recorded.

8993 Section 237. Section **63N-10-201**, which is renumbered from Section 63C-11-201 is
 8994 renumbered and amended to read:

8995 **Part 2. Pete Suazo Utah Athletic Commission**

8996 ~~[63C-11-201].~~ **63N-10-201. Commission -- Creation -- Appointments --**
 8997 **Terms -- Expenses -- Quorum.**

8998 (1) There is created within the [~~Governor's Office of Economic Development~~] office
 8999 the Pete Suazo Utah Athletic Commission consisting of five members.

9000 (2) (a) The governor shall appoint three commission members.

9001 (b) The president of the Senate and the speaker of the House of Representatives shall
 9002 each appoint one commission member.

9003 (c) The commission members may not be licensees under this chapter.

9004 (d) A member of the commission serving on June 30, 2009, shall continue as a member
 9005 of the commission until the expiration of the member's term then existing, or until the
 9006 expiration of any subsequent term to which the member is appointed.

9007 (3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the
 9008 governor, president, or speaker, respectively, shall appoint each new member or reappointed
 9009 member to a four-year term.

9010 (b) The governor shall, at the time of appointment or reappointment, adjust the length
 9011 of the governor's appointees' terms to ensure that the terms of members are staggered so that
 9012 approximately half of the commission is appointed every two years.

9013 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
 9014 appointed for the unexpired term.

9015 (d) If a commission member fails or refuses to fulfill the responsibilities and duties of a
 9016 commission member, including the attendance at commission meetings, the governor,
 9017 president, or speaker, respectively, with the approval of the commission, may remove the

9018 commission member and replace the member in accordance with this section.

9019 (4) (a) A majority of the commission members constitutes a quorum.

9020 (b) A majority of a quorum is sufficient authority for the commission to act.

9021 (5) A member may not receive compensation or benefits for the member's service, but
9022 may receive per diem and travel expenses in accordance with:

9023 (a) Section [63A-3-106](#);

9024 (b) Section [63A-3-107](#); and

9025 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections [63A-3-106](#) and
9026 [63A-3-107](#).

9027 (6) The commission shall annually designate one of its members to serve as chair for a
9028 one-year period.

9029 Section 238. Section **63N-10-202**, which is renumbered from Section 63C-11-202 is
9030 renumbered and amended to read:

9031 ~~**63C-11-202**~~. **63N-10-202**. **Commission powers and duties.**

9032 (1) The commission shall:

9033 (a) purchase and use a seal;

9034 (b) adopt rules for the administration of this chapter in accordance with Title 63G,
9035 Chapter 3, Utah Administrative Rulemaking Act;

9036 (c) prepare all forms of contracts between sponsors, licensees, promoters, and
9037 contestants; and

9038 (d) hold hearings relating to matters under its jurisdiction, including violations of this
9039 chapter or rules made under this chapter.

9040 (2) The commission may subpoena witnesses, take evidence, and require the
9041 production of books, papers, documents, records, contracts, recordings, tapes, correspondence,
9042 or other information relevant to an investigation if the commission or its designee considers it
9043 necessary.

9044 Section 239. Section **63N-10-203**, which is renumbered from Section 63C-11-203 is
9045 renumbered and amended to read:

9046 ~~[63C-11-203]~~. 63N-10-203. **Commission director.**

9047 (1) The commission shall employ a director, who may not be a member of the
9048 commission, to conduct the commission's business.

9049 (2) The director serves at the pleasure of the commission.

9050 Section 240. Section **63N-10-204**, which is renumbered from Section 63C-11-204 is
9051 renumbered and amended to read:

9052 ~~[63C-11-204]~~. 63N-10-204. **Inspectors.**

9053 (1) The commission may appoint one or more official representatives to be designated
9054 as inspectors, who shall serve at the pleasure of the commission.

9055 (2) Each inspector must receive from the commission a card authorizing that inspector
9056 to act as an inspector for the commission.

9057 (3) An inspector may not promote or sponsor any contest.

9058 (4) Each inspector may receive a fee approved by the commission for the performance
9059 of duties under this chapter.

9060 Section 241. Section **63N-10-205**, which is renumbered from Section 63C-11-205 is
9061 renumbered and amended to read:

9062 ~~[63C-11-205]~~. 63N-10-205. **Affiliation with other commissions.**

9063 The commission may affiliate with any other state, tribal, or national boxing
9064 commission or athletic authority.

9065 Section 242. Section **63N-10-301**, which is renumbered from Section 63C-11-301 is
9066 renumbered and amended to read:

Part 3. Licensing

9067
9068 ~~[63C-11-301]~~. 63N-10-301. **Licensing.**

9069 (1) A license is required for a person to act as or to represent that the person is:

9070 (a) a promoter;

9071 (b) a manager;

9072 (c) a contestant;

9073 (d) a second;

- 9074 (e) a referee;
- 9075 (f) a judge; or
- 9076 (g) another official established by the commission by rule.
- 9077 (2) The commission shall issue to a person who qualifies under this chapter a license in
- 9078 the classifications of:
 - 9079 (a) promoter;
 - 9080 (b) manager;
 - 9081 (c) contestant;
 - 9082 (d) second;
 - 9083 (e) referee;
 - 9084 (f) judge; or
 - 9085 (g) another official who meets the requirements established by rule under Subsection
 - 9086 (1)(g).
- 9087 (3) ~~[(a)]~~ All money collected ~~[pursuant to]~~ under this section and Sections
- 9088 ~~[63C-11-304, 63C-11-307, 63C-11-310, and 63C-11-313]~~ 63N-10-304, 63N-10-307,
- 9089 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission
- 9090 expenses.
- 9091 ~~[(b) All money available to the commission under Subsection (3)(a) to pay for~~
- 9092 ~~commission expenses is nonlapsing for fiscal year 2009-10 only.]~~
- 9093 (4) Each applicant for licensure as a promoter shall:
 - 9094 (a) submit an application in a form prescribed by the commission;
 - 9095 (b) pay the fee determined by the commission under Section 63J-1-504;
 - 9096 (c) provide to the commission evidence of financial responsibility, which shall include
 - 9097 financial statements and other information that the commission may reasonably require to
 - 9098 determine that the applicant or licensee is able to competently perform as and meet the
 - 9099 obligations of a promoter in this state;
 - 9100 (d) make assurances that the applicant:
 - 9101 (i) is not engaging in illegal gambling with respect to sporting events or gambling with

9102 respect to the promotions the applicant is promoting;

9103 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9104 attempted to engage in any fraud or misrepresentation in connection with a contest or any other
9105 sporting event; and

9106 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9107 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9108 to the regulation of contests in this state or any other jurisdiction;

9109 (e) acknowledge in writing to the commission receipt, understanding, and intent to
9110 comply with this chapter and the rules made under this chapter; and

9111 (f) if requested by the commission or the director, meet with the commission or the
9112 director to examine the applicant's qualifications for licensure.

9113 (5) Each applicant for licensure as a contestant shall:

9114 (a) be not less than 18 years of age at the time the application is submitted to the
9115 commission;

9116 (b) submit an application in a form prescribed by the commission;

9117 (c) pay the fee established by the commission under Section [63J-1-504](#);

9118 (d) provide a certificate of physical examination, dated not more than 60 days prior to
9119 the date of application for licensure, in a form provided by the commission, completed by a
9120 licensed physician and surgeon certifying that the applicant is free from any physical or mental
9121 condition that indicates the applicant should not engage in activity as a contestant;

9122 (e) make assurances that the applicant:

9123 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9124 respect to a contest in which the applicant will participate;

9125 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9126 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9127 any other sporting event; and

9128 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9129 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating

- 9130 to the regulation of contests in this state or any other jurisdiction;
- 9131 (f) acknowledge in writing to the commission receipt, understanding, and intent to
9132 comply with this chapter and the rules made under this chapter; and
- 9133 (g) if requested by the commission or the director, meet with the commission or the
9134 director to examine the applicant's qualifications for licensure.
- 9135 (6) Each applicant for licensure as a manager or second shall:
- 9136 (a) submit an application in a form prescribed by the commission;
- 9137 (b) pay a fee determined by the commission under Section [63J-1-504](#);
- 9138 (c) make assurances that the applicant:
- 9139 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9140 respect to a contest in which the applicant is participating;
- 9141 (ii) has not been found in a criminal or civil proceeding to have engaged in or
9142 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9143 any other sporting event; and
- 9144 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9145 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
9146 to the regulation of contests in this state or any other jurisdiction;
- 9147 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9148 comply with this chapter and the rules made under this chapter; and
- 9149 (e) if requested by the commission or director, meet with the commission or the
9150 director to examine the applicant's qualifications for licensure.
- 9151 (7) Each applicant for licensure as a referee or judge shall:
- 9152 (a) submit an application in a form prescribed by the commission;
- 9153 (b) pay a fee determined by the commission under Section [63J-1-504](#);
- 9154 (c) make assurances that the applicant:
- 9155 (i) is not engaging in illegal gambling with respect to sporting events or gambling with
9156 respect to a contest in which the applicant is participating;
- 9157 (ii) has not been found in a criminal or civil proceeding to have engaged in or

9158 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
9159 any other sporting event; and

9160 (iii) has not been found in a criminal or civil proceeding to have violated or attempted
9161 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
9162 to the regulation of contests in this state or any other jurisdiction;

9163 (d) acknowledge in writing to the commission receipt, understanding, and intent to
9164 comply with this chapter and the rules made under this chapter;

9165 (e) provide evidence satisfactory to the commission that the applicant is qualified by
9166 training and experience to competently act as a referee or judge in a contest; and

9167 (f) if requested by the commission or the director, meet with the commission or the
9168 director to examine the applicant's qualifications for licensure.

9169 (8) The commission may make rules concerning the requirements for a license under
9170 this chapter, that deny a license to an applicant for the violation of a crime that, in the
9171 commission's determination, would have a material affect on the integrity of a contest held
9172 under this chapter.

9173 (9) (a) A licensee serves at the pleasure, and under the direction, of the commission
9174 while participating in any way at a contest.

9175 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not
9176 follow the commission's direction at an event or contest.

9177 Section 243. Section **63N-10-302**, which is renumbered from Section 63C-11-302 is
9178 renumbered and amended to read:

9179 ~~**[63C-11-302].**~~ **63N-10-302. Term of license -- Expiration -- Renewal.**

9180 (1) The commission shall issue each license under this chapter in accordance with a
9181 renewal cycle established by rule.

9182 (2) At the time of renewal, the licensee shall show satisfactory evidence of compliance
9183 with renewal requirements established by rule by the commission.

9184 (3) Each license automatically expires on the expiration date shown on the license
9185 unless the licensee renews it in accordance with the rules established by the commission.

9186 Section 244. Section **63N-10-303**, which is renumbered from Section 63C-11-303 is
9187 renumbered and amended to read:

9188 ~~[63C-11-303]~~. **63N-10-303. Grounds for denial of license -- Disciplinary**
9189 **proceedings -- Reinstatement.**

9190 (1) The commission shall refuse to issue a license to an applicant and shall refuse to
9191 renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of
9192 a licensee who does not meet the qualifications for licensure under this chapter.

9193 (2) The commission may refuse to issue a license to an applicant and may refuse to
9194 renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand
9195 to, or otherwise act upon the license of any licensee if:

9196 (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as
9197 defined by statute or rule under this chapter;

9198 (b) the applicant or licensee has been determined to be mentally incompetent for any
9199 reason by a court of competent jurisdiction; or

9200 (c) the applicant or licensee is unable to practice the occupation or profession with
9201 reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics,
9202 chemicals, or any other type of material, or as a result of any other mental or physical
9203 condition, when the licensee's condition demonstrates a threat or potential threat to the public
9204 health, safety, or welfare, as determined by a ringside physician or the commission.

9205 (3) Any licensee whose license under this chapter has been suspended, revoked, or
9206 restricted may apply for reinstatement of the license at reasonable intervals and upon
9207 compliance with any conditions imposed upon the licensee by statute, rule, or terms of the
9208 license suspension, revocation, or restriction.

9209 (4) The commission may issue cease and desist orders:

9210 (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and

9211 (b) to any person who otherwise violates this chapter or any rules adopted under this
9212 chapter.

9213 (5) (a) The commission may impose an administrative fine for acts of unprofessional or

9214 unlawful conduct under this chapter.

9215 (b) An administrative fine under this Subsection (5) may not exceed \$2,500 for each
9216 separate act of unprofessional or unlawful conduct.

9217 (c) The commission shall comply with Title 63G, Chapter 4, Administrative
9218 Procedures Act, in any action to impose an administrative fine under this chapter.

9219 (d) The imposition of a fine under this Subsection (5) does not affect any other action
9220 the commission or department may take concerning a license issued under this chapter.

9221 (6) (a) The commission may not take disciplinary action against any person for
9222 unlawful or unprofessional conduct under this chapter, unless the commission initiates an
9223 adjudicative proceeding regarding the conduct within four years after the conduct is reported to
9224 the commission, except under Subsection (6)(b).

9225 (b) The commission may not take disciplinary action against any person for unlawful
9226 or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the
9227 proceeding is in response to a civil or criminal judgment or settlement and the proceeding is
9228 initiated within one year following the judgment or settlement.

9229 (7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the
9230 following may immediately suspend the license of a licensee at such time and for such period
9231 that the following believes is necessary to protect the health, safety, and welfare of the licensee,
9232 another licensee, or the public:

9233 (i) the commission;

9234 (ii) a designated commission member; or

9235 (iii) if a designated commission member is not present, the director.

9236 (b) The commission shall establish by rule appropriate procedures to invoke the
9237 suspension and to provide a suspended licensee a right to a hearing before the commission with
9238 respect to the suspension within a reasonable time after the suspension.

9239 Section 245. Section **63N-10-304**, which is renumbered from Section 63C-11-304 is
9240 renumbered and amended to read:

9241 ~~[63C-11-304].~~ **63N-10-304. Additional fees for license of promoter --**

9242 **Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.**

9243 (1) In addition to the payment of any other fees and money due under this chapter,
 9244 every promoter shall pay a license fee determined by the commission and established in rule.

9245 ~~[(a)]~~ (2) License fees collected under this Subsection ~~[(+)(a)]~~ (2) from professional
 9246 boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be
 9247 used by the commission to award grants to organizations that promote amateur boxing in the
 9248 state and cover commission expenses.

9249 ~~[(b) Money available to the commission for awarding grants to organizations that
 9250 promote amateur boxing in the state and covering commission expenses is nonlapsing for fiscal
 9251 year 2009-10 only.]~~

9252 ~~[(2)]~~ (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
 9253 Act, the commission shall adopt rules:

9254 (a) governing the manner in which applications for grants under Subsection ~~[(+)]~~ (2)
 9255 may be submitted to the commission; and

9256 (b) establishing standards for awarding grants under Subsection ~~[(+)]~~ (2) to
 9257 organizations which promote amateur boxing in the state.

9258 ~~[(3)]~~ (4) (a) For the purpose of creating a greater interest in contests in the state, the
 9259 commission may exempt from the payment of license fees under this section one contest or
 9260 exhibition in each calendar year, intended as a showcase event.

9261 (b) The commission shall select the contest or exhibition to be exempted based on
 9262 factors which include:

- 9263 (i) attraction of the optimum number of spectators;
- 9264 (ii) costs of promoting and producing the contest or exhibition;
- 9265 (iii) ticket pricing;
- 9266 (iv) committed promotions and advertising of the contest or exhibition;
- 9267 (v) rankings and quality of the contestants; and
- 9268 (vi) committed television and other media coverage of the contest or exhibition.

9269 Section 246. Section **63N-10-305**, which is renumbered from Section 63C-11-305 is

9270 renumbered and amended to read:

9271 ~~63C-11-305~~. **63N-10-305. Jurisdiction of commission.**

9272 (1) (a) The commission has the sole authority concerning direction, management,
9273 control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted,
9274 held, or given within this state.

9275 (b) A contest or exhibition may not be conducted, held, or given within this state
9276 except in accordance with this chapter.

9277 (2) Any contest involving a form of unarmed self-defense must be conducted pursuant
9278 to rules for that form which are approved by the commission before the contest is conducted,
9279 held, or given.

9280 (3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for
9281 the use of:

- 9282 (i) the designated commission member;
- 9283 (ii) other commission members in attendance;
- 9284 (iii) the director;
- 9285 (iv) commission employees;
- 9286 (v) officials;
- 9287 (vi) licensees participating or assisting in the contest; and
- 9288 (vii) others granted credentials by the commission.

9289 (b) The promoter shall provide security at the direction of the commission or
9290 designated commission member to secure the area described in Subsection (3)(a).

9291 (4) The area described in Subsection (3), the area in the dressing rooms, and other
9292 areas considered necessary by the designated commission member for the safety and welfare of
9293 a licensee and the public shall be reserved for the use of:

- 9294 (a) the designated commission member;
- 9295 (b) other commission members in attendance;
- 9296 (c) the director;
- 9297 (d) commission employees;

- 9298 (e) officials;
- 9299 (f) licensees participating or assisting in the contest; and
- 9300 (g) others granted credentials by the commission.
- 9301 (5) The promoter shall provide security at the direction of the commission or
- 9302 designated commission member to secure the areas described in Subsections (3) and (4).
- 9303 (6) (a) The designated commission member may direct the removal from the contest
- 9304 venue and premises, of any individual whose actions:
- 9305 (i) are disruptive to the safe conduct of the contest; or
- 9306 (ii) pose a danger to the safety and welfare of the licensees, the commission, or the
- 9307 public, as determined by the designated commission member.
- 9308 (b) The promoter shall provide security at the direction of the commission or
- 9309 designated commission member to effectuate a removal under Subsection (6)(a).

9310 Section 247. Section **63N-10-306**, which is renumbered from Section 63C-11-306 is

9311 renumbered and amended to read:

9312 ~~[63C-11-306]~~. **63N-10-306. Club fighting prohibited.**

- 9313 (1) Club fighting is prohibited.
- 9314 (2) Any person who publicizes, promotes, conducts, or engages in a club fighting
- 9315 match is:
- 9316 (a) guilty of a class A misdemeanor as provided in Section [76-9-705](#); and
- 9317 (b) subject to license revocation under this chapter.

9318 Section 248. Section **63N-10-307**, which is renumbered from Section 63C-11-307 is

9319 renumbered and amended to read:

9320 ~~[63C-11-307]~~. **63N-10-307. Approval to hold contest or promotion -- Bond**

9321 **required.**

- 9322 (1) An application to hold a contest or multiple contests as part of a single promotion
- 9323 shall be made by a licensed promoter to the commission on forms provided by the commission.
- 9324 (2) The application shall be accompanied by a contest fee determined by the
- 9325 commission under Section [63J-1-505](#).

9326 (3) (a) The commission may approve or deny approval to hold a contest or promotion
9327 permitted under this chapter.

9328 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination
9329 by the commission that:

9330 (i) the promoter of the contest or promotion is properly licensed;

9331 (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter
9332 of the contest or promotion; and

9333 (iii) the contest or promotion will be held in accordance with this chapter and rules
9334 made under this chapter.

9335 (4) (a) Final approval to hold a contest or promotion may not be granted unless the
9336 commission receives, not less than seven days before the day of the contest with 10 or more
9337 rounds:

9338 (i) proof of a negative HIV test performed not more than 180 days before the day of the
9339 contest for each contestant;

9340 (ii) a copy of each contestant's federal identification card;

9341 (iii) a copy of a signed contract between each contestant and the promoter for the
9342 contest;

9343 (iv) a statement specifying the maximum number of rounds of the contest;

9344 (v) a statement specifying the site, date, and time of weigh-in; and

9345 (vi) the name of the physician selected from among a list of registered and
9346 commission-approved ringside physicians who shall act as ringside physician for the contest.

9347 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or
9348 promotion if the requirements under Subsection (4)(a) are not met because of unforeseen
9349 circumstances beyond the promoter's control.

9350 (5) Final approval for a contest under 10 rounds in duration may be granted as
9351 determined by the commission after receiving the materials identified in Subsection (4) at a
9352 time determined by the commission.

9353 (6) An applicant shall post a surety bond or cashier's check with the commission in the

9354 greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the
9355 proceeds if the applicant fails to comply with:

- 9356 (a) the requirements of this chapter; or
- 9357 (b) rules made under this chapter relating to the promotion or conduct of the contest or
9358 promotion.

9359 Section 249. Section **63N-10-308**, which is renumbered from Section 63C-11-308 is
9360 renumbered and amended to read:

9361 ~~[63C-11-308]~~. **63N-10-308. Rules for the conduct of contests.**

9362 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9363 Administrative Rulemaking Act, for the conduct of contests in the state.

9364 (2) The rules shall include:

- 9365 (a) authority for:
 - 9366 (i) stopping contests; and
 - 9367 (ii) impounding purses with respect to contests when there is a question with respect to
9368 the contest, contestants, or any other licensee associated with the contest; and

9369 (b) reasonable and necessary provisions to ensure that all obligations of a promoter
9370 with respect to any promotion or contest are paid in accordance with agreements made by the
9371 promoter.

9372 (3) (a) The commission may, in its discretion, exempt a contest and each contestant
9373 from the definition of unprofessional conduct found in Subsection [~~63C-11-102~~]
9374 63N-10-102(25)(f) after:

- 9375 (i) a promoter requests the exemption; and
- 9376 (ii) the commission considers relevant factors, including:
 - 9377 (A) the experience of the contestants;
 - 9378 (B) the win and loss records of each contestant;
 - 9379 (C) each contestant's level of training; and
 - 9380 (D) any other evidence relevant to the contestants' professionalism and the ability to
9381 safely conduct the contest.

9382 (b) The commission's hearing of a request for an exemption under this Subsection (3)
9383 is an informal adjudicative proceeding under Section 63G-4-202.

9384 (c) The commission's decision to grant or deny a request for an exemption under this
9385 Subsection (3) is not subject to agency review under Section 63G-4-301.

9386 Section 250. Section 63N-10-309, which is renumbered from Section 63C-11-309 is
9387 renumbered and amended to read:

9388 ~~63C-11-309~~. 63N-10-309. Medical examinations and drug tests.

9389 (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
9390 Administrative Rulemaking Act, for medical examinations and drug testing of contestants,
9391 including provisions under which contestants shall:

9392 (a) produce evidence based upon competent laboratory examination that they are HIV
9393 negative as a condition of participating as a contestant in any contest;

9394 (b) be subject to random drug testing before or after participation in a contest, and
9395 sanctions, including barring participation in a contest or withholding a percentage of any purse,
9396 that shall be placed against a contestant testing positive for alcohol or any other drug that in the
9397 opinion of the commission is inconsistent with the safe and competent participation of that
9398 contestant in a contest;

9399 (c) be subject to a medical examination by the ringside physician not more than 30
9400 hours before the contest to identify any physical ailment or communicable disease that, in the
9401 opinion of the commission or designated commission member, are inconsistent with the safe
9402 and competent participation of that contestant in the contest; and

9403 (d) be subject to medical testing for communicable diseases as considered necessary by
9404 the commission to protect the health, safety, and welfare of the licensees and the public.

9405 (2) (a) Medical information concerning a contestant shall be provided by the contestant
9406 or medical professional or laboratory.

9407 (b) A promoter or manager may not provide to or receive from the commission medical
9408 information concerning a contestant.

9409 Section 251. Section 63N-10-310, which is renumbered from Section 63C-11-310 is

9410 renumbered and amended to read:

9411 ~~63C-11-310~~. 63N-10-310. Contests.

9412 (1) Except as provided in Section ~~63C-11-317~~, a licensee may not participate in an
9413 unarmed combat contest within a predetermined time after another unarmed combat contest, as
9414 prescribed in rules made by the commission.

9415 (2) During the period of time beginning 60 minutes before the beginning of a contest,
9416 the promoter shall demonstrate the promoter's compliance with the commission's security
9417 requirements to all commission members present at the contest.

9418 (3) The commission shall establish fees in accordance with Section ~~63J-1-504~~ to be
9419 paid by a promoter for the conduct of each contest or event composed of multiple contests
9420 conducted under this chapter.

9421 Section 252. Section ~~63N-10-311~~, which is renumbered from Section 63C-11-311 is
9422 renumbered and amended to read:

9423 ~~63C-11-311~~. 63N-10-311. Ringside physician.

9424 (1) The commission shall maintain a list of ringside physicians who hold a Doctor of
9425 Medicine (MD) degree and are registered with the commission as approved to act as a ringside
9426 physician and meet the requirements of Subsection (2).

9427 (2) (a) The commission shall appoint a registered ringside physician to perform the
9428 duties of a ringside physician at each contest held ~~[pursuant to]~~ under this chapter.

9429 (b) The promoter of a contest shall pay a fee determined by the commission by rule to
9430 the commission for a ringside physician.

9431 (3) An applicant for registration as a ringside physician shall:

9432 (a) submit an application for registration;

9433 (b) provide the commission with evidence of the applicant's licensure to practice
9434 medicine in the state; and

9435 (c) satisfy minimum qualifications established by the department by rule.

9436 (4) A ringside physician at attendance at a contest:

9437 (a) may stop the contest at any point if the ringside physician determines that a

9438 contestant's physical condition renders the contestant unable to safely continue the contest; and
9439 (b) works under the direction of the commission.

9440 Section 253. Section **63N-10-312**, which is renumbered from Section 63C-11-312 is
9441 renumbered and amended to read:

9442 ~~**63C-11-312**~~. **63N-10-312. Contracts.**

9443 Before a contest is held, a copy of the signed contract or agreement between the
9444 promoter of the contest and each contestant shall be filed with the commission. Approval of
9445 the contract's terms and conditions shall be obtained from the commission as a condition
9446 precedent to the contest.

9447 Section 254. Section **63N-10-313**, which is renumbered from Section 63C-11-313 is
9448 renumbered and amended to read:

9449 ~~**63C-11-313**~~. **63N-10-313. Withholding of purse.**

9450 (1) The commission, the director, or any other agent authorized by the commission
9451 may order a promoter to withhold any part of a purse or other money belonging or payable to
9452 any contestant, manager, or second if, in the judgment of the commission, director, or other
9453 agent:

9454 (a) the contestant is not competing honestly or to the best of the contestant's skill and
9455 ability or the contestant otherwise violates any rules adopted by the commission or any of the
9456 provisions of this chapter; or

9457 (b) the manager or second violates any rules adopted by the commission or any of the
9458 provisions of this chapter.

9459 (2) This section does not apply to any contestant in a wrestling exhibition who appears
9460 not to be competing honestly or to the best of the contestant's skill and ability.

9461 (3) Upon the withholding of any part of a purse or other money pursuant to this section,
9462 the commission shall immediately schedule a hearing on the matter, provide adequate notice to
9463 all interested parties, and dispose of the matter as promptly as possible.

9464 (4) If it is determined that a contestant, manager, or second is not entitled to any part of
9465 that person's share of the purse or other money, the promoter shall pay the money over to the

9466 commission.

9467 Section 255. Section **63N-10-314**, which is renumbered from Section 63C-11-314 is
9468 renumbered and amended to read:

9469 ~~[63C-11-314]~~. **63N-10-314. Penalty for unlawful conduct.**

9470 A person who engages in any act of unlawful conduct, as defined in Section
9471 ~~[63C-11-102]~~ 63N-10-102, is guilty of a class A misdemeanor.

9472 Section 256. Section **63N-10-315**, which is renumbered from Section 63C-11-315 is
9473 renumbered and amended to read:

9474 ~~[63C-11-315]~~. **63N-10-315. Exemptions.**

9475 This chapter does not apply to:

9476 (1) any amateur contest or exhibition of unarmed combat conducted by or participated
9477 in exclusively by:

9478 (a) a school accredited by the Utah Board of Education;

9479 (b) a college or university accredited by the United States Department of Education; or

9480 (c) any association or organization of a school, college, or university described in
9481 Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide
9482 student in the school, college, or university;

9483 (2) any contest or exhibition of unarmed combat conducted in accordance with the
9484 standards and regulations of USA Boxing, Inc.; or

9485 (3) a white-collar contest.

9486 Section 257. Section **63N-10-316**, which is renumbered from Section 63C-11-316 is
9487 renumbered and amended to read:

9488 ~~[63C-11-316]~~. **63N-10-316. Contest weights and classes -- Matching**
9489 **contestants.**

9490 (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9491 Administrative Rulemaking Act, establishing boxing contest weights and classes consistent
9492 with those adopted by the Association of Boxing Commissions.

9493 (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah

9494 Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat
9495 that is not boxing.

9496 (3) (a) As to any unarmed combat contest, a contestant may not fight another contestant
9497 who is outside of the contestant's weight classification.

9498 (b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to
9499 fight another contestant who is outside of the contestant's weight classification.

9500 (4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

9501 (a) a contestant who has contracted to participate in a given weight class may not be
9502 permitted to compete if the contestant is not within that weight class at the weigh-in; and

9503 (b) a contestant may have two hours to attempt to gain or lose not more than three
9504 pounds in order to be reweighed.

9505 (5) (a) As to any unarmed combat contest, the commission may not allow a contest in
9506 which the contestants are not fairly matched.

9507 (b) Factors in determining if contestants are fairly matched include:

9508 (i) the win-loss record of the contestants;

9509 (ii) the weight differential between the contestants;

9510 (iii) the caliber of opponents for each contestant;

9511 (iv) each contestant's number of fights; and

9512 (v) previous suspensions or disciplinary actions of the contestants.

9513 Section 258. Section **63N-10-317**, which is renumbered from Section 63C-11-317 is
9514 renumbered and amended to read:

9515 ~~[63C-11-317]~~. **63N-10-317. Elimination contests -- Conduct of contests --**

9516 **Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment**

9517 **-- Limitations on contests.**

9518 (1) An elimination unarmed combat contest shall be conducted under the supervision
9519 and authority of the commission.

9520 (2) Except as otherwise provided in this section and except as otherwise provided by
9521 specific statute, the provisions of this chapter pertaining to boxing apply to an elimination

9522 unarmed combat contest.

9523 (3) (a) All contests in an elimination unarmed combat contest shall be no more than
9524 three rounds in duration.

9525 (b) A round of unarmed combat in an elimination unarmed combat contest shall:

9526 (i) be no more than one minute in duration; or

9527 (ii) be up to three minutes in duration if there is only a single round.

9528 (c) A period of rest following a round shall be no more than one minute in duration.

9529 (4) A contestant:

9530 (a) shall wear gloves approved by the commission; and

9531 (b) shall wear headgear approved by the commission, the designated commission
9532 member, or the director if a designated commission member is not present.

9533 (5) A contestant may participate in more than one contest, but may not participate in
9534 more than a total of seven rounds in the entire tournament.

9535 Section 259. Section **63N-10-318**, which is renumbered from Section 63C-11-318 is
9536 renumbered and amended to read:

9537 ~~[63C-11-318]~~. **63N-10-318. Commission rulemaking.**

9538 The commission may make rules governing the conduct of a contest held under this
9539 chapter to protect the health and safety of licensees and members of the public.

9540 Section 260. Section **63N-11-101**, which is renumbered from Section 63M-1-2501 is
9541 renumbered and amended to read:

9542 **CHAPTER 11. HEALTH SYSTEM REFORM ACT**

9543 ~~[63M-1-2501]~~. **63N-11-101. Title.**

9544 This [part] chapter is known as the "Health System Reform Act."

9545 Section 261. Section **63N-11-102**, which is renumbered from Section 63M-1-2502 is
9546 renumbered and amended to read:

9547 ~~[63M-1-2502]~~. **63N-11-102. Definitions.**

9548 As used in this [part, "office"] chapter, "consumer health office" means the Office of
9549 Consumer Health Services created in Section ~~[63M-1-2504]~~ 63N-11-104.

9550 Section 262. Section **63N-11-103**, which is renumbered from Section 63M-1-2503 is
9551 renumbered and amended to read:

9552 ~~[63M-1-2503]~~. **63N-11-103. Duties related to health system reform.**

9553 The Governor's Office of Economic Development shall coordinate the efforts of the
9554 Office of Consumer Health Services, the Department of Health, the Insurance Department, and
9555 the Department of Workforce Services to assist the Legislature with developing the state's
9556 strategic plan for health system reform described in Section ~~[63M-1-2505]~~ 63N-11-105.

9557 Section 263. Section **63N-11-104**, which is renumbered from Section 63M-1-2504 is
9558 renumbered and amended to read:

9559 ~~[63M-1-2504]~~. **63N-11-104. Creation of Office of Consumer Health Services**
9560 **-- Duties.**

9561 (1) There is created within the Governor's Office of Economic Development the Office
9562 of Consumer Health Services.

9563 (2) The consumer health office shall:

9564 (a) in cooperation with the Insurance Department, the Department of Health, and the
9565 Department of Workforce Services, and in accordance with the electronic standards developed
9566 under Sections 31A-22-635 and ~~[63M-1-2506]~~ 63N-11-107, create a Health Insurance
9567 Exchange that:

9568 (i) provides information to consumers about private and public health programs for
9569 which the consumer may qualify;

9570 (ii) provides a consumer comparison of and enrollment in a health benefit plan posted
9571 on the Health Insurance Exchange; and

9572 (iii) includes information and a link to enrollment in premium assistance programs and
9573 other government assistance programs;

9574 (b) contract with one or more private vendors for:

9575 (i) administration of the enrollment process on the Health Insurance Exchange,
9576 including establishing a mechanism for consumers to compare health benefit plan features on
9577 the exchange and filter the plans based on consumer preferences;

- 9578 (ii) the collection of health insurance premium payments made for a single policy by
9579 multiple payers, including the policyholder, one or more employers of one or more individuals
9580 covered by the policy, government programs, and others; and
- 9581 (iii) establishing a call center in accordance with Subsection (4);
- 9582 (c) assist employers with a free or low cost method for establishing mechanisms for the
9583 purchase of health insurance by employees using pre-tax dollars;
- 9584 (d) establish a list on the Health Insurance Exchange of insurance producers who, in
9585 accordance with Section [31A-30-209](#), are appointed producers for the Health Insurance
9586 Exchange;
- 9587 (e) include in the annual written report described in Section [~~63M-1-206~~] [63N-1-301](#), a
9588 report on the operations of the Health Insurance Exchange required by this chapter; and
- 9589 (f) in accordance with Subsection (3), provide a form to a small employer that certifies:
- 9590 (i) that the small employer offered a qualified health plan to the small employer's
9591 employees; and
- 9592 (ii) the period of time within the taxable year in which the small employer maintained
9593 the qualified health plan coverage.
- 9594 (3) The form required by Subsection (2)(f) shall be provided to a small employer if:
- 9595 (a) the small employer selected a qualified health plan on the small employer health
9596 exchange created by this section; or
- 9597 (b) (i) the small employer selected a health plan in the small employer market that is
9598 not offered through the exchange created by this section; and
- 9599 (ii) the issuer of the health plan selected by the small employer submits to the office, in
9600 a form and manner required by the office:
- 9601 (A) an affidavit from a member of the American Academy of Actuaries stating that
9602 based on generally accepted actuarial principles and methodologies the issuer's health plan
9603 meets the benefit and actuarial requirements for a qualified health plan under PPACA as
9604 defined in Section [31A-1-301](#); and
- 9605 (B) an affidavit from the issuer that includes the dates of coverage for the small

9606 employer during the taxable year.

9607 (4) A call center established by the consumer health office:

9608 (a) shall provide unbiased answers to questions concerning exchange operations, and
9609 plan information, to the extent the plan information is posted on the exchange by the insurer;
9610 and

9611 (b) may not:

9612 (i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

9613 (ii) receive producer compensation through the Health Insurance Exchange; and

9614 (iii) be designated as the default producer for an employer group that enters the Health
9615 Insurance Exchange without a producer.

9616 (5) The consumer health office:

9617 (a) may not:

9618 (i) regulate health insurers, health insurance plans, health insurance producers, or
9619 health insurance premiums charged in the exchange;

9620 (ii) adopt administrative rules, except as provided in Section [~~63M-1-2506~~]

9621 [63N-11-107](#); or

9622 (iii) act as an appeals entity for resolving disputes between a health insurer and an
9623 insured;

9624 (b) may establish and collect a fee for the cost of the exchange transaction in
9625 accordance with Section [63J-1-504](#) for:

9626 (i) processing an application for a health benefit plan;

9627 (ii) accepting, processing, and submitting multiple premium payment sources;

9628 (iii) providing a mechanism for consumers to filter and compare health benefit plans in
9629 the exchange based on consumer preferences; and

9630 (iv) funding the call center; and

9631 (c) shall separately itemize the fee established under Subsection (5)(b) as part of the
9632 cost displayed for the employer selecting coverage on the exchange.

9633 Section 264. Section **63N-11-105**, which is renumbered from Section 63M-1-2505 is

9634 renumbered and amended to read:

9635 ~~[63M-1-2505]~~. 63N-11-105. **Strategic plan for health system reform.**

9636 The state's strategic plan for health system reform shall include consideration of the
9637 following:

9638 (1) legislation necessary to allow a health insurer in the state to offer one or more
9639 health benefit plans that:

9640 (a) allow an individual to purchase a policy for individual or family coverage, with or
9641 without employer contributions, and keep the policy even if the individual changes
9642 employment;

9643 (b) incorporate rating practices and issue practices that will sustain a viable insurance
9644 market and provide affordable health insurance products for the most purchasers;

9645 (c) are based on minimum required coverages that result in a lower premium than most
9646 current health insurance products;

9647 (d) include coverage for immunizations, screenings, and other preventive health
9648 services;

9649 (e) encourage cost-effective use of health care systems;

9650 (f) minimize risk-skimming insurance benefit designs;

9651 (g) maximize the use of federal and state income tax policies to allow for payment of
9652 health insurance products with tax-exempt funds;

9653 (h) may include other innovative provisions that may lower the costs of health
9654 insurance products;

9655 (i) may incorporate innovative consumer-driven provisions, including:

9656 (i) an exemption from selected state health insurance laws and regulations;

9657 (ii) a range of benefit and cost sharing provisions tailored to the health status, financial
9658 capacity, and preferences of individual consumers; and

9659 (iii) varying the amount of cost sharing for a service based on where the service falls
9660 along a continuum of care ranging from preventive care to purely elective care; and

9661 (j) encourage employers to allow their employees greater control of the employee's

9662 health care benefits by providing tax-exempt defined contributions for the purchase of health
9663 insurance by either the employer or the employee;

9664 (2) current rating and issue practices by health insurers and changes that may be
9665 necessary to achieve the goals of Subsection (1)(b);

9666 (3) methods to decrease cost shifting from the uninsured and under-insured to the
9667 insured, health care providers and taxpayers, including:

9668 (a) eligibility and benefit levels for entitlement programs;

9669 (b) reimbursement rates for entitlement programs; and

9670 (c) the Utah Premium Partnership for Health Insurance Program and the Children's
9671 Health Insurance Program's enrollment and benefit policies, and whether those policies provide
9672 appropriate and effective coverage for children;

9673 (4) providing public employees an option that gives them greater control of their health
9674 care benefits through a system of defined contributions for insurance policies;

9675 (5) giving public employees access to an option that provides individually selected and
9676 owned policies;

9677 (6) encouraging the use of health care quality measures and the adoption of best
9678 practice protocols by health care providers for the benefit of consumers, health care providers,
9679 and third party payers;

9680 (7) providing some protection from liability for health care providers who follow best
9681 practice protocols;

9682 (8) promoting personal responsibility through:

9683 (a) obtaining health insurance;

9684 (b) achieving self reliance;

9685 (c) making healthy choices; and

9686 (d) encouraging healthy behaviors and lifestyles to the full extent allowed by the
9687 Health Insurance Portability and Accountability Act;

9688 (9) studying the costs and benefits associated with:

9689 (a) different forms of mandates for individual responsibility; and

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

9716 Section 265. Section **63N-11-106**, which is renumbered from Section 63M-1-2505.5 is
9717 renumbered and amended to read:

- 9718 ~~[63M-1-2505.5].~~ 63N-11-106. **Reporting on federal health reform --**
9719 **Prohibition of individual mandate.**
- 9720 (1) The Legislature finds that:
- 9721 (a) the state has embarked on a rigorous process of implementing a strategic plan for
9722 health system reform [~~pursuant to~~] under Section [~~63M-1-2505~~] 63N-11-105;
- 9723 (b) the health system reform efforts for the state were developed to address the unique
9724 circumstances within Utah and to provide solutions that work for Utah;
- 9725 (c) Utah is a leader in the nation for health system reform which includes:
- 9726 (i) developing and using health data to control costs and quality; and
9727 (ii) creating a defined contribution insurance market to increase options for employers
9728 and employees; and
- 9729 (d) the federal government proposals for health system reform:
- 9730 (i) infringe on state powers;
9731 (ii) impose a uniform solution to a problem that requires different responses in
9732 different states;
- 9733 (iii) threaten the progress Utah has made towards health system reform; and
9734 (iv) infringe on the rights of citizens of this state to provide for their own health care
9735 by:
- 9736 (A) requiring a person to enroll in a third party payment system;
9737 (B) imposing fines, penalties, and taxes on a person who chooses to pay directly for
9738 health care rather than use a third party payer;
- 9739 (C) imposing fines, penalties, and taxes on an employer that does not meet federal
9740 standards for providing health care benefits for employees; and
- 9741 (D) threatening private health care systems with competing government supported
9742 health care systems.
- 9743 (2) (a) For purposes of this section:
- 9744 (i) "Implementation" includes adopting or changing an administrative rule, applying for
9745 or spending federal grant money, issuing a request for proposal to carry out a requirement of

9746 PPACA, entering into a memorandum of understanding with the federal government regarding
9747 a provision of PPACA, or amending the state Medicaid plan.

9748 (ii) "PPACA" [is] has the same meaning as defined in Section [31A-1-301](#).

9749 (b) A department or agency of the state may not implement any part of PPACA unless,
9750 prior to implementation, the department or agency reports in writing, and, if practicable, in
9751 person if requested, to the Legislature's Business and Labor Interim Committee, the Health
9752 Reform Task Force, or the legislative Executive Appropriations Committee in accordance with
9753 Subsection (2)(d).

9754 (c) The Legislature may pass legislation specifically authorizing or prohibiting the
9755 state's compliance with, or participation in provisions of PPACA.

9756 (d) The report required under Subsection (2)(b) shall include:

9757 (i) the specific federal statute or regulation that requires the state to implement a
9758 provision of PPACA;

9759 (ii) whether PPACA has any state waiver or options;

9760 (iii) exactly what PPACA requires the state to do, and how it would be implemented;

9761 (iv) who in the state will be impacted by adopting the federal reform provision, or not
9762 adopting the federal reform provision;

9763 (v) what is the cost to the state or citizens of the state to implement the federal reform
9764 provision;

9765 (vi) the consequences to the state if the state does not comply with PPACA;

9766 (vii) the impact, if any, of the PPACA requirements regarding:

9767 (A) the state's protection of a health care provider's refusal to perform an abortion on
9768 religious or moral grounds as provided in Section [76-7-306](#); and

9769 (B) abortion insurance coverage restrictions provided in Section [31A-22-726](#).

9770 (3) (a) The state shall not require an individual in the state to obtain or maintain health
9771 insurance as defined in PPACA, regardless of whether the individual has or is eligible for
9772 health insurance coverage under any policy or program provided by or through the individual's
9773 employer or a plan sponsored by the state or federal government.

9774 (b) The provisions of this title may not be used to facilitate the federal PPACA
9775 individual mandate or to hold an individual in this state liable for any penalty, assessment, fee,
9776 or fine as a result of the individual's failure to procure or obtain health insurance coverage.

9777 (c) This section does not apply to an individual who voluntarily applies for coverage
9778 under a state administered program pursuant to Title XIX or Title XXI of the Social Security
9779 Act.

9780 Section 266. Section **63N-11-107**, which is renumbered from Section 63M-1-2506 is
9781 renumbered and amended to read:

9782 ~~**[63M-1-2506]**~~. **63N-11-107. Health benefit plan information on Health**
9783 **Insurance Exchange -- Insurer transparency.**

9784 (1) (a) The consumer health office shall adopt administrative rules in accordance with
9785 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish uniform electronic
9786 standards for insurers, employers, brokers, consumers, and vendors to use when transmitting or
9787 receiving information, uniform applications, waivers of coverage, or payments to, or from, the
9788 Health Insurance Exchange.

9789 (b) The administrative rules adopted by the consumer health office shall:

9790 (i) promote an efficient and consumer friendly process for shopping for and enrolling
9791 in a health benefit plan offered on the Health Insurance Exchange; and

9792 (ii) if appropriate, as determined by the consumer health office, comply with standards
9793 adopted at the national level.

9794 (2) The consumer health office shall assist the risk adjuster board created under Title
9795 31A, Chapter 42, Defined Contribution Risk Adjuster Act, and carriers participating in the
9796 defined contribution market on the Health Insurance Exchange with the determination of when
9797 an employer is eligible to participate in the Health Insurance Exchange under Title 31A,
9798 Chapter 30, Part 2, Defined Contribution Arrangements.

9799 (3) (a) The consumer health office shall create an advisory board to advise the
9800 exchange concerning the operation of the exchange, the consumer experience on the exchange,
9801 and transparency issues.

- 9802 (b) The advisory board shall have the following members:
- 9803 (i) two health producers who are appointed producers with the Health Insurance
- 9804 Exchange;
- 9805 (ii) two representatives from community-based, non-profit organizations;
- 9806 (iii) one representative from an employer that participates in the defined contribution
- 9807 market on the Health Insurance Exchange;
- 9808 (iv) up to four representatives from insurers who participate in the defined contribution
- 9809 market of the Health Insurance Exchange;
- 9810 (v) one representative from the Insurance Department; and
- 9811 (vi) one representative from the Department of Health.
- 9812 (c) Members of the advisory board shall serve without compensation.
- 9813 (4) The consumer health office shall post or facilitate the posting, on the Health
- 9814 Insurance Exchange, of the information required by this section and Section [31A-22-635](#) and
- 9815 links to websites that provide cost and quality information from the Department of Health Data
- 9816 Committee or neutral entities with a broad base of support from the provider and payer
- 9817 communities.

9818 Section 267. Section **63N-12-101**, which is renumbered from Section 63M-1-601 is

9819 renumbered and amended to read:

9820 **CHAPTER 12. SCIENCE AND EDUCATION PROGRAMS**

9821 **Part 1. State Advisory Council on Science and Technology**

9822 **[63M-1-601]. 63N-12-101. Title -- Purpose.**

9823 (1) This chapter is known as "Science and Education Programs."

9824 (2) This part is known as the "State Advisory Council on Science and Technology."

9825 (3) The purpose of this part is to establish an advisory council on science and

9826 technology to assist in the development of programs, communication, and use of science and

9827 technology in governmental organizations in the state.

9828 Section 268. Section **63N-12-102**, which is renumbered from Section 63M-1-602 is

9829 renumbered and amended to read:

9830 **[63M-1-602]. 63N-12-102. Definition of terms.**

9831 As used in this part:

9832 (1) "Adviser" means the state science adviser appointed under this part.

9833 (2) "Council" means the State Advisory Council on Science and Technology created
9834 under this part.

9835 [~~(3) "Director" means the governor's director for economic development.]~~

9836 Section 269. Section **63N-12-103**, which is renumbered from Section 63M-1-603 is
9837 renumbered and amended to read:

9838 **[63M-1-603]. 63N-12-103. Creation.**

9839 There is created the State Advisory Council on Science and Technology within the
9840 Governor's Office of Economic Development, which shall perform the functions and duties
9841 provided in this part.

9842 Section 270. Section **63N-12-104**, which is renumbered from Section 63M-1-604 is
9843 renumbered and amended to read:

9844 **[63M-1-604]. 63N-12-104. Members -- Appointment -- Terms --**
9845 **Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive**
9846 **committee -- Quorum -- Expenses.**

9847 (1) The council comprises the following nonvoting members or their designees:

9848 (a) the adviser;

9849 (b) the executive director of the Department of Natural Resources;

9850 (c) the executive director of the Department of Heritage and Arts;

9851 (d) the executive director of the Department of Health;

9852 (e) the executive director of the Department of Environmental Quality;

9853 (f) the commissioner of agriculture and food;

9854 (g) the commissioner of higher education;

9855 (h) the state planning coordinator; and

9856 (i) the executive director of the Department of Transportation.

9857 (2) The governor may appoint other voting members, not to exceed 12.

9858 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
9859 expire, the governor shall appoint each new member or reappointed member to a four-year
9860 term.

9861 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
9862 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
9863 council members are staggered so that approximately half of the council is appointed every two
9864 years.

9865 (4) The governor shall consider all institutions of higher education in the state in the
9866 appointment of council members.

9867 (5) The voting members of the council shall be experienced or knowledgeable in the
9868 application of science and technology to business, industry, or public problems and have
9869 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of
9870 this part.

9871 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
9872 appointed for the unexpired term.

9873 (7) (a) Each year the council shall select from its membership a chair and a vice chair.

9874 (b) The chair and vice chair shall hold office for one year or until a successor is
9875 appointed and qualified.

9876 (8) The adviser serves as executive secretary of the council.

9877 (9) An executive committee shall be established consisting of the chair, vice chair, and
9878 the adviser.

9879 (10) (a) In order to conduct business matters of the council at regularly convened
9880 meetings, a quorum consisting of a simple majority of the total voting membership of the
9881 council is required.

9882 (b) All matters of business affecting public policy require not less than a simple
9883 majority of affirmative votes of the total membership.

9884 (11) A member may not receive compensation or benefits for the member's service, but
9885 may receive per diem and travel expenses in accordance with:

- 9886 (a) Section 63A-3-106;
9887 (b) Section 63A-3-107; and
9888 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
9889 63A-3-107.

9890 Section 271. Section 63N-12-105, which is renumbered from Section 63M-1-605 is
9891 renumbered and amended to read:

9892 ~~[63M-1-605].~~ 63N-12-105. Duties and powers.

9893 (1) The council shall:

9894 (a) encourage the use of science and technology in the administration of state and local
9895 government;

9896 (b) develop programs whereby state agencies and the several public and private
9897 institutions of higher education and technical colleges within the state may assist business and
9898 industry in the utilization of science and technology;

9899 (c) further communication between agencies of federal, state, and local government
9900 who wish to utilize science and technology;

9901 (d) develop programs of cooperation on matters of science and technology between:

9902 (i) state and local government agencies;

9903 (ii) the several public and private institutions of higher education and technical
9904 colleges within the state; and

9905 (iii) business and industry within the state; or

9906 (iv) any combination of these;

9907 (e) provide a means whereby government, business, industry, and higher education
9908 may be represented in the formulation and implementation of state policies and programs on
9909 matters of science and technology;

9910 (f) review, catalog, and compile the research and development uses by the state
9911 universities of the revenue derived from mineral lease funds on state and federal lands;

9912 (g) submit an annual report to the office regarding the expenditure and utilization of
9913 these mineral lease funds for inclusion in the office's annual written report described in Section

9914 [~~63M-1-206~~] 63N-1-301;

9915 (h) make recommendations to the Legislature on the further uses of these mineral lease
9916 funds in order to stimulate research and development directed toward the more effective
9917 utilization of the state's natural resources; and

9918 (i) prepare and submit, before November 1, an annual written report to the governor
9919 and the Legislature.

9920 (2) The council may:

9921 (a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for,
9922 receive, and disburse funds, contributions, or grants from whatever source for the purposes set
9923 forth in this part;

9924 (b) employ, compensate, and prescribe the duties and powers of those individuals,
9925 subject to the provisions of this part relating to the adviser, necessary to execute the duties and
9926 powers of the council; and

9927 (c) enter into contracts for the purposes of this part.

9928 Section 272. Section **63N-12-106**, which is renumbered from Section 63M-1-606 is
9929 renumbered and amended to read:

9930 ~~[63M-1-606]~~. **63N-12-106. Adviser -- Duties and powers.**

9931 (1) The adviser shall be appointed by the governor.

9932 (2) The adviser shall be experienced or knowledgeable in the application of science
9933 and technology to business, industry, or public problems and shall have demonstrated interest
9934 in or ability to contribute to the accomplishment of the purposes of this part.

9935 (3) The adviser shall be compensated pursuant to the wage and salary classification
9936 plan for appointed officers of the state currently in effect.

9937 (4) (a) The adviser shall have those duties and powers the council assigns.

9938 (b) The adviser, with the advice of the council, may enter into contracts and
9939 agreements and may incur expenses necessary to fulfill the purposes of this part.

9940 (5) The adviser shall be administratively responsible to the executive director of the
9941 office.

9942 Section 273. Section **63N-12-107**, which is renumbered from Section 63M-1-607 is
9943 renumbered and amended to read:

9944 ~~[63M-1-607]~~. **63N-12-107. Request for information.**

9945 All departments, divisions, boards, commissions, agencies, institutions, and all other
9946 instrumentalities of the state shall, upon request of the council, provide the council with any
9947 information that these instrumentalities have concerning research in science and technology.

9948 Section 274. Section **63N-12-108**, which is renumbered from Section 63M-1-608 is
9949 renumbered and amended to read:

9950 ~~[63M-1-608]~~. **63N-12-108. Science education program.**

9951 (1) (a) There is established an informal science and technology education program
9952 within the [~~Governor's Office of Economic Development~~] office.

9953 (b) The state science advisor shall act as the [~~executive~~] director of the program.

9954 (c) The State Advisory Council on Science and Technology shall advise the program,
9955 including:

9956 (i) approving all money expended by the science and technology education program;

9957 (ii) approving all operations of the program; and

9958 (iii) making policies and procedures to govern the program.

9959 (2) The program may:

9960 (a) provide informal science and technology-based education to elementary and
9961 secondary students;

9962 (b) expose public education students to college level science and technology
9963 disciplines; and

9964 (c) provide other informal promotion of science and technology education in the state.

9965 Section 275. Section **63N-12-201** is enacted to read:

9966 **Part 2. STEM Action Center**

9967 **63N-12-201. Title.**

9968 This part is known as the "STEM Action Center."

9969 Section 276. Section **63N-12-202**, which is renumbered from Section 63M-1-3201 is

9970 renumbered and amended to read:

9971 ~~[63M-1-3201]~~. 63N-12-202. Definitions.

9972 As used in this part:

9973 (1) "Board" means the STEM Action Center Board created in Section ~~[63M-1-3202]~~

9974 63N-12-203.

9975 (2) "Educator" has the same meaning as defined in Section 53A-6-103.

9976 (3) "High quality professional development" means professional development that
9977 meets high quality standards developed by the State Board of Education.

9978 (4) "Office" means the Governor's Office of Economic Development.

9979 (5) "Provider" means a provider, selected by staff of the board and staff of the Utah
9980 State Board of Education, on behalf of the board:

9981 (a) through a request for proposals process; or

9982 (b) through a direct award or sole source procurement process for a pilot described in
9983 Section ~~[63M-1-3205]~~ 63N-12-206.

9984 (6) "STEM" means science, technology, engineering, and mathematics.

9985 (7) "STEM Action Center" means the center described in Section ~~[63M-1-3204]~~

9986 63N-12-205.

9987 Section 277. Section 63N-12-203, which is renumbered from Section 63M-1-3202 is
9988 renumbered and amended to read:

9989 ~~[63M-1-3202]~~. 63N-12-203. STEM Action Center Board creation --

9990 **Membership.**

9991 (1) There is created the STEM Action Center Board within the office, composed of the
9992 following members:

9993 (a) six private sector members who represent business, appointed by the governor;

9994 (b) the state superintendent of public instruction or the state superintendent of public
9995 instruction's designee;

9996 (c) the commissioner of higher education or the commissioner of higher education's
9997 designee;

9998 (d) one member appointed by the governor;

9999 (e) a member of the State Board of Education, chosen by the chair of the State Board of
10000 Education;

10001 (f) the executive director of the [~~Governor's Office of Economic Development~~] office
10002 or the executive [~~director of the Governor's Office of Economic Development's~~] director's
10003 designee;

10004 (g) the president of the Utah College of Applied Technology or the president of the
10005 Utah College of Applied Technology's designee; and

10006 (h) one member who has a degree in engineering and experience working in a
10007 government military installation, appointed by the governor.

10008 (2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall
10009 represent a business or trade association whose primary focus is science, technology, or
10010 engineering.

10011 (b) Except as required by Subsection (2)(c), members appointed by the governor shall
10012 be appointed to four-year terms.

10013 (c) The length of terms of the members shall be staggered so that approximately half of
10014 the committee is appointed every two years.

10015 (d) The members may not serve more than two full consecutive terms except where the
10016 governor determines that an additional term is in the best interest of the state.

10017 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
10018 appointed for the unexpired term.

10019 (3) Attendance of a simple majority of the members constitutes a quorum for the
10020 transaction of official committee business.

10021 (4) Formal action by the committee requires a majority vote of a quorum.

10022 (5) A member may not receive compensation or benefits for the member's service, but
10023 may receive per diem and travel expenses in accordance with:

10024 (a) Section [63A-3-106](#);

10025 (b) Section [63A-3-107](#); and

10026 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and
10027 63A-3-107.

10028 (6) The governor shall select the chair of the board to serve a one-year term.

10029 (7) The executive director of the [~~Governor's Office of Economic Development~~] office
10030 or the executive [~~director of the Governor's Office of Economic Development's~~] director's
10031 designee shall serve as the vice chair of the board.

10032 Section 278. Section **63N-12-204**, which is renumbered from Section 63M-1-3203 is
10033 renumbered and amended to read:

10034 [~~63M-1-3203~~]. **63N-12-204. STEM Action Center Board -- Duties.**

10035 (1) The board shall:

10036 (a) establish a STEM Action Center to:

10037 (i) coordinate STEM activities in the state among the following stakeholders:

10038 (A) the State Board of Education;

10039 (B) school districts and charter schools;

10040 (C) the State Board of Regents;

10041 (D) institutions of higher education;

10042 (E) parents of home-schooled students; and

10043 (F) other state agencies;

10044 (ii) align public education STEM activities with higher education STEM activities; and

10045 (iii) create and coordinate best practices among public education and higher education;

10046 (b) with the consent of the Senate, appoint [~~an executive~~] a director to oversee the
10047 administration of the STEM Action Center;

10048 (c) select a physical location for the STEM Action Center;

10049 (d) strategically engage industry and business entities to cooperate with the board:

10050 (i) to support high quality professional development and provide other assistance for
10051 educators and students; and

10052 (ii) to provide private funding and support for the STEM Action Center;

10053 (e) give direction to the STEM Action Center and the providers selected through a

- 10054 request for proposals process pursuant to this part; and
- 10055 (f) work to meet the following expectations:
- 10056 (i) that at least 50 educators are implementing best practice learning tools in
- 10057 classrooms per each product specialist or manager working with the STEM Action Center;
- 10058 (ii) performance change in student achievement in each classroom working with a
- 10059 STEM Action Center product specialist or manager; and
- 10060 (iii) that students from at least 50 high schools participate in the STEM competitions,
- 10061 fairs, and camps described in Subsection [~~63M-1-3204~~] 63N-12-205(2)(d).
- 10062 (2) The board may:
- 10063 (a) enter into contracts for the purposes of this part;
- 10064 (b) apply for, receive, and disburse funds, contributions, or grants from any source for
- 10065 the purposes set forth in this part;
- 10066 (c) employ, compensate, and prescribe the duties and powers of individuals necessary
- 10067 to execute the duties and powers of the board;
- 10068 (d) prescribe the duties and powers of the STEM Action Center providers; and
- 10069 (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 10070 make rules to administer this part.
- 10071 (3) The board may establish a foundation to assist in:
- 10072 (a) the development and implementation of the programs authorized under this part to
- 10073 promote STEM education; and
- 10074 (b) implementation of other STEM education objectives described in this part.
- 10075 (4) A foundation established by the board under Subsection (3):
- 10076 (a) may solicit and receive contributions from a private organization for STEM
- 10077 education objectives described in this part;
- 10078 (b) shall comply with Title 51, Chapter 7, State Money Management Act;
- 10079 (c) does not have power or authority to incur contractual obligations or liabilities that
- 10080 constitute a claim against public funds;
- 10081 (d) may not exercise executive or administrative authority over the programs or other

10082 activities described in this part, except to the extent specifically authorized by the board;

10083 (e) shall provide the board with information detailing transactions and balances of
10084 funds managed for the board; and

10085 (f) may not:

10086 (i) engage in lobbying activities;

10087 (ii) attempt to influence legislation; or

10088 (iii) participate in any campaign activity for or against:

10089 (A) a political candidate; or

10090 (B) an initiative, referendum, proposed constitutional amendment, bond, or any other
10091 ballot proposition submitted to the voters.

10092 (5) Money donated to a foundation established under Subsection (3) may be accounted
10093 for in an expendable special revenue fund.

10094 Section 279. Section **63N-12-205**, which is renumbered from Section 63M-1-3204 is
10095 renumbered and amended to read:

10096 **~~[63M-1-3204]~~. 63N-12-205. STEM Action Center.**

10097 (1) As funding allows, the board shall:

10098 (a) establish a STEM Action Center;

10099 (b) ensure that the STEM Action Center:

10100 (i) is accessible by the public; and

10101 (ii) includes the components described in Subsection (2);

10102 (c) work cooperatively with the State Board of Education to:

10103 (i) further STEM education; and

10104 (ii) ensure best practices are implemented as described in Sections ~~[63M-1-3205]~~

10105 63N-12-206 and ~~[63M-1-3206]~~ 63N-12-207; and

10106 (d) engage private entities to provide financial support or employee time for STEM
10107 activities in schools in addition to what is currently provided by private entities.

10108 (2) As funding allows, the ~~[executive]~~ director of the STEM Action Center shall:

10109 (a) support high quality professional development for educators regarding STEM

- 10110 education;
- 10111 (b) ensure that the STEM Action Center acts as a research and development center for
- 10112 STEM education through a request for proposals process described in Section [~~63M-1-3205~~]
- 10113 [63N-12-206](#);
- 10114 (c) review and acquire STEM education related materials and products for:
- 10115 (i) high quality professional development;
- 10116 (ii) assessment, data collection, analysis, and reporting; and
- 10117 (iii) public school instruction;
- 10118 (d) facilitate participation in interscholastic STEM related competitions, fairs, camps,
- 10119 and STEM education activities;
- 10120 (e) engage private industry in the development and maintenance of the STEM Action
- 10121 Center and STEM Action Center projects;
- 10122 (f) use resources to bring the latest STEM education learning tools into public
- 10123 education classrooms;
- 10124 (g) identify at least 10 best practice innovations used in Utah that have resulted in at
- 10125 least 80% of students performing at grade level in STEM areas;
- 10126 (h) identify best practices being used outside the state and, as appropriate, develop and
- 10127 implement selected practices through a pilot program;
- 10128 (i) identify:
- 10129 (i) learning tools for kindergarten through grade 6 identified as best practices; and
- 10130 (ii) learning tools for grades 7 through 12 identified as best practices;
- 10131 (j) provide a Utah best practices database, including best practices from public
- 10132 education, higher education, the Utah Education and Telehealth Network, and other STEM
- 10133 related entities;
- 10134 (k) keep track of the following items related to the best practices database described in
- 10135 Subsection (2)(j):
- 10136 (i) how the best practices database is being used; and
- 10137 (ii) how many individuals are using the database, including the demographics of the

10138 users, if available;

10139 (l) as appropriate, join and participate in a national STEM network;

10140 (m) identify performance changes linked to use of the best practices database described

10141 in Subsection (2)(j);

10142 (n) work cooperatively with the State Board of Education to designate schools as

10143 STEM schools, where the schools have agreed to adopt a plan of STEM implementation in

10144 alignment with criteria set by the State Board of Education and the board;

10145 (o) support best methods of high quality professional development for STEM

10146 education in kindergarten through grade 12, including methods of high quality professional

10147 development that reduce cost and increase effectiveness, to help educators learn how to most

10148 effectively implement best practice learning tools in classrooms;

10149 (p) recognize a high school's achievement in the STEM competitions, fairs, and camps

10150 described in Subsection (2)(d);

10151 (q) send student results from STEM competitions, fairs, and camps described in

10152 Subsection (2)(d) to media and ask the media to report on them;

10153 (r) develop and distribute STEM information to parents of students being served by the

10154 STEM Action Center;

10155 (s) support targeted high quality professional development for improved instruction in

10156 STEM education, including:

10157 (i) improved instructional materials that are dynamic and engaging for students;

10158 (ii) use of applied instruction; and

10159 (iii) introduction of other research-based methods that support student achievement in

10160 STEM areas; and

10161 (t) ensure that an online college readiness assessment tool be accessible by:

10162 (i) public education students; and

10163 (ii) higher education students.

10164 (3) The board may prescribe other duties for the STEM Action Center in addition to

10165 the responsibilities described in this section.

10166 (4) (a) The [~~executive~~] director shall track and compare the student performance of
10167 students participating in a STEM Action Center program to all other similarly situated students
10168 in the state, in the following STEM related activities, at the beginning and end of each year:

10169 (i) public education high school graduation rates;
10170 (ii) the number of students taking a remedial mathematics course at an institution of
10171 higher education described in Section [53B-2-101](#);

10172 (iii) the number of students who graduate from a Utah public school and begin a
10173 postsecondary education program; and

10174 (iv) the number of students, as compared to all similarly situated students, who are
10175 performing at grade level in STEM classes.

10176 (b) The State Board of Education and the State Board of Regents shall provide
10177 information to the board to assist the board in complying with the requirements of Subsection
10178 (4)(a) if allowed under federal law.

10179 Section 280. Section **63N-12-206**, which is renumbered from Section 63M-1-3205 is
10180 renumbered and amended to read:

10181 ~~**63M-1-3205**~~. **63N-12-206. Acquisition of STEM education related**
10182 **instructional technology program -- Research and development of education related**
10183 **instructional technology through a pilot program.**

10184 (1) For purposes of this section:

10185 (a) "Pilot" means a pilot of the program.

10186 (b) "Program" means the STEM education related instructional technology program
10187 created in Subsection (2).

10188 (2) (a) There is created the STEM education related instructional technology program
10189 to provide public schools the STEM education related instructional technology described in
10190 Subsection (3).

10191 (b) On behalf of the board, the staff of the board and the staff of the State Board of
10192 Education shall collaborate and may select one or more providers, through a request for
10193 proposals process, to provide STEM education related instructional technology to school

10194 districts and charter schools.

10195 (c) On behalf of the board, the staff of the board and the staff of the State Board of
10196 Education shall consider and may accept an offer from a provider in response to the request for
10197 proposals described in Subsection (2)(b) even if the provider did not participate in a pilot
10198 described in Subsection (5).

10199 (3) The STEM education related instructional technology shall:

10200 (a) support mathematics instruction for students in:

10201 (i) kindergarten through grade 6; or

10202 (ii) grades 7 and 8; or

10203 (b) support mathematics instruction for secondary students to prepare the secondary
10204 students for college mathematics courses.

10205 (4) In selecting a provider for STEM education related instructional technology to
10206 support mathematics instruction for the students described in Subsection (3)(a), the board shall
10207 consider the following criteria:

10208 (a) the technology contains individualized instructional support for skills and
10209 understanding of the core standards in mathematics;

10210 (b) the technology is self-adapting to respond to the needs and progress of the learner;
10211 and

10212 (c) the technology provides opportunities for frequent, quick, and informal assessments
10213 and includes an embedded progress monitoring tool and mechanisms for regular feedback to
10214 students and teachers.

10215 (5) Before issuing a request for proposals described in Subsection (2), on behalf of the
10216 board, the staff of the board and the staff of the State Board of Education shall collaborate and
10217 may:

10218 (a) conduct a pilot of the program to test and select providers for the program;

10219 (b) select at least two providers through a direct award or sole source procurement
10220 process for the purpose of conducting the pilot; and

10221 (c) select schools to participate in the pilot.

10222 (6) (a) A contract with a provider for STEM education related instructional technology
10223 may include professional development for full deployment of the STEM education related
10224 instructional technology.

10225 (b) No more than 10% of the money appropriated for the program may be used to
10226 provide professional development related to STEM education related instructional technology
10227 in addition to the professional development described in Subsection (6)(a).

10228 Section 281. Section **63N-12-207**, which is renumbered from Section 63M-1-3206 is
10229 renumbered and amended to read:

10230 ~~[63M-1-3206]~~. **63N-12-207. Distribution of STEM education instructional**
10231 **technology to schools.**

10232 (1) Subject to legislative appropriations, on behalf of the board, the staff of the board
10233 and the staff of the State Board of Education shall collaborate and shall:

10234 (a) distribute STEM education related instructional technology described in Section
10235 ~~[63M-1-3205]~~ 63N-12-206 to school districts and charter schools; and

10236 (b) provide related professional development to the school districts and charter schools
10237 that receive STEM education related instructional technology.

10238 (2) A school district or charter school may apply to the board, through a competitive
10239 process, to receive STEM education related instructional technology from the board.

10240 (3) A school district or charter school that receives STEM education related
10241 instructional technology as described in this section shall provide the school district's or charter
10242 school's own computer hardware.

10243 Section 282. Section **63N-12-208**, which is renumbered from Section 63M-1-3207 is
10244 renumbered and amended to read:

10245 ~~[63M-1-3207]~~. **63N-12-208. Report to Legislature and the State Board of**
10246 **Education.**

10247 (1) The board shall report the progress of the STEM Action Center, including the
10248 information described in Subsection (2), to the following groups once each year:

10249 (a) the Education Interim Committee;

- 10250 (b) the Public Education Appropriations Subcommittee;
- 10251 (c) the State Board of Education; and
- 10252 (d) the office for inclusion in the office's annual written report described in Section
- 10253 ~~[63M-1-206]~~ 63N-1-301.

10254 (2) The report described in Subsection (1) shall include information that demonstrates

10255 the effectiveness of the program, including:

- 10256 (a) the number of educators receiving high quality professional development;
- 10257 (b) the number of students receiving services from the STEM Action Center;
- 10258 (c) a list of the providers selected pursuant to this part;
- 10259 (d) a report on the STEM Action Center's fulfilment of its duties described in Section
- 10260 ~~[63M-1-3204]~~ 63N-12-205; and

10261 (e) student performance of students participating in a STEM Action Center program as

10262 collected in Subsection ~~[63M-1-3204]~~ 63N-12-205(4).

10263 Section 283. Section **63N-12-209**, which is renumbered from Section 63M-1-3208 is

10264 renumbered and amended to read:

10265 ~~[63M-1-3208]~~. **63N-12-209. STEM education endorsements and incentive**

10266 **program.**

10267 (1) The State Board of Education shall collaborate with the STEM Action Center to:

- 10268 (a) develop STEM education endorsements; and
- 10269 (b) create and implement financial incentives for:

10270 (i) an educator to earn an elementary or secondary STEM education endorsement

10271 described in Subsection (1)(a); and

10272 (ii) a school district or a charter school to have STEM endorsed educators on staff.

10273 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

10274 State Board of Education shall make rules to establish how a STEM education endorsement

10275 incentive described in Subsection (1)~~(a)~~ will be valued on a salary scale for educators.

10276 Section 284. Section **63N-12-210**, which is renumbered from Section 63M-1-3209 is

10277 renumbered and amended to read:

10278 ~~[63M-1-3209]~~. 63N-12-210. **Acquisition of STEM education high quality**
10279 **professional development.**

10280 (1) The STEM Action Center shall, through a request for proposals process, select
10281 technology providers for the purpose of providing a STEM education high quality professional
10282 development application.

10283 (2) The high quality professional development application described in Subsection (1)
10284 shall:

10285 (a) allow the State Board of Education, a school district, or a school to define the
10286 application's input and track results of the high quality professional development;

10287 (b) allow educators to access automatic tools, resources, and strategies;

10288 (c) allow educators to work in online learning communities, including giving and
10289 receiving feedback via uploaded video;

10290 (d) track and report data on the usage of the components of the application's system
10291 and the relationship to improvement in classroom instruction;

10292 (e) include video examples of highly effective STEM education teaching that:

10293 (i) cover a cross section of grade levels and subjects;

10294 (ii) under the direction of the State Board of Education, include videos of highly
10295 effective Utah STEM educators; and

10296 (iii) contain tools to help educators implement what they have learned; and

10297 (f) allow for additional STEM education video content to be added.

10298 (3) In addition to the high quality professional development application described in
10299 Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or
10300 blended high quality professional development that allows for face-to-face applied learning.

10301 Section 285. Section **63N-12-211**, which is renumbered from Section 63M-1-3210 is
10302 renumbered and amended to read:

10303 ~~[63M-1-3210]~~. 63N-12-211. **STEM education middle school applied science**
10304 **initiative.**

10305 (1) The STEM Action Center shall develop an applied science initiative for students in

10306 grades 7 and 8 that includes:

10307 (a) a STEM applied science curriculum with instructional materials;

10308 (b) STEM hybrid or blended high quality professional development that allows for
10309 face-to-face applied learning; and

10310 (c) hands-on tools for STEM applied science learning.

10311 (2) The STEM Action Center may, through a request for proposals process, select a
10312 consultant to assist in developing the initiative described in Subsection (1).

10313 Section 286. Section **63N-12-212**, which is renumbered from Section 63M-1-3211 is
10314 renumbered and amended to read:

10315 ~~[63M-1-3211]~~. **63N-12-212. High school STEM education initiative.**

10316 (1) Subject to legislative appropriations, after consulting with State Board of Education
10317 staff, the STEM Action Center shall award grants to school districts and charter schools to fund
10318 STEM related certification for high school students.

10319 (2) (a) A school district or charter school may apply for a grant from the STEM Action
10320 Center, through a competitive process, to fund the school district's or charter school's STEM
10321 related certification training program.

10322 (b) A school district's or charter school's STEM related certification training program
10323 shall:

10324 (i) prepare high school students to be job ready for available STEM related positions of
10325 employment; and

10326 (ii) when a student completes the program, result in the student gaining a nationally
10327 industry-recognized employer STEM related certification.

10328 (3) A school district or charter school may partner with one or more of the following to
10329 provide a STEM related certification program:

10330 (a) a Utah College of Applied Technology college campus;

10331 (b) Salt Lake Community College;

10332 (c) Snow College; or

10333 (d) a private sector employer.

10334 Section 287. Section **63N-13-101**, which is renumbered from Section 63M-1-2101 is
10335 renumbered and amended to read:

10336 **CHAPTER 13. PROCUREMENT PROGRAMS**

10337 **Part 1. Procurement Assistance**

10338 ~~[63M-1-2101]~~. 63N-13-101. Title -- **Projects to assist companies to secure**
10339 **new business with federal, state, and local governments.**

10340 (1) This chapter is known as "Procurement Programs."

10341 ~~[(1)]~~ (2) The Legislature recognizes that:

10342 (a) many Utah companies provide products and services which are routinely procured
10343 by a myriad of governmental entities at all levels of government, but that attempting to
10344 understand and comply with the numerous certification, registration, proposal, and contract
10345 requirements associated with government procurement often raises significant barriers for
10346 those companies with no government contracting experience;

10347 (b) the costs associated with obtaining a government contract for products or services
10348 often prevent most small businesses from working in the governmental procurement market;

10349 (c) currently a majority of federal procurement opportunities are contracted to
10350 businesses located outside of the state;

10351 (d) the Governor's Office of Economic Development currently administers programs
10352 and initiatives that help create and grow companies in Utah and recruit companies to Utah
10353 through the use of state employees, public-private partnerships, and contractual services; and

10354 (e) there exists a significant opportunity for Utah companies to secure new business
10355 with federal, state, and local governments.

10356 ~~[(2)]~~ (3) The office, through its executive director:

10357 (a) shall manage and direct the administration of state and federal programs and
10358 initiatives whose purpose is to procure federal, state, and local governmental contracts;

10359 (b) may require program accountability measures; and

10360 (c) may receive and distribute legislative appropriations and public and private grants
10361 for projects and programs that:

10362 (i) are focused on growing Utah companies and positively impacting statewide
10363 revenues by helping these companies secure new business with federal, state, and local
10364 governments;

10365 (ii) provide guidance to Utah companies interested in obtaining new business with
10366 federal, state, and local governmental entities;

10367 (iii) would facilitate marketing, business development, and expansion opportunities for
10368 Utah companies in cooperation with the Governor's Office of Economic Development's
10369 Procurement Technical Assistance Center Program and with public, nonprofit, or private sector
10370 partners such as local chambers of commerce, trade associations, or private contractors as
10371 determined by the office's director to successfully match Utah businesses with government
10372 procurement opportunities; and

10373 (iv) may include the following components:

10374 (A) recruitment, individualized consultation, and an introduction to government
10375 contracting;

10376 (B) specialized contractor training for companies located in Utah;

10377 (C) a Utah contractor matching program for government requirements;

10378 (D) experienced proposal and bid support; and

10379 (E) specialized support services.

10380 [~~3~~] (4) (a) The office, through its executive director, shall make any distribution
10381 referred to in Subsection [~~2~~] (3) on a semiannual basis.

10382 (b) A recipient of money distributed under this section shall provide the office with a
10383 set of standard monthly reports, the content of which shall be determined by the office to
10384 include at least the following information:

10385 (i) consultive meetings with Utah companies;

10386 (ii) seminars or training meetings held;

10387 (iii) government contracts awarded to Utah companies;

10388 (iv) increased revenues generated by Utah companies from new government contracts;

10389 (v) jobs created;

10390 (vi) salary ranges of new jobs; and
10391 (vii) the value of contracts generated.

10392 Section 288. Section **63N-13-201**, which is renumbered from Section 63M-1-2601 is
10393 renumbered and amended to read:

Part 2. Government Procurement Private Proposal Program

~~63M-1-2601~~. 63N-13-201. Title.

This part is known as the "Government Procurement Private Proposal Program."

10397 Section 289. Section **63N-13-202**, which is renumbered from Section 63M-1-2602 is
10398 renumbered and amended to read:

~~63M-1-2602~~. 63N-13-202. Definitions.

As used in this part:

10401 (1) "Affected department" means, as applicable, the Board of Education or the
10402 Department of Technology Services.

10403 (2) "Board" means the Board of Business and Economic Development created under
10404 Section ~~63M-1-301~~ 63N-1-401.

10405 (3) "Board of Education" means the Utah State Board of Education.

10406 (4) "Chief procurement officer" means the chief procurement officer appointed under
10407 Section 63G-6a-302.

10408 (5) "Committee" means the proposal review committee created under Section
10409 ~~63M-1-2604~~ 63N-13-204.

10410 (6) "Day" means a calendar day.

10411 [~~(7) "Director" is as defined in Section 63M-1-102.~~]

10412 [~~(8)~~ (7) "Executive Appropriations Committee" means the Legislature's Executive
10413 Appropriations Committee.

10414 [~~(9)~~ (8) "Information technology" ~~[is]~~ has the same meaning as defined in Section
10415 63F-1-102.

10416 [~~(10) "Office" means the Governor's Office of Economic Development created under~~
10417 Section ~~63M-1-201~~.]

10418 [(11)] (9) "Private entity" means a person submitting a proposal under this part for the
 10419 purpose of entering into a project.

10420 [(12)] (10) "Project" means the subject of a proposal or an agreement for the
 10421 procurement or disposal of:

10422 (a) information technology or telecommunications products or services; or

10423 (b) supplies or services for or on behalf of the Department of Technology Services or
 10424 the Board of Education.

10425 [(13)] (11) "Proposal" means an unsolicited offer by a private entity to undertake a
 10426 project, including an initial proposal under Section [~~63M-1-2605~~] [63N-13-205](#) and a detailed
 10427 proposal under Section [~~63M-1-2608~~] [63N-13-208](#).

10428 [(14)] (12) "Services" [is] has the same meaning as defined in Section [63G-6a-103](#).

10429 [(15)] (13) "Supplies" [is] has the same meaning as defined in Section [63G-6a-103](#).

10430 [(16)] (14) "Telecommunications" [is] has the same meaning as defined in Section
 10431 [63F-1-102](#).

10432 Section 290. Section **63N-13-203**, which is renumbered from Section 63M-1-2603 is
 10433 renumbered and amended to read:

10434 [~~63M-1-2603~~]. **63N-13-203. Government Procurement Private Proposal**
 10435 **Program -- Proposals -- Rulemaking.**

10436 (1) There is created within the office the Government Procurement Private Proposal
 10437 Program.

10438 (2) In accordance with this part, the board may:

10439 (a) accept a proposal for a project;

10440 (b) solicit comments, suggestions, and modifications to a project in accordance with
 10441 Section [63G-6a-711](#); and

10442 (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 10443 Rulemaking Act, establishing requirements, including time limits for any action required by the
 10444 affected department, a directly affected state entity or school district, or the Governor's Office
 10445 of Management and Budget, for the procurement of a project to the extent not governed by

10446 Title 63G, Chapter 6a, Utah Procurement Code.

10447 Section 291. Section **63N-13-204**, which is renumbered from Section 63M-1-2604 is
10448 renumbered and amended to read:

10449 ~~[63M-1-2604]~~. **63N-13-204**. **Committee for reviewing proposals --**
10450 **Appointment -- Accepting or rejecting a proposal.**

10451 (1) The executive director shall appoint a committee composed of members of the
10452 board to review and evaluate a proposal submitted in accordance with this part.

10453 (2) The executive director shall determine the number of board members that constitute
10454 a committee.

10455 (3) The committee shall, at all times, consist of less than a quorum of the members of
10456 the board, as established under Section [~~63M-1-301~~] 63N-1-401.

10457 (4) A committee member shall serve on the committee until:

10458 (a) replaced by the executive director; or

10459 (b) the committee member ceases to be a member of the board.

10460 (5) The executive director may fill a vacancy among voting members on the
10461 committee.

10462 (6) The committee shall include the following nonvoting members in addition to the
10463 members appointed under Subsection (1):

10464 (a) a member of the Senate, appointed by the president of the Senate; and

10465 (b) a member of the House of Representatives, appointed by the speaker of the House
10466 of Representatives, who may not be from the same political party as the member of the Senate
10467 appointed under Subsection (6)(a).

10468 (7) (a) A vacancy among legislative members appointed under Subsection (6) shall be
10469 filled by the president of the Senate or the speaker of the House of Representatives,
10470 respectively.

10471 (b) At the time of appointment or reappointment, the president of the Senate and the
10472 speaker of the House of Representatives shall consult to ensure that the legislative members
10473 appointed under Subsection (6) are not members of the same political party.

10474 (8) A committee member is subject to Title 67, Chapter 16, Utah Public Officers' and
10475 Employees' Ethics Act, and any additional requirement established by the board in accordance
10476 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

10477 (9) The committee shall inform a private entity of the committee's decision to approve
10478 or reject a proposal in writing.

10479 (10) If the committee, in its sole discretion, accepts a proposal, the proposal shall be
10480 evaluated under this part.

10481 (11) If the committee, in its sole discretion, rejects a proposal, the committee shall
10482 notify the private entity of the reason for the rejection and shall return any remaining portion of
10483 the fee required under Section [~~63M-1-2612~~] [63N-13-212](#).

10484 Section 292. Section **63N-13-205**, which is renumbered from Section 63M-1-2605 is
10485 renumbered and amended to read:

10486 ~~[63M-1-2605]~~. **63N-13-205. Initial proposal -- Requirements.**

10487 (1) In accordance with this part, a private entity may at any time submit to the
10488 committee an initial proposal for a project.

10489 (2) An initial proposal shall include:

10490 (a) a conceptual description of the project;

10491 (b) a description of the economic benefit of the project to the state and the affected
10492 department;

10493 (c) information concerning the products, services, and supplies currently being
10494 provided by the state, that are similar to the project;

10495 (d) an estimate of the following costs associated with the project:

10496 (i) design;

10497 (ii) implementation;

10498 (iii) operation and maintenance; and

10499 (iv) any other related project cost; and

10500 (e) the name and address of a person who may be contacted for further information
10501 concerning the initial proposal.

10502 (3) A private entity submitting an initial proposal under this section shall pay the fee
10503 required by Section [~~63M-1-2612~~] [63N-13-212](#) when the initial proposal is submitted.

10504 (4) An initial proposal submitted under this section is a protected record under Title
10505 63G, Chapter 2, Government Records Access and Management Act, until the chief
10506 procurement officer initiates a procurement process in accordance with Section [63G-6a-711](#).

10507 (5) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
10508 Administrative Rulemaking Act, detailing the portions of an initial proposal that remain
10509 protected after the chief procurement officer initiates a procurement process.

10510 Section 293. Section **63N-13-206**, which is renumbered from Section 63M-1-2606 is
10511 renumbered and amended to read:

10512 ~~[63M-1-2606]~~. **63N-13-206. Review of initial proposal -- Affected**
10513 **department review.**

10514 (1) The committee shall review and evaluate an initial proposal submitted in
10515 accordance with:

10516 (a) this part; and

10517 (b) any rule established by the board under Section [~~63M-1-2603~~] [63N-13-203](#).

10518 (2) If the committee, in its sole discretion, determines to proceed with the project, the
10519 committee shall submit a copy of the initial proposal to:

10520 (a) the affected department; and

10521 (b) the Governor's Office of Management and Budget.

10522 (3) (a) An affected department, directly affected state entity, and school district
10523 receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial
10524 proposal and provide the committee with any comment, suggestion, or modification to the
10525 project.

10526 (b) After receiving an initial proposal, the Governor's Office of Management and
10527 Budget shall prepare an economic feasibility report containing:

10528 (i) information concerning the economic feasibility and effectiveness of the project
10529 based upon competent evidence;

10530 (ii) a dollar amount representing the total estimated fiscal impact of the project to the
10531 affected department and the state; and

10532 (iii) any other matter the committee requests or is required by the board by rule.

10533 (4) In reviewing an initial proposal, the affected department shall share the initial
10534 proposal with any other state entity or school district that will be directly affected if the
10535 proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.

10536 (5) If the committee determines to proceed with the project, the committee shall submit
10537 a copy of the initial proposal, including any comment, suggestion, or modification to the initial
10538 proposal, to:

10539 (a) the chief procurement officer in accordance with Section [63G-6a-711](#); and

10540 (b) the Executive Appropriations Committee, for informational purposes.

10541 (6) Before taking any action under Subsection (5), the committee shall consider:

10542 (a) any comment, suggestion, or modification to the initial proposal submitted in
10543 accordance with Subsection (3);

10544 (b) the extent to which the project is practical, efficient, and economically beneficial to
10545 the state and the affected department;

10546 (c) the economic feasibility report prepared by the Governor's Office of Management
10547 and Budget; and

10548 (d) any other reasonable factor identified by the committee or required by the board by
10549 rule.

10550 Section 294. Section **63N-13-207**, which is renumbered from Section 63M-1-2607 is
10551 renumbered and amended to read:

10552 **~~[63M-1-2607]~~. 63N-13-207. Acceptance of initial proposal -- Obtaining**
10553 **detailed proposals.**

10554 (1) If an initial proposal is accepted under Section [[63M-1-2606](#)] [63N-13-206](#), the
10555 chief procurement officer shall:

10556 (a) take action under Section [63G-6a-711](#) to initiate a procurement process to obtain
10557 one or more detailed proposals using information from portions of the initial proposal that are

10558 not protected records under Title 63G, Chapter 2, Government Records Access and
10559 Management Act;

10560 (b) consult with the committee during the procurement process; and

10561 (c) submit all detailed proposals that meet the guidelines established under Subsection
10562 [~~63M-1-2608~~] 63N-13-208(1), including the detailed proposal submitted by the private entity
10563 that submitted the initial proposal for the project, to:

10564 (i) the committee; and

10565 (ii) the Governor's Office of Management and Budget.

10566 (2) The office is considered the purchasing agency for a procurement process initiated
10567 under this part.

10568 Section 295. Section **63N-13-208**, which is renumbered from Section 63M-1-2608 is
10569 renumbered and amended to read:

10570 [~~63M-1-2608~~]. **63N-13-208. Detailed proposal -- Requirements --**

10571 **Cooperation of affected department.**

10572 (1) A detailed proposal submitted in response to a procurement process initiated under
10573 Section [~~63M-1-2607~~] 63N-13-207 shall include:

10574 (a) a conceptual description of the project, including the scope of the work;

10575 (b) a description of the economic benefit of the project to the state and the affected
10576 department;

10577 (c) an estimate of the design, implementation, operation, maintenance, or other costs
10578 associated with the project;

10579 (d) information concerning the information technology or telecommunication product
10580 and service or other supply or service currently provided by the state that is similar to the
10581 project being proposed, if applicable;

10582 (e) a statement setting forth the private entity's general plan for financing the project,
10583 including any appropriation by the Legislature or other public money and, if applicable, the
10584 sources of the private entity's funds and identification of any dedicated revenue source or
10585 proposed debt or equity investment on behalf of the private entity;

10586 (f) the name and address of the person who may be contacted for further information
10587 concerning the detailed proposal;

10588 (g) a statement describing the private entity's experience with other similar projects and
10589 a description of why the private entity is best qualified for the project; and

10590 (h) any other information:

10591 (i) reasonably requested by the affected department or the committee, or required by
10592 the board by rule; or

10593 (ii) that the private entity considers necessary or appropriate to complete or describe
10594 the detailed proposal.

10595 (2) To assist each private entity in preparing a detailed proposal:

10596 (a) the affected department shall provide each private entity with access to all
10597 information, records, documents, and reports related to the proposal and the project that are
10598 designated public records under Title 63G, Chapter 2, Government Records Access and
10599 Management Act; and

10600 (b) the affected department and the committee shall cooperate with each private entity
10601 to assist the private entity in the development of a detailed proposal that is:

10602 (i) practical;

10603 (ii) efficient; and

10604 (iii) economically beneficial to the state and the affected department.

10605 (3) The committee or any private entity may choose to terminate the development of
10606 the detailed proposal at any time before the submission of the detailed proposal to the chief
10607 procurement officer under Section [63G-6a-711](#).

10608 Section 296. Section **63N-13-209**, which is renumbered from Section 63M-1-2609 is
10609 renumbered and amended to read:

10610 ~~[63M-1-2609]~~. **63N-13-209. Receipt of detailed proposals -- Economic**
10611 **feasibility report -- Acceptance of a detailed proposal.**

10612 (1) If the committee, in its sole discretion, determines that a detailed proposal does not
10613 substantially meet the guidelines established under Subsection [~~63M-1-2608~~] [63N-13-208\(1\)](#),

10614 the committee may elect not to review the detailed proposal.

10615 (2) (a) After receiving a detailed proposal, the Governor's Office of Management and
10616 Budget shall update the economic feasibility report prepared under Section [~~63M-1-2606~~]
10617 [63N-13-206](#).

10618 (b) A detailed proposal that is to be reviewed by the committee shall be submitted to
10619 the affected department, a directly affected state entity, and a directly affected school district
10620 for comment or suggestion.

10621 (3) In determining which, if any, of the detailed proposals to accept, in addition to the
10622 proposal evaluation criteria, the committee shall consider the following factors:

10623 (a) any comment, suggestion, or modification offered in accordance with Subsection
10624 [~~63M-1-2606~~] [63N-13-206](#)(3) or Subsection (2)(b);

10625 (b) the economic feasibility report updated in accordance with Subsection (2)(a);

10626 (c) the source of funding and any resulting constraint necessitated by the funding
10627 source;

10628 (d) any alternative funding proposal;

10629 (e) the extent to which the project is practical, efficient, and economically beneficial to
10630 the state and the affected department; and

10631 (f) any other reasonable factor identified by the committee or required by the board by
10632 rule.

10633 (4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal
10634 shall be submitted to the board for approval.

10635 (b) If the affected department or a directly affected state entity or school district
10636 disputes the detailed proposal approved by the board, the Governor's Office of Management
10637 and Budget shall consider the detailed proposal and any comment, suggestion, or modification
10638 and determine whether to proceed with a project agreement.

10639 (c) If there is no funding for a project that is the subject of a detailed proposal and the
10640 committee determines to proceed with the project, the office shall submit a report to the
10641 Governor's Office of Management and Budget and the Executive Appropriations Committee

10642 detailing the position of the board, the affected department, a directly affected state entity or
10643 school district.

10644 (5) A detailed proposal received from a private entity other than the private entity that
10645 submitted the initial proposal may not be accepted in place of the detailed proposal offered by
10646 the private entity that submitted the initial proposal solely because of a lower cost if the lower
10647 cost is within the amount of the fee paid by the private entity that submitted the initial proposal
10648 for review of the initial proposal.

10649 Section 297. Section **63N-13-210**, which is renumbered from Section 63M-1-2610 is
10650 renumbered and amended to read:

10651 **~~[63M-1-2610]~~. 63N-13-210. Project agreement.**

10652 (1) If the board accepts the detailed proposal, the executive director shall:

10653 (a) prepare a project agreement in consultation with the affected department and any
10654 other state entity directly impacted by the detailed proposal; and

10655 (b) enter into the project agreement with the private entity.

10656 (2) A project agreement shall be signed by the executive director, the affected
10657 department, a directly affected state entity or school district, and the private entity.

10658 (3) A project agreement shall include provisions concerning:

10659 (a) the scope of the project;

10660 (b) the pricing method of the project;

10661 (c) the executive director's or the state's ability to terminate for convenience or for
10662 default, and any termination compensation to be paid to the private entity, if applicable;

10663 (d) the ability to monitor performance under the project agreement;

10664 (e) the appropriate limits of liability;

10665 (f) the appropriate transition of services, if applicable;

10666 (g) the exceptions from applicable rules and procedures for the implementation and
10667 administration of the project by the affected department, if any;

10668 (h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a,
10669 Part 12, Contracts and Change Orders; and

10670 (i) any other matter reasonably requested by the committee or required by the board by
10671 rule.

10672 (4) A copy of the signed project agreement shall be submitted to:

10673 (a) the affected department; and

10674 (b) the Executive Appropriations Committee.

10675 (5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah
10676 Procurement Code.

10677 (6) The affected department shall implement and administer the project agreement in
10678 accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
10679 except as modified by the project agreement under Subsection (3)(g).

10680 Section 298. Section **63N-13-211**, which is renumbered from Section 63M-1-2611 is
10681 renumbered and amended to read:

10682 ~~**[63M-1-2611]**~~. **63N-13-211**. **Advisory committee.**

10683 (1) The executive director may appoint an advisory committee comprised of:

10684 (a) representatives of:

10685 (i) the affected department for the proposal;

10686 (ii) a directly affected state entity or school district;

10687 (iii) the Department of Human Resource Management; and

10688 (iv) the Division of Risk Management;

10689 (b) members of the public; and

10690 (c) other members.

10691 (2) A member of an advisory committee may not receive compensation or benefits for
10692 the member's service, but may receive per diem and travel expenses in accordance with:

10693 (a) Section **63A-3-106**;

10694 (b) Section **63A-3-107**; and

10695 (c) rules made by the Division of Finance [~~pursuant to~~] under Sections **63A-3-106** and
10696 **63A-3-107**.

10697 (3) An advisory committee appointed in accordance with Subsection (1) may not

10698 participate in the final decision-making of the committee or the board.

10699 (4) The staff, any outside consultant, and any advisory subcommittee shall:

10700 (a) provide the committee and the board with professional services, including
10701 architectural, engineering, legal, and financial services, to develop rules and guidelines to
10702 implement the program described in this part; and

10703 (b) assist the committee and the board in:

10704 (i) reviewing and commenting on initial proposals;

10705 (ii) reviewing and commenting on detailed proposals; and

10706 (iii) preparing and negotiating the terms of any project agreement.

10707 Section 299. Section **63N-13-212**, which is renumbered from Section 63M-1-2612 is
10708 renumbered and amended to read:

10709 ~~**[63M-1-2612]**~~. **63N-13-212**. **Private Proposal Expendable Special Revenue**
10710 **Fund -- Fees.**

10711 (1) There is created an expendable special revenue fund within the office called the
10712 Private Proposal Expendable Special Revenue Fund.

10713 (2) Money collected from the payment of a fee required by this part shall be deposited
10714 in the Private Proposal Expendable Special Revenue Fund.

10715 (3) The board or the committee may use the money in the Private Proposal Expendable
10716 Special Revenue Fund to offset:

10717 (a) the expense of hiring staff and engaging any outside consultant to review a proposal
10718 under this part; and

10719 (b) any expense incurred by the Governor's Office of Management and Budget or the
10720 affected department in the fulfillment of its duties under this part.

10721 (4) The board shall establish a fee in accordance with Section **63J-1-504** for:

10722 (a) reviewing an initial proposal;

10723 (b) reviewing any detailed proposal; and

10724 (c) preparing any project agreement.

10725 (5) The board may waive the fee established under Subsection (4) if the board

10726 determines that it is:

10727 (a) reasonable; and

10728 (b) in the best interest of the state.

10729 Section 300. Section **79-4-1103** is amended to read:

10730 **79-4-1103. Governor's duties -- Priority of federal property.**

10731 (1) During a fiscal emergency, the governor shall:

10732 (a) if financially practicable, work with the federal government to open and maintain
10733 the operation of one or more national parks, national monuments, national forests, and national
10734 recreation areas in the state, in the order established under this section; and

10735 (b) report to the speaker of the House and the president of the Senate on the need, if
10736 any, for additional appropriations to assist the division in opening and operating one or more
10737 national parks, national monuments, national forests, and national recreation areas in the state.

10738 (2) The director of the Outdoor Recreation Office, created in Section [~~63M-1-3304~~]
10739 [63N-9-104](#), in consultation with the executive director of the Governor's Office of Economic
10740 Development, shall determine, by rule, the priority of national parks, national monuments,
10741 national forests, and national recreation areas in the state.

10742 (3) In determining the priority described in Subsection (2), the director of the Outdoor
10743 Recreation Office shall consider the:

10744 (a) economic impact of the national park, national monument, national forest, or
10745 national recreation area in the state; and

10746 (b) recreational value offered by the national park, national monument, national forest,
10747 or national recreation area.

10748 (4) The director of the Outdoor Recreation Office shall:

10749 (a) report the priority determined under Subsection (2) to the Natural Resources,
10750 Agriculture, and Environment Interim Committee by November 30, 2014; and

10751 (b) annually review the priority set under Subsection (2) to determine whether the
10752 priority list should be amended.

10753 Section 301. **Repealer.**

- 10754 This bill repeals:
- 10755 Section **63M-1-204, Organization of office -- Jurisdiction of director.**
- 10756 Section **63M-1-207, Daylight saving time study.**
- 10757 Section **63M-1-301, Board of Business and Economic Development.**
- 10758 Section **63M-1-304, Governor's Office of Economic Development -- Powers and**
- 10759 **duties of office -- Consulting with board on funds or services provided by office.**
- 10760 Section **63M-1-801, Creation of shared foreign sales corporations.**
- 10761 Section **63M-1-802, Management fees.**
- 10762 Section **63M-1-1301, Title.**
- 10763 Section **63M-1-1302, Purpose.**
- 10764 Section **63M-1-1901, Military installation projects for economic development --**
- 10765 **Funding -- Criteria -- Dispersal -- Report.**
- 10766 Section **63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment**
- 10767 **of partial rebates.**