

Title 63M. Governor's Programs

Chapter 4 Utah Energy Act

Part 1 General Provisions

63M-4-101 Title.

This chapter is known as the "Utah Energy Act."

Renumbered and Amended by Chapter 382, 2008 General Session

63M-4-102 Definitions.

As used in this chapter:

- (1) "Energy advisor" means the governor's energy advisor appointed under Section 63M-4-401.
- (2) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (3) "State agency" means an executive branch:
 - (a) department;
 - (b) agency;
 - (c) board;
 - (d) commission;
 - (e) division; or
 - (f) state educational institution.

Amended by Chapter 37, 2012 General Session

Part 2 Governor's Energy Advisor

63M-4-201 Governor's energy advisor -- Duties.

- (1)
 - (a) The governor shall appoint an energy advisor.
 - (b) The governor's energy advisor serves at the pleasure of the governor.
- (2) The governor's energy advisor shall:
 - (a) advise the governor on energy-related matters;
 - (b) annually review and propose updates to the state's energy policy, as contained in Section 63M-4-301;
 - (c) promote as the governor's energy advisor considers necessary:
 - (i) the development of cost-effective energy resources both renewable and nonrenewable; and
 - (ii) educational programs, including programs supporting conservation and energy efficiency measures;
 - (d) coordinate across state agencies to assure consistency with state energy policy, including:
 - (i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

- (ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;
 - (iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and
 - (iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;
 - (e) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;
 - (f) coordinate with requisite state agencies to study:
 - (i) the creation of a centralized state repository for energy-related information;
 - (ii) methods for streamlining state review and approval processes for energy-related projects; and
 - (iii) the development of multistate energy transmission and transportation infrastructure;
 - (g) coordinate energy-related regulatory processes within the state;
 - (h) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;
 - (i) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and
 - (j) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.
- (3) The governor's energy advisor has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

Amended by Chapter 295, 2013 General Session

63M-4-202 Agency cooperation.

A state agency shall provide the state energy officer with any energy-related information requested by the governor's energy advisor if the governor's energy advisor's request is consistent with other law.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-4-203 Reports.

- (1) The governor's energy advisor shall report annually to:
 - (a) the governor; and
 - (b) the Natural Resources, Agriculture, and Environment Interim Committee.
- (2) The report required in Subsection (1) shall:
 - (a) summarize the status and development of the state's energy resources;
 - (b) summarize the activities and accomplishments of the Office of Energy Development;
 - (c) address the governor's energy advisor's activities under this part; and
 - (d) recommend any energy-related executive or legislative action the governor's energy advisor considers beneficial to the state, including updates to the state energy policy under Section 63M-4-301.

Amended by Chapter 378, 2015 General Session

Part 3 State Energy Policy

63M-4-301 State energy policy.

- (1) It is the policy of the state that:
- (a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;
 - (b) Utah will promote the development of:
 - (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;
 - (ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;
 - (iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;
 - (iv) alternative transportation fuels and technologies;
 - (v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;
 - (vi) energy storage and other advanced energy systems; and
 - (vii) increased refinery capacity;
 - (c) Utah will promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;
 - (d) Utah will allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;
 - (e) Utah will pursue energy conservation, energy efficiency, and environmental quality;
 - (f)
 - (i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and
 - (ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;
 - (g) Utah will maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:
 - (i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and
 - (ii) investment will occur only when adequate financial returns can be realized; and
 - (h) Utah will promote training and education programs focused on developing a comprehensive understanding of energy, including:
 - (i) programs addressing:
 - (A) energy conservation;
 - (B) energy efficiency;
 - (C) supply and demand; and
 - (D) energy related workforce development; and
 - (ii) energy education programs in grades K-12.

- (2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).
- (3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Amended by Chapter 415, 2019 General Session

63M-4-302 Legislative committee review.

The Natural Resources, Agriculture, and Environment Interim Committee and the Public Utilities, Energy, and Technology Interim Committee shall review the state energy policy annually and propose any changes to the Legislature.

Amended by Chapter 13, 2016 General Session

Part 4 Office of Energy Development

63M-4-401 Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees.

- (1) There is created an Office of Energy Development.
- (2)
 - (a) The governor's energy advisor shall serve as the director of the office or appoint a director of the office.
 - (b) The director:
 - (i) shall, if the governor's energy advisor appoints a director under Subsection (2)(a), report to the governor's energy advisor; and
 - (ii) may appoint staff as funding within existing budgets allows.
 - (c) The office may consolidate energy staff and functions existing in the state energy program.
- (3) The purposes of the office are to:
 - (a) serve as the primary resource for advancing energy and mineral development in the state;
 - (b) implement:
 - (i) the state energy policy under Section 63M-4-301; and
 - (ii) the governor's energy and mineral development goals and objectives;
 - (c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;
 - (d) promote energy and mineral development workforce initiatives; and
 - (e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.
- (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:
 - (a) seek federal grants or loans;
 - (b) seek to participate in federal programs; and
 - (c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.
- (5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

- (6)
 - (a) For purposes of administering this section, the office may make rules, by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.
 - (b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.
- (7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

Amended by Chapter 247, 2019 General Session

63M-4-402 In-state generator need -- Merchant electric transmission line.

- (1) As used in this section:
 - (a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).
 - (b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.
 - (c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.
 - (d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.
 - (e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.
 - (f) "Office" means the Office of Energy Development established in Section 63M-4-401.
 - (g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).
- (2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:
 - (a) the proposed capacity;
 - (b) the location of potential interconnection for in-state merchant generators;
 - (c) the planned date for commencement of construction; and
 - (d) the planned commercial operations date.
- (3) Upon receipt of the open solicitation notice, the office shall:
 - (a) publish the notice on the Utah Public Notice Website created under Section 63F-1-701;
 - (b) include in the notice contact information; and
 - (c) provide the deadline date for submission of an expression of need.
- (4)

- (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.
- (b) An expression of need submitted under Subsection (4)(a) shall include:
 - (i) a description of the in-state merchant generator; and
 - (ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.
- (5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant generators.
- (6) Within five days of preparing the certificate of in-state need, the office shall:
 - (a) publish the certificate on the Utah Public Notice Website created under Section 63F-1-701; and
 - (b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.
- (7) The merchant electric transmission line shall:
 - (a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and
 - (b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.
- (8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.
- (9) This section may not be interpreted to:
 - (a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or
 - (b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.
- (10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

Enacted by Chapter 294, 2014 General Session

Part 5

Alternative Energy Development Tax Credit Act

63M-4-501 Title.

This part is known as the "Alternative Energy Development Tax Credit Act."

Enacted by Chapter 410, 2012 General Session

63M-4-502 Definitions.

As used in this part:

- (1) "Alternative energy" is as defined in Section 59-12-102.
- (2)
 - (a) "Alternative energy entity" means a person that:

- (i) conducts business within the state; and
- (ii) enters into an agreement with the office that qualifies the person to receive a tax credit.
- (b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (2)(a).
- (3) "Alternative energy project" means a project produced by an alternative energy entity if that project involves:
 - (a) a new or expanding operation in the state; and
 - (b)
 - (i) utility-scale alternative energy generation; or
 - (ii) the extraction of alternative fuels.
- (4) "New incremental job within the state" means, with respect to an alternative energy entity, an employment position that:
 - (a) did not exist within the state before:
 - (i) the alternative energy entity entered into an agreement with the office in accordance with Section 63M-4-503; and
 - (ii) the alternative energy project began;
 - (b) is not shifted from one location in the state to another location in the state; and
 - (c) is established to the satisfaction of the office, including by amounts paid or withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax Act.
- (5) "New state revenues" means an increased amount of tax revenues generated as a result of an alternative energy project by an alternative energy entity or a new incremental job within the state under the following:
 - (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
 - (b) Title 59, Chapter 10, Individual Income Tax Act; and
 - (c) Title 59, Chapter 12, Sales and Use Tax Act.
- (6) "Office" is as defined in Section 63M-4-401.
- (7) "Tax credit" means a tax credit under Section 59-7-614.7 or 59-10-1029.
- (8) "Tax credit applicant" means an alternative energy entity that applies to the office to receive a tax credit certificate under this part.
- (9) "Tax credit certificate" means a certificate issued by the office that:
 - (a) lists the name of the tax credit certificate recipient;
 - (b) lists the tax credit certificate recipient's taxpayer identification number;
 - (c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and
 - (d) includes other information as determined by the office.
- (10) "Tax credit certificate recipient" means an alternative energy entity that receives a tax credit certificate for a tax credit in accordance with this part.

Enacted by Chapter 410, 2012 General Session

63M-4-503 Tax credits.

- (1)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.
 - (b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office, in consultation with other state agencies as necessary, shall certify:
 - (i) that the alternative energy entity plans to produce in the state at least:

- (A) two megawatts of electricity;
 - (B) 1,000 barrels per day if the alternative energy project is a crude oil equivalent production;
or
 - (C) 250 barrels per day if the alternative energy project is a biomass energy fuel production;
 - (ii) that the alternative energy project will generate new state revenues;
 - (iii) the economic life of the alternative energy project produced by the alternative energy entity;
 - (iv) that the alternative energy entity meets the requirements of Section 63M-4-504; and
 - (v) that the alternative energy entity has received a certificate of existence from the Division of Corporations and Commercial Code.
- (2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office shall enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).
- (3)
- (a) Subject to Subsection (3)(b), if the office expects that the time from the commencement of construction until the end of the economic life of the alternative energy project is 20 years or more:
 - (i) the office shall grant a tax credit for the lesser of:
 - (A) the economic life of the alternative energy project; or
 - (B) 20 years; and
 - (ii) the tax credit is equal to 75% of new state revenues generated by the alternative energy project.
 - (b) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy project during that taxable year.
- (4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:
- (a) annually file a report with the office showing the new state revenues generated by the alternative energy project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029;
 - (b) subject to Subsection (5), annually file a report with the office prepared by an independent certified public accountant verifying the new state revenue described in Subsection (4)(a);
 - (c) subject to Subsection (5), file a report with the office at least every four years prepared by an independent auditor auditing the new state revenue described in Subsection (4)(a);
 - (d) provide the office with information required by the office to certify the economic life of the alternative energy project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and
 - (e) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.7 or 59-10-1029.
- (5) An alternative energy entity for which a report is prepared under Subsection (4)(b) or (c) shall pay the costs of preparing the report.
- (6) The office shall annually certify the new state revenues generated by an alternative energy project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.7 or 59-10-1029.

Amended by Chapter 149, 2018 General Session

63M-4-504 Qualifications for tax credit -- Procedure.

- (1) The office shall certify an alternative energy entity's eligibility for a tax credit as provided in this section.

- (2) A tax credit applicant shall provide the office with:
 - (a) an application for a tax credit certificate;
 - (b) documentation that the tax credit applicant meets the standards and requirements described in Section 63M-4-503 to the satisfaction of the office for the taxable year for which the tax credit applicant seeks to claim a tax credit; and
 - (c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit applicant's returns and other information concerning the tax credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.
- (3)
 - (a) The office shall submit the documentation described in Subsection (2)(c) to the State Tax Commission.
 - (b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (2)(c) requested by the office that the tax credit applicant directed and authorized the State Tax Commission to provide to the office.
- (4) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is not substantially accurate, the office shall:
 - (a) deny the tax credit; or
 - (b) inform the tax credit applicant that the documentation supporting the tax credit applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new documentation.
- (5) If, after the office reviews the documentation described in Subsections (2) and (3), the office determines that the documentation supporting the tax credit applicant's claim for a tax credit is substantially accurate, the office shall, on the basis of that documentation:
 - (a) enter into the agreement described in Section 63M-4-503;
 - (b) issue a tax credit certificate to the tax credit applicant; and
 - (c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b) to the State Tax Commission.
- (6) An alternative energy entity may not claim a tax credit under this part unless the alternative energy entity is a tax credit certificate recipient.
- (7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit certificate in accordance with Subsection 63M-4-503(4).

Enacted by Chapter 410, 2012 General Session

63M-4-505 Report to the Legislature.

The office shall annually provide an electronic report to the Public Utilities, Energy, and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

- (1) its success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;
- (2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and
- (3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Amended by Chapter 13, 2016 General Session

Amended by Chapter 135, 2016 General Session

Part 6

High Cost Infrastructure Development Tax Credit Act

63M-4-601 Title.

This part is known as the "High Cost Infrastructure Development Tax Credit Act."

Enacted by Chapter 356, 2015 General Session

63M-4-602 Definitions.

As used in this part:

- (1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.
- (2) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.
- (3) "High cost infrastructure project" means a project:
 - (a)
 - (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;
 - (ii) that involves new investment of at least \$50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or
 - (iii) for the construction of a plant or other facility, including a fueling station, for the storage, production, or distribution of hydrogen fuel used for transportation, electricity generation, or industrial use;
 - (b) that requires or is directly facilitated by infrastructure construction; and
 - (c) for which the cost of infrastructure construction to the entity creating the project is greater than:
 - (i) 10% of the total cost of the project; or
 - (ii) \$10,000,000.
- (4) "Infrastructure" means:
 - (a) an energy delivery project as defined in Section 63H-2-102;
 - (b) a railroad as defined in Section 54-2-1;
 - (c) a fuel standard compliance project;
 - (d) a road improvement project;
 - (e) a water self-supply project;
 - (f) a water removal system project;
 - (g) a solution-mined subsurface salt cavern; or
 - (h) a project that is designed to:
 - (i) increase the capacity for water delivery to a water user in the state; or
 - (ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.
- (5)

- (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.
- (b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (5)(a).
- (6) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:
 - (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
 - (b) Title 59, Chapter 10, Individual Income Tax Act; and
 - (c) Title 59, Chapter 12, Sales and Use Tax Act.
- (7) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (8) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.
- (9) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:
 - (a) lists the name of the infrastructure cost-burdened entity;
 - (b) lists the infrastructure cost-burdened entity's taxpayer identification number;
 - (c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and
 - (d) includes other information as determined by the office.

Amended by Chapter 501, 2019 General Session

63M-4-603 Tax credit -- Amount -- Eligibility -- Reporting.

- (1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, and other state agencies as necessary, shall, in accordance with the procedures described in Section 63M-4-604, certify:
 - (a) that the project meets the definition of a high cost infrastructure project under this part;
 - (b) that the high cost infrastructure project will generate infrastructure-related revenue;
 - (c) the economic life of the high cost infrastructure project; and
 - (d) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.
- (2)
 - (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Authority Board shall evaluate the project's benefit to the state, based on whether the project:
 - (i) is likely to increase the property tax revenue for the municipality or county where the project will be located;
 - (ii) would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;
 - (iii) would have a positive environmental impact on the state;
 - (iv) would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; and
 - (v) is less likely to be completed without a tax credit issued to the applicant under this part.
 - (b) The Utah Energy Infrastructure Authority Board may recommend that the office deny an applicant a tax credit if the applicant's project does not, as determined by the Utah Energy Infrastructure Authority Board, sufficiently benefit the state based on the criteria described in Subsection (2)(a).

- (3) Subject to the procedures described in Section 63M-4-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Authority Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.
- (4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):
 - (a) for the lesser of:
 - (i) the economic life of the high cost infrastructure project;
 - (ii) 20 years; or
 - (iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:
 - (A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or
 - (B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.
 - (b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);
 - (c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and
 - (d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:
 - (i) determined by the Utah Energy Infrastructure Authority Board, based on:
 - (A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and
 - (B) how soon the applicant plans to complete the high cost infrastructure project; and
 - (ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).
- (5) An infrastructure cost-burdened entity shall, for each taxable year:
 - (a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;
 - (b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and
 - (c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.
- (6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.
- (7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.
- (8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Amended by Chapter 149, 2018 General Session

63M-4-604 Tax credit -- Application procedure.

- (1) An applicant shall provide the office with:
 - (a) an application for a tax credit certificate;
 - (b) documentation that the applicant meets the requirements described in Subsection 63M-4-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and
 - (c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.
- (2)
 - (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.
 - (b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).
- (3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 63M-4-603, the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the applicant is not eligible for the tax credit under Section 63M-4-603, or that the applicant's documentation is inadequate, the office shall:
 - (a) deny the tax credit; or
 - (b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.
- (4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection 63M-4-603(6), the office, in consultation with the Utah Energy Infrastructure Authority Board created in Section 63H-2-202, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 63M-4-603, the office shall, on the basis of the documentation:
 - (a) enter, with the applicant, into the agreement described in Subsection 63M-4-603(3);
 - (b) issue a tax credit certificate to the applicant; and
 - (c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.
- (5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure Authority Board, as provided in Subsection 63M-4-603(2).
- (6) An infrastructure cost-burdened entity may not claim a tax credit under Section 59-7-619 or 59-10-1034 unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.
- (7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection 63M-4-603(7).
- (8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 63M-4-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Enacted by Chapter 356, 2015 General Session

63M-4-605 Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee and the Revenue and Taxation Interim Committee describing:

- (1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;
- (2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and
- (3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Amended by Chapter 13, 2016 General Session

63M-4-606 Administrative rules.

The office may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements and procedures for the implementation of this part.

Enacted by Chapter 337, 2016 General Session

Part 7

Refiner Gasoline Sulfur Standard Sales and Use Tax Exemption Reporting

63M-4-701 Definitions.

As used in this part:

- (1) "Blending stock," "blendstock," or "component" means any liquid compound that is blended with other liquid compounds to produce gasoline.
- (2) "Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.
- (3) "Refiner tax exemption certification" means a certification issued by the office in accordance with Section 63M-4-702.
- (4) "Refinery" means a facility where gasoline or diesel fuel is produced, including a facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel.

Amended by Chapter 412, 2020 General Session

63M-4-702 Refiner gasoline standard reporting -- Office of Energy Development certification of sales and use tax exemption eligibility.

- (1)
 - (a) A refiner that seeks to be eligible for a sales and use tax exemption under Subsection 59-12-104(86) on or after July 1, 2021, shall annually report to the office whether the refiner's facility that is located within the state:
 - (i) had an average gasoline sulfur level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616, during the previous calendar year; or
 - (ii) for an annual report covering a period before January 1, 2023, if a refiner's facility did not have an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year, the progress the refiner made during the previous calendar year toward complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

- (b) Fuels for which a final destination outside Utah can be demonstrated or that are not subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R. Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).
- (2) The office shall issue a refiner tax exemption certification to a refiner on a form prescribed by the State Tax Commission:
 - (a) beginning July 1, 2021, and ending December 31, 2022, if:
 - (i) the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year; or
 - (ii)
 - (A) on or before July 1, 2021, the refiner certifies in writing to the office that the refiner's refinery that is located within the state will have an average gasoline sulfur level described in Subsection (1)(a)(i) after December 31, 2024; and
 - (B) the office determines that the refiner made satisfactory progress during the previous calendar year toward satisfying the refiner's certification described in Subsection (2)(a)(ii)(A); or
 - (b) after December 31, 2022, if the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year.
- (3)
 - (a) Within 30 days after the day on which the office receives a complete annual report described in Subsection (1)(a), the office shall:
 - (i) issue a refiner tax exemption certification to the refiner; or
 - (ii) notify the refiner in writing that the office has determined the refiner does not qualify for a refiner tax exemption certification and the basis for the office's determination.
 - (b) A refiner tax exemption certification is valid for one year after the day on which the office issues the refiner tax exemption certification.
- (4) The office:
 - (a) shall accept a copy of a report submitted by a refiner to the Environmental Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average gasoline sulfur level; or
 - (b) may establish another reporting mechanism through rules made under Subsection (5).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Amended by Chapter 412, 2020 General Session

Part 8

Voluntary Home Energy Information Pilot Program Act

63M-4-801 Title.

This part is known as the "Voluntary Home Energy Information Pilot Program Act."

Enacted by Chapter 430, 2020 General Session

63M-4-802 Definitions.

As used in this part:

- (1) "Advisory committee" means the committee created in Subsection 63M-4-805(1).
- (2) "Asset rating" means a representation of a residential building's energy efficiency or energy use generated by modeling under standardized weather and occupancy conditions.
- (3) "Home" means a single-family detached or single-family attached enclosed structure created for permanent use as a residence.
- (4) "Home energy assessment" means the evaluation or testing of components or systems in a residential building for the purpose of identifying options for increasing energy conservation and energy efficiency.
- (5) "Home energy assessor" means a qualified person who:
 - (a) conducts home energy assessments on residential buildings;
 - (b) assigns residential buildings a home energy performance score; and
 - (c) prepares a home energy performance report for residential buildings.
- (6) "Home energy performance report" means a report prepared by a home energy assessor that identifies a residential building's home energy performance score, an explanation of the score, an estimate of the total energy used in the home, and other information required to be included in the report under Section 63M-4-804.
- (7) "Home energy performance score" means a score assigned to a residential building using the home energy performance score system created by the office pursuant to Section 63M-4-804.
- (8) "Home energy performance score system" means a technical and administrative framework for producing and reporting metrics that describe the energy consumption, generation, and efficiency of a building.
- (9) "Program" means the voluntary home energy information pilot program for which model rules are created in Section 63M-4-803.
- (10) "Residential building" means a home.

Enacted by Chapter 430, 2020 General Session

63M-4-803 Voluntary Home Energy Information Pilot Program.

- (1) The office shall develop model rules for a voluntary home energy information pilot program.
- (2) The model rules shall be designed to:
 - (a) provide widespread information to home buyers and sellers about a home's energy efficiency, cost savings, and air quality impacts; and
 - (b) empower consumers to ask about the energy efficiency performance of homes and increase market demand for energy efficient homes and home energy efficiency upgrades.
- (3) The office may use appropriated funds to develop model rules for a home energy performance score system described in Section 63M-4-804 for homes.
- (4) Model rules to implement the program may include:
 - (a) proposed application procedures to receive a reimbursement from the program for a home energy assessment and home energy performance report;
 - (b) the criteria used by the office to determine whether a reimbursement request is approved;
 - (c) the administratively best method and form for making a reimbursement;
 - (d) the criteria used by the office to determine the amount of a reimbursement;
 - (e) the information that an applicant or applicant's designee will be required to report to the office to receive a reimbursement;
 - (f) specifications for the procedures and requirements for conducting a home energy assessment;
 - (g) the requirements for a home energy performance report; and
 - (h) the qualifications for home energy assessors.

- (5) The office shall administer or contract for the administration of the advisory committee and the development of model rules.
- (6) The office shall provide a report to the Legislature's Business and Labor Interim Committee and Public Utilities, Energy, and Technology Interim Committee no later than November 30, 2020 on:
 - (a) the status of the model rules; and
 - (b) recommendations for implementing a pilot program based on the model rules.

Enacted by Chapter 430, 2020 General Session

63M-4-804 Home energy performance score system.

- (1) In consultation with the advisory committee, the office shall create a home energy performance score system that shall:
 - (a) have the capability to generate a home energy performance score that meets the requirements of Subsection (2);
 - (b) have the capability to generate a home energy performance report that meets the requirements of Subsection (3);
 - (c) have the capability to incorporate building energy assessment software, the output of which is to be used to derive the information presented on the home energy performance report; and
 - (d) specify training requirements for home energy assessors.
- (2) A home energy performance score under Subsection (1)(a) shall:
 - (a) be an asset rating that is based on physical inspection of the home or design documents used for the home's construction; and
 - (b) use one or a combination of the following approaches for home energy scoring:
 - (i) the issuance of a home energy score by the United States Department of Energy; or
 - (ii) the issuance of a home energy rating system by the Residential Energy Services Network.
- (3) A home energy performance report described in Subsection (1)(b) shall include:
 - (a) the home energy performance score described in Subsection (1)(a) and an explanation of the score;
 - (b) an estimate of the total energy used in the home in retail units of energy, by fuel type;
 - (c) an estimate of the annual energy costs for operating the home;
 - (d) an estimate of the annual emissions resulting from energy used in the home;
 - (e) a list of recommended home improvements to reduce energy use in the home; and
 - (f) other information the office, in consultation with the advisory committee, determines is appropriate to include in the model rules.

Enacted by Chapter 430, 2020 General Session

63M-4-805 Home energy information advisory committee.

- (1) There is created a home energy information advisory committee.
- (2) The advisory committee shall be composed of the following 12 members:
 - (a) an individual who is an expert in residential real estate, as recommended by the Utah Association of Realtors;
 - (b) an individual who is an expert in residential construction as recommended by the Utah Home Builders Association;
 - (c) an individual who is an expert in land development for residential communities but is not a home builder;
 - (d) an individual who is a nonprofit energy efficiency or air quality advocate;

- (e) an individual who is an expert in residential home energy assessments;
 - (f) an individual who is an expert in residential home inspections;
 - (g) an individual who is an expert in public education and marketing;
 - (h) an individual who is an expert in residential appraisals, as recommended by the Utah Association of Appraisers;
 - (i) an individual who is an expert in electric utility energy efficiency programs;
 - (j) an individual who is an expert in natural gas utility energy efficiency programs;
 - (k) an individual who is an expert in residential architecture, as recommended by the Utah Chapter of the American Institute of Architects; and
 - (l) the director of the Governor's Office of Energy Development or the director's designee.
- (3) The director of the office shall appoint the members of the advisory committee which shall assist the director in developing model rules for a home energy performance score system described in Section 63M-4-804.
- (4) The director of the office, or the director's designee, shall act as chair of the advisory committee.
- (5) An advisory committee member may not receive compensation or benefits for the member's service on the advisory committee.

Enacted by Chapter 430, 2020 General Session

Chapter 5 Resource Development Act

Part 1 General Provisions

63M-5-101 Title.

This chapter is known as the "Resource Development Act."

Enacted by Chapter 382, 2008 General Session

63M-5-102 Policy -- Legislative recognition.

- (1) The Legislature declares that the policy of this state is:
- (a) to encourage industrial development and the development and utilization of the natural resources in this state in order to promote the economic development of this state and to provide benefits to the citizens of this state and other states; and
 - (b) to encourage co-operation between the state and its agencies and political subdivisions with individuals, firms, and business organizations to provide for industrial development and the development and utilization of the natural resources of this state.
- (2) The Legislature recognizes that:
- (a) industrial development and the development and utilization of the natural resources in this state, particularly in rural areas, may have a significant financial impact on state agencies and units of local government unless adequate financing is made available to these state agencies and units of local government to enable them to provide necessary public works

and improvements and public services prior to completion of natural resource and industrial facilities; and

- (b) because of the time lag between the financial impact on affected units of government and the normal beginning of the receipt of additional tax revenues from this development normally begins, it may be necessary and in the public interest of this state and its political subdivisions to provide through utilization of ad valorem taxes funds for these necessary public works and improvements; and
- (c) these necessary public works and improvements may in part be of benefit primarily to the industrial developer or the person developing or utilizing the natural resources in this state.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-103 Definitions.

As used in this chapter:

- (1) "Commencement of construction" means any clearing of land, excavation, or construction but does not include preliminary site review, including soil tests, topographical surveys, exploratory drilling, boring or mining, or other preliminary tests.
- (2) "Developer" means any person engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility, including owners, contract purchasers of owners, and persons who, as a lessee or under an agreement, are engaged or to be engaged in industrial development or the development or utilization of natural resources in this state through a natural resource or industrial facility.
- (3) "Major developer" means any developer whose proposed new or additional natural resource facility or industrial facility is projected:
 - (a) To employ more than 500 people; or
 - (b) To cause the population of an affected unit of local government to increase by more than 5%, the increase to include the primary work force of the facility and their dependents and the work force and dependents attributable to commercial and public service employment created by the presence of the facility.
- (4) "Natural resource facility" or "industrial facility" means any land, structure, building, plant, mine, road, installation, excavation, machinery, equipment, or device, or any addition to, reconstruction, replacement, or improvement of, land or an existing structure, building, plant, mine, road, installation, excavation, machinery, or device reasonably used, erected, constructed, acquired, or installed by any person, if a substantial purpose of or result of the use, erection, construction, acquisition, rental, lease, or installation is related to industrial development or the development or utilization of the natural resources in this state.
- (5) "Person" includes any individual, firm, co-partnership, joint venture, corporation, estate, trust, business trust, syndicate, or any group or combination acting as a unit.
- (6) "Unit of local government" means any county, municipality, school district, local district, special service district, or any other political subdivision of the state.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 2
Prepayments

63M-5-201 Prepayment of ad valorem property taxes on natural resources or industrial facility.

The developer also may prepay, with the consent of the governing bodies of the units of local government affected, to the county treasurer, or to other persons authorized by the governing body of a unit of local government under Section 63M-5-306, a portion of the ad valorem property taxes which the developer anticipates will be imposed by the unit of local government under Title 59, Chapter 2, Part 9, Levies, in connection with the natural resources or industrial facility. Ad valorem property taxes prepaid under this chapter may not act as an abatement of the ad valorem property tax but rather shall be construed as a prepayment for which, notwithstanding Section 59-2-1321 or any statute of limitations to the contrary, a credit will be given the developer making the prepayment at the time the ad valorem property taxes become due and otherwise payable.

Renumbered and Amended by Chapter 382, 2008 General Session

**Part 3
Use of Funds**

63M-5-301 State Board of Education and Department of Transportation to prepare budget and submit to governor.

The State Board of Education and the Department of Transportation shall prepare and submit to the governor, to be included in the governor's budget to the Legislature, a budget of the requirements for carrying out the provisions of this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-302 Appropriations for use of funds -- Board of Education and Department of Transportation -- Repayment by Board of Education -- Board of Education and Transportation Commission requirements.

- (1) The funds needed for construction of schools and highways and any of their related facilities as a result of industrial development or as a result of development or utilization of natural resources in this state through natural resource or industrial facilities shall be made available from the Prepaid Sales and Use Tax Construction Account through appropriations by the Legislature.
- (2) Appropriations will be made to the State Board of Education and the Department of Transportation for specific public facilities related to a specific natural resource or industrial facility.
- (3)
 - (a) Appropriations made to the State Board of Education for schools and related facilities shall be repaid to the General Fund through property tax assessments by the school district within whose boundary the natural resource or industrial facility is located.
 - (b) The repayment shall be made within a period of six years from the date of substantial completion of the natural resource or industrial facility or from the date the school district has a taxable value exceeding \$50,000,000, whichever occurs first.
 - (c) A refund shall be made to the developer of the natural resource or industrial facility to the extent of sales and use taxes prepaid by the developer in accordance with this chapter and

appropriated by the Legislature for the specific public school facility, which have not been credited against sales and use taxes imposed by Title 59, Chapter 12, Sales and Use Tax Act.

- (4) The State Board of Education shall:
 - (a) determine school facility needs as respective communities develop by consulting with the school district within whose boundary the development project is located; and
 - (b) recommend to the Legislature the amount to be appropriated at each session of the Legislature.
- (5) The Transportation Commission shall:
 - (a) determine highway needs in the area of the natural resource or industrial facility;
 - (b) determine whether the highway should be a part of the state highway system; and
 - (c) recommend to the Legislature the amounts to be appropriated to the Department of Transportation for use on the highways.
- (6)
 - (a) The State Board of Education and the Department of Transportation shall assess and determine in connection with each public facility the portion of each facility of benefit primarily to the industrial developer or the person developing or utilizing the natural resources.
 - (b) The assessment shall be reported to the Legislature to be used in determining the amount to be appropriated subject to this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-303 Public facility -- Prepayment of sales and use tax in installments.

Notwithstanding anything to the contrary contained in this chapter, prepaid sales or use taxes sufficient to construct a particular public facility need not be prepaid in one sum but may be prepaid in installments as may be required by the state or any of its agencies or political subdivisions in fulfilling contractual commitments for the construction of the public facility if the state receives assurance that the funds for the agreed project will be prepaid to the State Tax Commission at the time or times for which the state or any of its agencies or political subdivisions have made contractual commitments for the disbursement of these funds for the public facility. In no event shall the total accumulated prepayment be less than the amount of sales and use taxes due for the calendar quarters for which returns are required to be filed under Section 59-12-107.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-304 Department of Transportation and county executives -- Cooperation in development or utilization -- Written agreements authorized -- Survey and location work.

- (1) The Department of Transportation and county executives shall cooperate with persons engaged in industrial development or the development of or utilization of natural resources in this state through a natural resource or industrial facility who desire to assist this state or its counties in obtaining financing through prepaid sales or use taxes for improvements to existing state or county roads or the construction of new state or county roads which are necessary to provide access to areas of natural resource or industrial facilities.
- (2) Where it is determined that the improvements or construction referred to cannot be financed with existing public funds or when the necessary improvement or construction would be unduly delayed by postponing the improvements or construction until funds are otherwise available and the Legislature has appropriated the necessary funds pursuant to Section 63M-5-302, the Department of Transportation or any county executive may enter into written agreements

with the person engaged or to be engaged in industrial development or the development or utilization of natural resources through a natural resource or industrial facility providing for the necessary improvements or construction if that person agrees to the prepayment of sales or use taxes as provided in this chapter to the extent necessary to provide the funds needed to finance the necessary improvements or construction.

- (3) The agreements shall include the assurances necessary to provide the state or the county adequate funds for the payment of all obligations incurred by the state or county for the necessary improvements or construction and for the transfer of funds and all necessary adjustments, if the funds prepaid exceed the actual expenditures made for the improvements or construction.
- (4) If the actual expenditures made by the state, its agencies, or political subdivisions for the improvements or construction exceed the amount of prepaid sales and use taxes actually imposed by Title 59, Chapter 12, Sales and Use Tax Act, then no refund shall be allowed for the excess amount prepaid as sales or use taxes.
- (5) Initial survey and location work by the Department of Transportation or a county may proceed prior to the execution of any agreements if otherwise authorized and funded.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-305 Tax Commission -- Rules and regulations.

For the purpose of more efficiently administering this act the State Tax Commission is authorized in its discretion to formulate, amend, or cancel rules and regulations establishing procedures regarding matters pertaining to the prepayment of sales or use taxes as provided in this act and the credit against sales or use taxes as the same become due and otherwise payable.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-5-306 Financial impact statement -- Alleviation plan -- Filing required -- Contents -- Payments credited against tax -- Provisions neither exclusive nor mandatory.

- (1)
 - (a) A developer desiring to prepay ad valorem property taxes under Section 63M-5-201 shall first prepare and file with the Governor's Office of Economic Development and all units of local government likely to be affected with a significant financial impact due to a natural resource or industrial facility a financial impact statement together with a plan for alleviating these impacts.
 - (b) The impact statement and the alleviation plan shall be prepared in cooperation with and after consultation with the Governor's Office of Economic Development and the affected units of local government.
 - (c) The financial impact statement shall assess the projected financial impact on state agencies and units of local government, including the impact on transportation systems, culinary water systems, waste treatment facilities, public safety, schools, public health, housing, planning and zoning, and general government administration.
 - (d) The alleviation plan shall set out proposals for alleviating the impact and may include payments to local units of government or direct expenditures by the developer to alleviate the impact.
 - (e) The impact statement and the alleviation plan may be amended by the developer in cooperation with and after consultation with the Governor's Office of Economic Development and those units of local government affected by the amendment.

- (2) At least 90 days prior to commencement of construction of an industrial facility or natural resources facility by a major developer, an impact statement and alleviation plan as described in Subsection (1) shall be filed by the major developer whether or not the major developer desires to prepay ad valorem property taxes.
- (3)
- (a) Upon the filing of the financial impact statement and alleviation plan, a developer may apply to the governing body of the affected unit of local government for authorization to prepay a portion of the anticipated ad valorem property taxes to be expended consistent with the alleviation plan.
 - (b) This authorization may provide that only a portion of the amounts so prepaid can be applied against the ad valorem property taxes due in any given year.
 - (c) In addition to payments directly to the affected unit of local government, an affected unit of local government may authorize a tax credit on anticipated ad valorem property taxes for expenditures made by the developer to other persons so long as the expenditure is consistent with the alleviation plan.
- (4)
- (a) This chapter is designed to provide an additional mechanism for the alleviation of impacts on units of local government and is not intended to discourage the use of other mechanisms as may be available.
 - (b) Nothing in this chapter requires a developer to prepay ad valorem property taxes or to make any other expenditure not otherwise required by law.

Renumbered and Amended by Chapter 382, 2008 General Session

Chapter 6 Military Base Easements Act

Part 1 General Provisions

63M-6-101 Title.

This chapter is known as the "Military Base Easements Act."

Enacted by Chapter 382, 2008 General Session

Part 2 Easements and Improvements

63M-6-201 Acquisition of easements -- Restrictions -- Resale.

- (1)
- (a) The Governor's Office of Economic Development shall acquire, by purchase or condemnation, easements for the establishment, maintenance, and operation of a restrictive use area for the operation of aircraft to and from Hill Air Force Base because:

- (i) Hill Air Force Base is a military installation of vital importance to security of the United States of America and to the economic well-being of the citizens of Utah;
 - (ii) there are certain portions of land around the entire base that are being developed for residential and other uses that are incompatible with current and future operations of the base because of noise, health, safety, and accident reasons; and
 - (iii) it is the purpose of this chapter for the state to acquire those easements restricting the use of those lands and the air space above them in order to assure the continued operation of Hill Air Force Base as an active military base and to protect the health, safety, and economic well-being of the citizens of Utah.
- (b) The Governor's Office of Economic Development may delegate its power to purchase or condemn easements under this subsection to other state agencies if the department ensures that those agencies comply with the procedures and requirements of this chapter.
- (2)
- (a) The Governor's Office of Economic Development shall ensure that the easements restrict the land from those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982, as not being acceptable.
 - (b) The Governor's Office of Economic Development may allow certain other uses not prohibited by those guidelines if those uses are consistent with the purpose of this chapter.
 - (c) Nothing in this chapter may be construed to authorize the Governor's Office of Economic Development or any other state agency to:
 - (i) acquire any ownership interest in real property other than an easement restricting the land from future uses inconsistent with the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982;
 - (ii) purchase businesses; or
 - (iii) require people to relocate or move from their property.
 - (d) To calculate the purchase price for the easements, the Governor's Office of Economic Development shall subtract the market value of the real property and its improvements after the acquisition of the easements from the market value of the real property and its improvements before the acquisition of the easements.
 - (e) When the Hill Air Force Base runways have not been used for seven years to accommodate the arrival and departure of airplanes, the Governor's Office of Economic Development shall:
 - (i) notify by certified mail each current owner of the property to which each easement is attached;
 - (ii) inform that owner that the owner may purchase the easement from the state for the same price that the state paid for it originally or for the market value of the easement at the time of the buyback, whichever is smaller; and
 - (iii) sell the easement to the owner of the property to which the easement is attached if the owner tenders the purchase price.
 - (f) In addition to purchasing the easements required by this chapter, the Governor's Office of Economic Development may provide reasonable relocation expenses to all churches, businesses, and schools that, as of March 1, 1994, were located either within the north Hill Air Force Base accident potential zone (APZ) identified in Subsection 63M-6-202(1)(a) or within the south Hill Air Force Base accident potential zone (APZ) identified in Subsection 63M-6-202(1)(b) if those churches, businesses, and schools can reasonably demonstrate that expansion of the use would have been permitted before acquisition of the easements but is now prohibited because of the easement.
- (3)

- (a) The Governor's Office of Economic Development may take action to enforce the provisions of this chapter.
- (b) The attorney general shall represent the Governor's Office of Economic Development in that action.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-6-202 Location of easements.

- (1) The Governor's Office of Economic Development or its designees may acquire easements on the land within the following boundaries:
 - (a) beginning on the north Hill Air Force Base accident potential zone (APZ) at a point which is North 1,089,743.170 meters and East 459,346.946 meters based on the North zone, State of Utah, NAD 83 coordinates and runs north to North 63 degrees 10 minutes 44 seconds, East 457.109 meters, North 26 degrees 49 minutes 16 seconds, West 3,352.129 meters, South 63 degrees 10 minutes 44 seconds, West 914.217 meters, South 26 degrees 49 minutes 16 seconds, East 3,352.129 meters, North 63 degrees 10 minutes 44 seconds, East 457.109 meters back to the point of beginning; and
 - (b) beginning on the south Hill Air Force Base APZ which is North 1,086,065.786 meters and East 461,206.222 meters based on the North zone, State of Utah, NAD 83 coordinates and runs South 63 degrees 10 minutes 44 seconds, West 457.109 meters, South 26 degrees 49 minutes 16 seconds, East 502.179 meters, South 0 degrees 20 minutes 35 seconds, West 1,722.227 meters, South 89 degrees 39 minutes 25 seconds, East 883.743 meters, North 63 degrees 10 minutes 44 seconds, East 914.217 meters, North 26 degrees 49 minutes 16 seconds, West 2,437.912 meters, South 63 degrees 10 minutes 44 seconds, West 457.109 meters back to the point of beginning.
- (2) The Governor's Office of Economic Development or its designees may acquire easements on the following land that is located inside the 75 and 80 level day-night (LDN) noise contour as identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982:
 - (a) in the west half of Section 3, T4NR1W;
 - (b) in the east half of Section 4, T4NR1W;
 - (c) in the northeast quarter of Section 8, T4NR1W;
 - (d) within all of Section 9, T4NR1W;
 - (e) in the northwest quarter of Section 10, T4NR1W;
 - (f) within the southwest quarter of Section 19, T5NR1W;
 - (g) in the south half of Section 20, T5NR1W;
 - (h) within the southwest quarter of Section 28, T5NR1W; and
 - (i) within Section 29, T5NR1W.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-6-203 Certain improvements, alterations, and expansions prohibited.

- (1) A person or entity may not begin to develop, or authorize development, on any land identified in this chapter until the Governor's Office of Economic Development has affirmatively authorized the development of the land because the development is consistent with those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982.

- (2) Nothing in this chapter prohibits any property owner from improving, altering, or expanding any existing residential or commercial use of the property owner's property so long as the improvement, alteration, or expansion does not materially increase the human density of that present use.

Renumbered and Amended by Chapter 382, 2008 General Session

Chapter 7 Criminal Justice and Substance Abuse

Part 1 General Provisions

63M-7-101 Title.

This chapter is known as "Criminal Justice and Substance Abuse."

Enacted by Chapter 382, 2008 General Session

Part 2 Commission on Criminal and Juvenile Justice

63M-7-201 Creation -- Purpose.

- (1) The State Commission on Criminal and Juvenile Justice is created within the governor's office.
- (2) The commission's purpose is to:
 - (a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah;
 - (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives;
 - (c) coordinate statewide efforts to reduce crime and victimization in Utah; and
 - (d) accomplish the duties enumerated in Section 63M-7-204.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-202 Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

- (1) The commission on criminal and juvenile justice shall be composed of 25 voting members as follows:
 - (a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;
 - (b) the state court administrator or the state court administrator's designee;
 - (c) the executive director of the Department of Corrections or the executive director's designee;
 - (d) the executive director of the Department of Human Services or the executive director's designee;
 - (e) the commissioner of the Department of Public Safety or the commissioner's designee;

- (f) the attorney general or an attorney designated by the attorney general;
 - (g) the president of the chiefs of police association or a chief of police designated by the association's president;
 - (h) the president of the sheriffs' association or a sheriff designated by the association's president;
 - (i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;
 - (j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;
 - (k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;
 - (l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;
 - (m) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;
 - (n) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;
 - (o) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;
 - (p) the Salt Lake County District Attorney or an attorney designated by the district attorney; and
 - (q) the following members designated to serve four-year terms:
 - (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;
 - (ii) a representative of the statewide association of public attorneys designated by the association's officers;
 - (iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and
 - (iv) one member of the Senate who is appointed by the president of the Senate.
- (2) The governor shall appoint the remaining five members to four-year staggered terms as follows:
- (a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;
 - (b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;
 - (c) one representative of public education;
 - (d) one citizen representative; and
 - (e) a representative from a local faith who has experience with the criminal justice system.
- (3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.
- (4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

Amended by Chapter 354, 2020 General Session

63M-7-203 Executive director -- Qualifications -- Compensation -- Appointment -- Functions.

- (1) The governor, with the advice and consent of the Senate, shall appoint a person experienced in the field of criminal justice and in administration as the executive director of the Commission on Criminal and Juvenile Justice. The governor shall establish the executive director's

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

- (2)
- (a) The executive director, under the direction of the commission, shall administer the duties of the commission and act as the governor's advisor on national, state, regional, metropolitan, and local government planning as it relates to criminal justice.
 - (b) This chapter does not derogate the planning authority conferred on state, regional, metropolitan, and local governments by existing law.

Amended by Chapter 352, 2020 General Session

63M-7-204 Duties of commission.

- (1) The State Commission on Criminal and Juvenile Justice administration shall:
- (a) promote the commission's purposes as enumerated in Section 63M-7-201;
 - (b) promote the communication and coordination of all criminal and juvenile justice agencies;
 - (c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;
 - (d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;
 - (e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;
 - (f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;
 - (g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;
 - (h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;
 - (i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;
 - (j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;
 - (k) provide a comprehensive criminal justice plan annually;
 - (l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;
 - (m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:
 - (i) developing and maintaining common data standards for use by all state criminal justice agencies;
 - (ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

- (iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and
 - (iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);
 - (n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;
 - (o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;
 - (p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction;
 - (q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;
 - (r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;
 - (s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;
 - (t) allocate and administer grants, from money made available, for pilot qualifying education programs;
 - (u) oversee the trauma-informed justice program described in Section 63M-7-209; and
 - (v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies, jails, and the Administrative Office of the Courts, in accordance with Sections 17-22-32.4, 63M-7-216, and 78A-2-109.5.
- (2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Amended by Chapter 200, 2020 General Session

Amended by Chapter 230, 2020 General Session

Amended by Chapter 395, 2020 General Session

63M-7-205 Annual report by the commission.

- (1) The commission shall annually prepare and publish a report directed to the governor, the Legislature, and the Judicial Council.
- (2) The report shall describe how the commission fulfilled its statutory purposes and duties during the year.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-206 Election of chair -- Meetings.

The membership of the Commission on Criminal and Juvenile Justice by simple majority vote of those in attendance shall annually elect one of their number to serve as chair. The chair is responsible for the call and conduct of meetings. Meetings shall be called and held at least bimonthly. One of the bimonthly meetings shall be held while the Legislature is convened in its

annual session. Additional meetings may be called upon request by a majority of the commission's members.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-207 Members serve without pay -- Reimbursement for expenses.

- (1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (2) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 387, 2014 General Session

63M-7-208 Juvenile justice oversight -- Delegation -- Effective dates.

- (1) The Commission on Criminal and Juvenile Justice shall:
 - (a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;
 - (b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);
 - (c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;
 - (d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;
 - (e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:
 - (i) statewide expansion of:
 - (A) receiving centers;
 - (B) mobile crisis outreach teams, as defined in Section 78A-6-105;
 - (C) youth courts; and
 - (D) victim-offender mediation;
 - (ii) statewide implementation of nonresidential diagnostic assessment;
 - (iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;
 - (iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and
 - (v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

- (f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;
 - (g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 62A-7-601;
 - (h) ensure that data reporting is expanded and routinely review data in additional areas, including:
 - (i) referral and disposition data by judicial district;
 - (ii) data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement;
 - (iii) recidivism data for diversion types pursuant to Section 78A-6-602 and disposition types pursuant to Section 78A-6-117, including tracking minors into the adult corrections system;
 - (iv) change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
 - (v) dosage of programming;
 - (i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;
 - (j) provide guidelines to be considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing tools considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;
 - (k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;
 - (l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, Division of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;
 - (m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;
 - (n) assist in the development of a validated detention risk assessment tool that shall be developed or adopted and validated by the Administrative Office of the Courts and the Division of Juvenile Justice Services as provided in Section 78A-6-124 on and after July 1, 2018; and
 - (o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.
- (2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:
- (a) adolescent development;
 - (b) identifying and using local behavioral health resources;

- (c) implicit bias;
 - (d) cultural competency;
 - (e) graduated responses;
 - (f) Utah juvenile justice system data and outcomes; and
 - (g) gangs.
- (3) The system described in Subsection (1)(m) shall provide incentives for:
- (a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);
 - (b) the use of three-month timelines for program completion; and
 - (c) evidence-based programs and practices for minors living at home in rural areas.
- (4) The Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).
- (5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this section takes effect July 1, 2018.

Enacted by Chapter 330, 2017 General Session

63M-7-209 Trauma-informed justice program.

- (1) As used in this section:
- (a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).
 - (b) "First responder" includes:
 - (i) a law enforcement officer, as defined in Section 53-13-103;
 - (ii) emergency medical service personnel, as defined in Section 26-8a-102; and
 - (iii) a firefighter.
 - (c) "Trauma-informed" means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.
 - (d) "Victim" means the same as that term is defined in Section 77-37-2.
- (2)
- (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the membership, terms, and quorum requirements of the committee, except that:
 - (i) at least one member of the committee shall be a victim;
 - (ii) the executive director of the Department of Health or the executive director's designee shall be on the committee;
 - (iii) the executive director of the Department of Human Services or the executive director's designee shall be on the committee;
 - (iv) a member of the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, as chosen by the chair of the Utah Intergenerational Welfare Reform Commission shall be on the committee; and
 - (v) the commission shall terminate the committee on June 30, 2020.
 - (b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.
- (3)

- (a) The committee shall work with statewide coalitions, children's justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state's criminal and juvenile justice system, including:
 - (i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:
 - (A) how to implement the option of a comprehensive, seamless victim advocate system that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim's process of recovering from the trauma the victim experienced as a result of being a victim of crime; and
 - (B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;
 - (ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:
 - (A) peace officers that is consistent with the training developed under Section 76-5-608;
 - (B) first responders;
 - (C) prosecutors;
 - (D) defense counsel;
 - (E) judges and other court personnel;
 - (F) the Board of Pardons and Parole and its personnel;
 - (G) the Department of Corrections, including Adult Probation and Parole; and
 - (H) others involved in the state's criminal and juvenile justice system;
 - (iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;
 - (iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;
 - (v) identifying needs that are not funded or that would benefit from additional resources;
 - (vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;
 - (vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and
 - (viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.
 - (b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.
- (4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:
- (a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and
 - (b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.

- (5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Enacted by Chapter 126, 2018 General Session

63M-7-210 Pilot program of competency-based career and technical education grants.

- (1) As used in this section:
 - (a) "Certificate program provider" means a technical college that provides competency-based career and technical education.
 - (b) "Commission" means the State Commission on Criminal and Juvenile Justice.
 - (c)
 - (i) "Competency-based career and technical education" means career and technical education that will result in appropriate licensing, certification, or other evidence of completion of training and qualification for specific employment.
 - (ii) "Competency-based career and technical education" includes services provided under Section 53B-2a-106.
 - (d) "Qualifying education program" means a program overseen by a city or county prosecutor office to provide for an individual obtaining:
 - (i) a high school diploma or a Utah high school completion diploma as defined by rule made by the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 - (ii) competency-based career and technical education.
 - (e) "Technical college" means the same as that term is defined in Section 53B-1-101.5.
- (2) In accordance with this section, the commission shall establish a pilot grant program for fiscal year 2019 that funds the costs of two employees who:
 - (a) are located in different prosecutor offices that operate in areas that have proximity to a technical college; and
 - (b) oversee a program that provides for participation in a qualifying education program by an individual who is convicted of, pleads guilty to, or pleads no contest to a misdemeanor or third degree felony:
 - (i) as an alternative to incarceration;
 - (ii) for a reduction of fines or court fees;
 - (iii) for a two-step conviction reduction under Section 76-3-402; or
 - (iv) for a combination of the actions described in Subsections (2)(b)(i) through (iii).
- (3) As a condition of participating in a qualifying education program under this section, an individual shall:
 - (a) comply with the requirements of the plea agreement entered into by the individual, the prosecutor, and the court; and
 - (b) work with a financial aid officer for a qualifying education program and pay the tuition for the competency-based career and technical education charged by the certificate program provider.
- (4) The commission will structure and administer the grant pilot program consistent with other grant program requirements that the commission administers.
- (5) The commission shall compile a report regarding this grant pilot program based on performance measures and provide the report by no later than November 30, 2020, to the

Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittee.

Amended by Chapter 136, 2019 General Session

63M-7-213 Study on rampage violence -- Report.

- (1) As used in this section:
 - (a) "Perpetrator" means an individual responsible for a rampage violence incident.
 - (b) "Rampage violence incident" means a violent act or shooting that occurs in a place of public use and results in at least three fatalities.
- (2) Before October 2022, the State Commission on Criminal and Juvenile Justice shall conduct a study on rampage violence incidents.
- (3) The study described in Subsection (2) shall:
 - (a) evaluate rampage violence incidents that have occurred in the United States by researching, for each rampage violence incident evaluated:
 - (i) where the rampage violence incident took place;
 - (ii) the duration of the rampage violence incident;
 - (iii) the weapon used in the rampage violence incident;
 - (iv) whether the perpetrator:
 - (A) had any history of mental illness, substance abuse, criminal or domestic violence charges, or making violent threats; or
 - (B) experienced a significant life stressor before the rampage violence incident;
 - (v) the age and gender of the perpetrator; and
 - (vi) any apparent motive of the perpetrator for the rampage violence incident;
 - (b) evaluate rampage violence incidents that have occurred in the state in the manner described in Subsection (3)(a); and
 - (c) examine policies or legislation enacted in the United States in response to a rampage violence incident and the effectiveness of the policies or legislation.
- (4) The State Commission on Criminal and Juvenile Justice shall ensure that the study described in Subsection (2) is conducted:
 - (a) in an unbiased manner with no preconceived notions about potential results; and
 - (b) by a multidisciplinary team comprised of individuals who represent the following disciplines:
 - (i) public health;
 - (ii) mental health;
 - (iii) social science; and
 - (iv) criminal science.
- (5) The State Commission on Criminal and Juvenile Justice may contract with another state agency, private entity, or research institution to assist the State Commission on Criminal and Juvenile Justice with the study described in Subsection (2).
- (6)
 - (a) Before November 30, 2022, the State Commission on Criminal and Juvenile Justice shall submit to the Law Enforcement and Criminal Justice Interim Committee a final report regarding the study described in Subsection (2), including proposed legislation and recommendations for prevention of rampage violence incidents.
 - (b) The final report shall include references to all sources of information and data used in the final report and study.

Enacted by Chapter 433, 2020 General Session

63M-7-213.5 Rampage Violence Prevention Study Fund.

- (1) There is created an expendable special revenue fund known as the "Rampage Violence Prevention Study Fund."
- (2) The fund shall consist of:
 - (a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and
 - (b) interest earned on money in the fund.
- (3) The State Commission on Criminal and Juvenile Justice shall administer the fund in accordance with this section.
- (4)
 - (a) The State Commission on Criminal and Juvenile Justice shall award fund money to an entity or individual for the purpose of administering the study described in Section 63M-7-213.
 - (b) Fund money may only be used for the purposes described in this Subsection (4).
- (5) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest and other earnings derived from the fund shall be deposited into the fund.
- (6) Before November 30, 2021, the State Commission on Criminal and Juvenile Justice shall submit to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report regarding the status of the fund, including the contributions received and expenditures made from the fund.

Enacted by Chapter 433, 2020 General Session

63M-7-214 Commission on Criminal and Juvenile Justice -- Grants.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b) "Law enforcement agency" means a state or local law enforcement agency.
 - (c) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:
 - (i) programs, including education, prevention, treatment, and research programs; and
 - (ii) enforcement of laws regarding illegal drugs.
- (2) The commission shall implement law enforcement operations and programs related to reducing illegal drug activity as listed in Subsection (3).
- (3)
 - (a) The first priority of the commission is to annually allocate not more than \$2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.
 - (b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.
- (4)
 - (a) In allocating grants and determining the amount of the grants, the commission shall consider:

- (i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and
 - (ii) the agency's cooperation with other state and local agencies and task forces.
- (b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.
- (5) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.
 - (6) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.
 - (7)
 - (a) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare and file with the commission and the state auditor a report in a form specified by the commission.
 - (b) The report shall include the following regarding each grant:
 - (i) the agency's name;
 - (ii) the amount of the grant;
 - (iii) the date of the grant;
 - (iv) how the grant has been used; and
 - (v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

Renumbered and Amended by Chapter 230, 2020 General Session

Effective 10/1/2020

63M-7-215 Pretrial release programs special revenue fund -- Funding -- Uses.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b) "Fund" means the Pretrial Release Programs Special Revenue Fund created in this section.
- (2) There is created an expendable special revenue fund known as the "Pretrial Release Programs Special Revenue Fund."
- (3) The Division of Finance shall administer the fund in accordance with this section.
- (4) The fund shall consist of:
 - (a) money collected and remitted to the fund under Section 77-20-9;
 - (b) appropriations from the Legislature;
 - (c) interest earned on money in the fund; and
 - (d) contributions from other public or private sources.
- (5) The commission shall award grants from the fund to county agencies and other agencies the commission determines appropriate to assist counties with establishing and expanding pretrial services programs that serve the purpose of:
 - (a) assisting a court in making an informed decision regarding an individual's pretrial release; and
 - (b) providing supervision of an individual released from law enforcement custody on conditions pending a final determination of a criminal charge filed against the individual.

- (6) The commission may retain up to 3% of the money deposited into the fund to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of this section.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a grant application and review process for the expenditure of money from the fund.
- (8) The grant application and review process shall describe:
 - (a) the requirements to complete the grant application;
 - (b) requirements for receiving funding;
 - (c) criteria for the approval of a grant application; and
 - (d) support offered by the commission to complete a grant application.
- (9) Upon receipt of a grant application, the commission shall:
 - (a) review the grant application for completeness;
 - (b) make a determination regarding the grant application;
 - (c) inform the grant applicant of the commission's determination regarding the grant application; and
 - (d) if approved, award grants from the fund to the grant applicant.
- (10) Before November 30 of each year, the commission shall provide an electronic report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of the fund and expenditures made from the fund.

Enacted by Chapter 185, 2020 General Session

63M-7-216 Prosecutorial data collection -- Policy transparency.

- (1) As used in this section:
 - (a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
 - (b)
 - (i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.
 - (ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 62A-11-107 or 76-7-202.
 - (c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.
 - (d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.
 - (e) "Post-filing diversion" is as described in Section 77-2-5.
 - (f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.
 - (g) "Publish" means to make aggregated data available to the general public.
- (2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:
 - (a) the defendant's:

- (i) full name;
 - (ii) offense tracking number;
 - (iii) date of birth; and
 - (iv) zip code;
 - (b) referring agency;
 - (c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;
 - (d) if charges were filed, the case number and the court in which the charges were filed;
 - (e) all charges brought against the defendant;
 - (f) whether bail was requested and, if so, the requested amount;
 - (g) the date of initial discovery disclosure;
 - (h) whether post-filing diversion was offered and, if so, whether it was entered;
 - (i) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and
 - (j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.
- (3)
- (a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.
 - (b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.
- (4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.
- (5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.
- (6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.
- (7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:
- (a) screening and filing criminal charges;
 - (b) plea bargains;
 - (c) sentencing recommendations;
 - (d) discovery practices;
 - (e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;
 - (f) collection of fines and fees;
 - (g) criminal and civil asset forfeiture practices;
 - (h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;
 - (i) diversion programs;
 - (j) restorative justice programs; and
- (8)
- (a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist

with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.

- (b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.

Enacted by Chapter 200, 2020 General Session

Part 3

Utah Substance Abuse Advisory Council

63M-7-301 Definitions -- Creation of council -- Membership -- Terms.

- (1)
 - (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.
 - (b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.
- (2) The council shall be comprised of the following voting members:
 - (a) the attorney general or the attorney general's designee;
 - (b) one elected county official appointed by the Utah Association of Counties;
 - (c) the commissioner of public safety or the commissioner's designee;
 - (d) the director of the Division of Substance Abuse and Mental Health or the director's designee;
 - (e) the state superintendent of public instruction or the superintendent's designee;
 - (f) the executive director of the Department of Health or the executive director's designee;
 - (g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;
 - (h) the executive director of the Department of Corrections or the executive director's designee;
 - (i) the director of the Division of Juvenile Justice Services or the director's designee;
 - (j) the director of the Division of Child and Family Services or the director's designee;
 - (k) the chair of the Board of Pardons and Parole or the chair's designee;
 - (l) the director of the Office of Multicultural Affairs or the director's designee;
 - (m) the director of the Division of Indian Affairs or the director's designee;
 - (n) the state court administrator or the state court administrator's designee;
 - (o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;
 - (p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;
 - (q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;
 - (r) one prosecutor appointed by the Statewide Association of Prosecutors;
 - (s) the chair or co-chair of each committee established by the council;
 - (t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);
 - (u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;
 - (v) the following members appointed by the governor to serve four-year terms:

- (i) one resident of the state who has been personally affected by a substance use or mental health disorder; and
 - (ii) one citizen representative; and
- (w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:
- (i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;
 - (ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;
 - (iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;
 - (iv) one resident of the state who represents prevention professionals;
 - (v) one resident of the state who represents treatment professionals;
 - (vi) one resident of the state who represents the physical health care field;
 - (vii) one resident of the state who is a criminal defense attorney;
 - (viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;
 - (ix) one resident of the state who represents local law enforcement agencies;
 - (x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and
 - (xi) one resident of the state who is certified by the Division of Substance Abuse and Mental Health as a peer support specialist as described in Subsection 62A-15-103(2)(h).
- (3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Amended by Chapter 304, 2020 General Session

63M-7-302 Chair -- Vacancies -- Quorum -- Expenses.

- (1) The Utah Substance Use and Mental Health Advisory Council shall annually select one of its members to serve as chair and one of its members to serve as vice chair.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.
- (3) A majority of the members of the council constitutes a quorum.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
- (5) The council may establish committees as needed to assist in accomplishing its duties under Section 63M-7-303.

Amended by Chapter 246, 2019 General Session

63M-7-303 Duties of council.

- (1) The Utah Substance Use and Mental Health Advisory Council shall:

- (a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;
 - (b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;
 - (c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;
 - (d) promote collaboration and mutually beneficial public and private partnerships;
 - (e) coordinate recommendations made by any committee created under Section 63M-7-302;
 - (f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;
 - (g) coordinate the implementation of Section 77-18-1.1 and related provisions in Subsections 77-18-1(5)(b)(iii) and (iv), as provided in Section 63M-7-305;
 - (h) comply with Section 32B-2-306; and
 - (i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.
- (2) The council shall meet quarterly or more frequently as determined necessary by the chair.
 - (3) The council shall report its recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

Amended by Chapter 414, 2018 General Session

63M-7-304 Chair -- Vacancies -- Quorum -- Expenses.

- (1) The members of each committee established by the council shall annually select a chair or co-chairs from among the members of the committee.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.
- (3) A majority of the members of a committee constitutes a quorum for the transaction of business by the committee.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 39, 2010 General Session

Amended by Chapter 286, 2010 General Session

63M-7-305 Drug-Related Offenses Reform Act -- Coordination.

- (1) As used in this section:
 - (a) "Council" means the Utah Substance Use and Mental Health Advisory Council.
 - (b) "Drug-Related Offenses Reform Act" and "act" mean the screening, assessment, substance use disorder treatment, and supervision provided to convicted persons under Subsection 77-18-1.1(2) to:
 - (i) determine a person's specific substance use disorder treatment needs as early as possible in the judicial process;
 - (ii) expand treatment resources for persons in the community;
 - (iii) integrate a person's treatment with supervision by the Department of Corrections; and

- (iv) reduce the incidence of substance use disorders and related criminal conduct.
- (c) "Substance abuse authority" has the same meaning as in Section 17-43-201.
- (2) The council shall provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act.
- (3) The council shall develop an implementation plan for the Drug-Related Offenses Reform Act. The plan shall:
 - (a) identify local substance abuse authority areas where the act will be implemented, in cooperation with the Division of Substance Abuse and Mental Health, the Department of Corrections, and the local substance abuse authorities;
 - (b) include guidelines for local substance abuse authorities and the Utah Department of Corrections on how funds appropriated under the act should be used, including eligibility requirements for convicted persons who participate in services funded by the act, that are consistent with the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism; and
 - (c) require that treatment plans under the act are appropriate for persons involved in the criminal justice system.

Amended by Chapter 158, 2016 General Session

Amended by Chapter 191, 2016 General Session

63M-7-306 Staffing.

The Commission on Criminal and Juvenile Justice shall provide staff to the council and any committee established by the council.

Amended by Chapter 39, 2010 General Session

Part 4 Sentencing Commission

63M-7-401 Creation -- Members -- Appointment -- Qualifications.

- (1) There is created a state commission to be known as the Sentencing Commission composed of 27 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.
- (2) The commission's members shall be:
 - (a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;
 - (b) two members of the Senate, appointed by the president of the Senate and not of the same political party;
 - (c) the executive director of the Department of Corrections or a designee appointed by the executive director;
 - (d) the director of the Division of Juvenile Justice Services or a designee appointed by the director;
 - (e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;
 - (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
 - (g) the chair of the Youth Parole Authority or a designee appointed by the chair;

- (h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;
- (i) two juvenile court judges designated by the chair of the Judicial Council;
- (j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;
- (k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;
- (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
- (m) the attorney general or a designee appointed by the attorney general;
- (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
- (o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;
- (p) a representative of the Utah Sheriff's Association appointed by the governor;
- (q) a chief of police appointed by the governor;
- (r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;
- (s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;
- (t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population; and
- (u) one member from the public at large appointed by the governor.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-402 Terms of members -- Vacancies -- Reappointment.

- (1)
 - (a) Except as required by Subsection (1)(b), as terms of current commission members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (1)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Amended by Chapter 154, 2020 General Session

63M-7-403 Vacancies.

If a commission member no longer holds a qualifying position, resigns, or is unable to serve, the vacancy shall be filled by the appointing authority.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-404 Purpose -- Duties.

- (1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:
 - (a) the sentencing and release of juvenile and adult offenders in order to:
 - (i) respond to public comment;
 - (ii) relate sentencing practices and correctional resources;

- (iii) increase equity in criminal sentencing;
 - (iv) better define responsibility in criminal sentencing; and
 - (v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority; and
- (b) the length of supervision of adult offenders on probation or parole in order to:
 - (i) increase equity in criminal supervision lengths;
 - (ii) respond to public comment;
 - (iii) relate the length of supervision to an offender's progress;
 - (iv) take into account an offender's risk of offending again;
 - (v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and
 - (vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole.
- (2)
 - (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.
 - (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.
- (3)
 - (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.
 - (b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.
- (4)
 - (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:
 - (i) who have violated one or more conditions of probation; and
 - (ii) whose probation has been revoked by the court.
 - (b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.
- (5)
 - (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:
 - (i) who have violated a condition of parole; and
 - (ii) whose parole has been revoked by the Board of Pardons and Parole.
 - (b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.
- (6) The commission shall establish graduated sanctions to facilitate the prompt and effective response to an individual's violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism, including:
 - (a) sanctions to be used in response to a violation of the terms of probation or parole;
 - (b) when violations should be reported to the court or the Board of Pardons and Parole; and
 - (c) a range of sanctions that may not exceed a period of incarceration of more than:

- (i) three consecutive days; and
 - (ii) a total of five days in a period of 30 days.
- (7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:
- (a) compliance with the terms of probation or parole; and
 - (b) positive conduct that exceeds those terms.
- (8)
- (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:
 - (i) nonjudicially adjusted;
 - (ii) placed on diversion;
 - (iii) placed on probation;
 - (iv) placed on community supervision;
 - (v) placed in an out-of-home placement; or
 - (vi) placed in a secure care facility.
 - (b) In establishing guidelines under this Subsection (8), the commission shall consider:
 - (i) the seriousness of the negative and positive behavior;
 - (ii) the juvenile's conduct post-adjudication; and
 - (iii) the delinquency history of the juvenile.
 - (c) The guidelines shall include:
 - (i) responses that are swift and certain;
 - (ii) a continuum of community-based options for juveniles living at home;
 - (iii) responses that target the individual's criminogenic risk and needs; and
 - (iv) incentives for compliance, including earned discharge credits.
- (9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

Amended by Chapter 334, 2018 General Session

63M-7-405 Compensation of members -- Reports to the Legislature, the courts, and the governor.

- (1)
- (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (2)
- (a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.
 - (b) The commission shall use existing data and resources from state criminal justice agencies.
 - (c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.

(3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

- (4)
- (a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.
 - (b) No later than May 1, 2017, the commission shall create a master offense list.
 - (c) No later than June 30 of each calendar year, the commission shall:
 - (i) after the last day of the general legislative session, update the master offense list; and
 - (ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.

Amended by Chapter 334, 2018 General Session

63M-7-406 Publication of reports.

The commission shall also be authorized to prepare, publish, and distribute from time to time reports of its studies, recommendations, and statements.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 5
Utah Office for Victims of Crime

63M-7-501 Title.

This part is known as the "Utah Office for Victims of Crime" and may be abbreviated as the "UOVC."

Amended by Chapter 131, 2011 General Session

63M-7-502 Definitions.

As used in this part:

- (1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.
- (2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.
- (3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
- (4) "Claimant" means any of the following claiming reparations under this part:
 - (a) a victim;
 - (b) a dependent of a deceased victim; or
 - (c) an individual or representative who files a reparations claim on behalf of a victim.
- (5) "Child" means an unemancipated individual who is under 18 years old.
- (6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part which the victim or claimant has received, or which is readily available to the victim from:
 - (a) the offender;
 - (b) the insurance of the offender or the victim;

- (c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;
 - (d) social security, Medicare, and Medicaid;
 - (e) state-required temporary nonoccupational income replacement insurance or disability income insurance;
 - (f) workers' compensation;
 - (g) wage continuation programs of any employer;
 - (h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;
 - (i) a contract providing prepaid hospital and other health care services or benefits for disability; or
 - (j) veteran's benefits, including veteran's hospitalization benefits.
- (7)
- (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:
 - (i) is or would be subject to prosecution in this state under Section 76-1-201;
 - (ii) occurs or is attempted;
 - (iii) causes, or poses a substantial threat of causing, bodily injury or death;
 - (iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and
 - (v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.
 - (b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.
 - (c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.
- (8) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support and includes a child of the victim born after the victim's death.
- (9) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.
- (10) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.
- (11) "Director" means the director of the office.
- (12) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:
 - (a) convicted of a crime;
 - (b) found delinquent; or
 - (c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.
- (13)

- (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.
- (b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.
- (c) "Economic loss" does not include noneconomic detriment.
- (14) "Elderly victim" means an individual 60 years old or older who is a victim.
- (15) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.
- (16) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.
- (17) "Law enforcement officer" means a law enforcement officer as defined in Section 53-13-103.
- (18) "Medical examination" means a physical examination necessary to document criminally injurious conduct but does not include mental health evaluations for the prosecution and investigation of a crime.
- (19) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (20) "Misconduct" as provided in Subsection 63M-7-512(1)(b) means conduct by the victim which was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (21) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.
- (22) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.
- (23) "Offender" means an individual who has violated the Utah Criminal Code through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.
- (24) "Offense" means a violation of the Utah Criminal Code.
- (25) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.
- (26) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.
- (27) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.
- (28) "Reparations claim" means a claimant's request or application made to the office for a reparations award.
- (29) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part, and includes the director when the director is acting as a reparations officer.
- (30) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.
- (31) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual but does not include a service provider or collateral source.
- (32) "Restitution" means money or services an appropriate authority orders an offender to pay or render to a victim of the offender's conduct.

- (33) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (34) "Service provider" means an individual or agency who provides a service to crime victims for a monetary fee except attorneys as provided in Section 63M-7-524.
- (35) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.
- (36) "Substantial bodily injury" means the same as that term is defined in Section 76-1-601.
- (37)
 - (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of criminally injurious conduct or of the production of pornography in violation of Section 76-5b-201 if the individual is a minor.
 - (b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.
- (38) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Amended by Chapter 149, 2020 General Session

Amended by Chapter 230, 2020 General Session

63M-7-503 Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

- (1) A reparations award may not supplant restitution as established under Title 77, Chapter 38a, Crime Victims Restitution Act, or as established by any other provisions.
- (2) The court may not reduce an order of restitution based on a reparations award.
- (3)
 - (a)
 - (i) If, due to reparation payments to a victim, the office is assigned under Section 63M-7-519 a claim for the victim's judgment for restitution or a portion of the restitution, the office may file with the sentencing court a notice of restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim.
 - (ii) The office may provide a restitution notice to the victim or victim's representative before or at sentencing.
 - (iii) The office's failure to provide notice under Subsection (3)(a) does not invalidate the imposition of the judgment or order of restitution if the defendant is given the opportunity to object and be heard as provided in this part.
 - (b)
 - (i) Any objection by the defendant to the imposition or amount of restitution shall be made at the time of sentencing or in writing within 20 days after the day on which the defendant receives the notice described in Subsection (3)(a), to be filed with the court and a copy mailed to the office.
 - (ii) Upon the filing of the objection, the court shall allow the defendant a full hearing on the issue in accordance with Subsection 77-38a-302(4).

- (iii) The amount of restitution sought by the office may be updated at any time, subject to the right of the defendant to object.
- (4) If no objection is made or filed by the defendant under Subsection (3), then upon conviction and sentencing, the court shall enter a judgment for complete restitution under Subsections 76-3-201(4)(c) and (d) and identify the office as the assignee of the assigned portion of the judgment and order of restitution.
- (5) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court or Board of Pardons shall modify any existing civil judgment and order of restitution to include expenses paid by the office on behalf of the victim and identify the office as the assignee of the assigned portion of the judgment and order of restitution. If no judgment or order of restitution has been entered, the court shall enter a judgment for complete restitution and court-ordered restitution under Sections 77-38a-302 and 77-38a-401.

Amended by Chapter 149, 2020 General Session

Superseded 1/1/2021

63M-7-504 Crime Victim Reparations and Assistance Board -- Members.

- (1)
 - (a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed by the governor with the advice and consent of the Senate.
 - (b) The membership of the board shall consist of:
 - (i) a member of the bar of this state;
 - (ii) a victim of criminally injurious conduct;
 - (iii) a licensed physician;
 - (iv) a representative of law enforcement;
 - (v) a mental health care provider;
 - (vi) a victim advocate; and
 - (vii) a private citizen.
 - (c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.
 - (d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.
- (2)
 - (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.
- (3)
 - (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (b) A member resigning from the board shall serve until the member's successor is appointed and qualified.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The board shall meet at least once quarterly but may meet more frequently as necessary.

Amended by Chapter 352, 2020 General Session

Effective 1/1/2021

63M-7-504 Crime Victim Reparations and Assistance Board -- Members.

- (1)
- (a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
 - (b) The membership of the board shall consist of:
 - (i) a member of the bar of this state;
 - (ii) a victim of criminally injurious conduct;
 - (iii) a licensed physician;
 - (iv) a representative of law enforcement;
 - (v) a mental health care provider;
 - (vi) a victim advocate; and
 - (vii) a private citizen.
 - (c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.
 - (d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.
- (2)
- (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
 - (c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.
- (3)
- (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (b) A member resigning from the board shall serve until the member's successor is appointed and qualified.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (5) The board shall meet at least once quarterly but may meet more frequently as necessary.
- (6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Amended by Chapter 352, 2020 General Session

Amended by Chapter 373, 2020 General Session

63M-7-505 Board and office within Commission on Criminal and Juvenile Justice.

- (1) The board and the office are placed within the Commission on Criminal and Juvenile Justice for the provision by the commission of administrative and support services.
- (2) The board or the director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

Amended by Chapter 149, 2020 General Session

63M-7-506 Functions of board.

- (1) The board shall:
 - (a) adopt a description of the office and prescribe the general operation of the board;
 - (b) prescribe policy for the office;
 - (c) adopt rules to implement and administer this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this part, and establishing of rules governing attorney fees;
 - (d) prescribe forms for applications for reparations;
 - (e) review all reparations awards made by the reparations staff, although the board may not reverse or modify reparations awards authorized by the reparations staff;
 - (f) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;
 - (g) cooperate with the director and the director's staff in formulating standards for the uniform application of Section 63M-7-509, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;
 - (h) allocate money available in the fund to victims of criminally injurious conduct for reparations claims;
 - (i) allocate money available to other victim services as provided by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a sufficient reserve has been established for reparation claims; and
 - (j) approve the allocation and disbursement of funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.
- (2) All rules, or other statements of policy, along with application forms specified by the board, are binding upon the director, the reparations officers, assistance officers, and other staff.

Amended by Chapter 149, 2020 General Session

63M-7-507 Director -- Appointment and functions.

- (1) The executive director of the Commission on Criminal and Juvenile Justice, after consulting with the board, shall appoint a director to carry out the provisions of this part.
- (2) The director shall:
 - (a) be an experienced administrator with a background in at least one of the following fields:
 - (i) social work;

- (ii) psychology;
 - (iii) criminal justice;
 - (iv) law; or
 - (v) another field related to the fields described in Subsections (2)(a)(i) through (iv);
 - (b) demonstrate an understanding of the needs of crime victims and of services to victims; and
 - (c) devote the director's time and capacity to the director's duties.
- (3) In addition to the requirements under Subsection (2), the director shall:
- (a) hire staff, including reparations and assistance officers, as necessary;
 - (b) act when necessary as a reparations officer in deciding an initial reparations claim;
 - (c) possess the same investigation and decision-making authority as the reparations officers;
 - (d) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial reparations claim;
 - (e) serve as a liaison between the office and the board;
 - (f) serve as the public relations representative of the office;
 - (g) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the board, to be paid out of appropriations from the fund;
 - (h) cooperate with the state treasurer and the state Division of Finance in causing the funds in the fund to be invested and the fund's investments sold or exchanged and the proceeds and income collected;
 - (i) apply for, receive, allocate, disburse, and account for, subject to approval and in conformance with policies adopted by the board, all grant funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;
 - (j) obtain and utilize the services of other governmental agencies upon request; and
 - (k) act in any other capacity or perform any other acts necessary for the office or board to successfully fulfill the office's or board's statutory duties and objectives.

Amended by Chapter 149, 2020 General Session

63M-7-508 Reparations officers.

The reparations officers shall in addition to any assignments made by the director:

- (1) hear and determine all matters relating to a reparations claim and reinvestigate or reopen a reparations claim without regard to statutes of limitation or periods of prescription;
- (2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;
- (3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any individual under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;
- (4) determine who is a victim or dependent;
- (5) award reparations or other benefits determined to be due under this part and the rules of the board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (6) take notice of judicially recognized facts and general, technical, and scientific facts within the reparations officers' specialized knowledge;
- (7) advise and assist the board in developing policies recognizing the rights, needs, and interests of crime victims;
- (8) render periodic reports as requested by the board concerning:

- (a) the reparations officers' activities; and
- (b) the manner in which the rights, needs, and interests of crime victims are being addressed by the state's criminal justice system;
- (9) establish priorities for assisting elderly victims of crime or those victims facing extraordinary hardships;
- (10) cooperate with the State Commission on Criminal and Juvenile Justice to develop information regarding crime victims' problems and programs; and
- (11) assist the director in publicizing the provisions of the office, including the procedures for obtaining reparation, and in encouraging law enforcement agencies, health providers, and other related officials to take reasonable care to ensure that victims are informed about the provisions of this part and the procedure for applying for reparation.

Amended by Chapter 149, 2020 General Session

63M-7-509 Grounds for eligibility.

- (1) A victim is eligible for a reparations award under this part if:
 - (a) the claimant is:
 - (i) a victim of criminally injurious conduct;
 - (ii) a dependent of a deceased victim of criminally injurious conduct; or
 - (iii) a representative acting on behalf of one of the above;
 - (b)
 - (i) the criminally injurious conduct occurred in Utah; or
 - (ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a crime victims' compensation program;
 - (c) the application is made in writing in a form that conforms substantially to that prescribed by the board;
 - (d) the criminally injurious conduct is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or another federal or state investigative agency;
 - (e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and
 - (f) the criminally injurious conduct occurred after December 31, 1986.
- (2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.

Amended by Chapter 149, 2020 General Session

63M-7-510 Ineligible individuals -- Fraudulent reparations claims -- Penalties.

- (1) The following individuals are not eligible to receive a reparations award:
 - (a) an individual who does not meet all of the provisions set forth in Section 63M-7-509;
 - (b) the offender;
 - (c) an accomplice of the offender;
 - (d) an individual whose receipt of a reparations award would unjustly benefit the offender, accomplice, or another individual reasonably suspected of participating in the offense;
 - (e) the victim of a motor vehicle injury who was the owner or operator of the motor vehicle and was not at the time of the injury in compliance with the state motor vehicle insurance laws;

- (f) a convicted offender serving a sentence of imprisonment in any prison or jail or residing in any other correctional facility;
 - (g) an individual who is on probation or parole if the circumstances surrounding the offense of which the individual is a victim is a violation of the individual's probation or parole;
 - (h) an individual whose injuries are the result of criminally injurious conduct that occurred in a prison, jail, or another correctional facility while the individual was incarcerated; and
 - (i) an individual who:
 - (i) submits a fraudulent claim; or
 - (ii) misrepresents a material fact in requesting a reparations award.
- (2)
- (a) An individual may not knowingly:
 - (i) submit a fraudulent claim; or
 - (ii) misrepresent a material fact in requesting a reparations award.
 - (b) A violation of Subsection (2)(a) is:
 - (i) a class B misdemeanor if:
 - (A) the individual who violates Subsection (2)(a) does not receive a reparations award; or
 - (B) the value of the reparations award received is less than \$500;
 - (ii) a class A misdemeanor if the value of the reparations award received is or exceeds \$500 but is less than \$1,500;
 - (iii) a third degree felony if the value of the reparations award received is or exceeds \$1,500 but is less than \$5,000; and
 - (iv) a second degree felony if the value of the reparations award received is or exceeds \$5,000.
- (3) The state attorney general may prosecute violations under this section or may make arrangements with county or city attorneys for the prosecution of violations under this section when the attorney general cannot conveniently prosecute.
- (4)
- (a) A claimant who is not eligible to receive a reparations award under Subsection (1) but receives a reparations award shall reimburse the fund for the amount of the reparations award.
 - (b) The office may bring a civil action against a victim who does not reimburse the fund for the amount of the reparations award in accordance with Subsection (4)(a).

Amended by Chapter 149, 2020 General Session

63M-7-511 Compensable losses and amounts.

A reparations award under this part may be made if:

- (1) the reparations officer finds the reparations claim satisfies the requirements for the reparations award under the provisions of this part and the rules of the board;
- (2) money is available in the fund;
- (3) the individual for whom the reparations award is to be paid is otherwise eligible under this part; and
- (4) the reparations claim is for an allowable expense incurred by the victim, as follows:
 - (a) reasonable and necessary charges incurred for products, services, and accommodations;
 - (b) inpatient and outpatient medical treatment and physical therapy, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (c) mental health counseling that:
 - (i) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and

- (ii) qualifies within any further rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the individual's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;
- (e) care of minor children enabling a victim or spouse of a victim, but not both, to continue gainful employment at a rate per child per week as determined under rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (g) loss of support to a dependent not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;
- (h) personal property necessary and essential to the health or safety of the victim as defined by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (i) medical examinations, subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513.

Amended by Chapter 149, 2020 General Session

63M-7-511.5 Limitation of reparations awards.

- (1)
 - (a) Except as provided in Subsection (1)(b), a reparations award may not exceed \$25,000.
 - (b) Notwithstanding Subsection (1)(a), a reparations award for medical expenses resulting from serious bodily injury or substantial bodily injury may not exceed \$50,000.
- (2)
 - (a) A reparations award under Subsection (1) includes any reparations award for a secondary victim.
 - (b) Unless otherwise requested by the claimant, the office shall pay a reparations award for the victim before a reparations award for a secondary victim.
 - (c) The reparations officer shall determine the priority of payment among multiple secondary victims on a single reparations claim.

Amended by Chapter 149, 2020 General Session

63M-7-512 Reparations reduction.

- (1) Reparations otherwise payable to a claimant may be reduced or denied as follows:
 - (a) the economic loss upon which the claim is based has been or could be recouped from other persons, including collateral sources;
 - (b) the reparations officer considers the reparations claim unreasonable because of the misconduct of the claimant; or
 - (c) the victim did not use a facility or health care provider which would be covered by a collateral source.

- (2) When two or more dependents are entitled to a reparations award as a result of a victim's death, the reparations officer shall apportion the reparations award among the dependents.

Amended by Chapter 149, 2020 General Session

63M-7-513 Collateral sources.

- (1)
 - (a) An order of restitution may not be considered readily available as a collateral source.
 - (b) Receipt of a reparations award under this part is considered an assignment of the victim's rights to restitution from the offender.
- (2) The victim may not discharge a claim against an individual or entity without the office's written permission and shall fully cooperate with the office in pursuing the office's right of reimbursement, including providing the office with any evidence in the victim's possession.
- (3) The office's right of reimbursement applies regardless of whether the victim is fully compensated for the victim's losses.
- (4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of the victim's self may be reimbursed for the costs of the HIV test only as provided in Subsection 76-5-503(4).

Amended by Chapter 149, 2020 General Session

63M-7-514 Notification of claimant -- Suspension of proceedings.

- (1)
 - (a) The office shall immediately notify the claimant in writing of a reparations award and shall forward to the Division of Finance a certified copy of the reparations award and a warrant request for the amount of the reparations award.
 - (b) The Division of Finance shall pay the claimant the amount submitted to the division, out of the fund.
 - (c) If money in the fund is temporarily depleted, the office shall place claimants approved to receive a reparations award on a waiting list and provide the reparations awards as funds are available in the order in which the reparations awards are approved.
- (2) The reparations officer may suspend the proceedings pending disposition of a criminal prosecution that is commenced or is imminent.

Amended by Chapter 149, 2020 General Session

63M-7-515 Rules for contested reparations claims -- Exemption from Administrative Procedures Act.

- (1) Rules for procedures for contested determinations by a reparations officer shall be adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The office is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 149, 2020 General Session

63M-7-516 Waiver of privilege.

- (1)

- (a) A victim who is a claimant waives any privilege as to communications or records relevant to an issue of the physical, mental, or emotional conditions of the victim except for the attorney-client privilege.
 - (b) The waiver described in Subsection (1)(a) applies only to reparations officers, the director, the board, and legal counsel.
- (2) A claimant may be required to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.
- (3)
- (a) The reparations officer hearing a reparations claim or an appeal from a reparations claim shall make available to the claimant a copy of the report.
 - (b) If the victim is deceased, the director or the director's appointee, on request, shall furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

Amended by Chapter 149, 2020 General Session

63M-7-517 Additional testing.

- (1) If the mental, physical, or emotional condition of a victim is material to a reparations claim, the reparations officer, director, or chair of the board who hears the reparations claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.
- (2) The court may order an additional examination for good cause shown and shall provide notice to the individual to be examined and the individual's representative.
- (3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.
- (4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

Amended by Chapter 149, 2020 General Session

63M-7-518 Failure to comply.

If an individual refuses to comply with an order under this part or asserts a privilege, except privileges arising from the attorney-client relationship, to withhold or suppress evidence relevant to a reparations claim, the director or reparations officer may make any appropriate determination including denial of the reparations claim.

Amended by Chapter 149, 2020 General Session

63M-7-519 Assignment of recovery -- Reimbursement.

- (1)
- (a) By accepting a reparations award, the victim:
 - (i) automatically assigns to the office any claim the victim may have relating to criminally injurious conduct in the reparations claim; and
 - (ii) is required to reimburse the office if the victim recovers any money relating to the criminally injurious conduct.
 - (b) The office's right of assignment and reimbursement under Subsection (1)(a) is limited to the lesser of:
 - (i) the amount paid by the office; or

- (ii) the amount recovered by the victim from the third party.
- (c) The office may be reimbursed under Subsection (1)(a) regardless of whether the office exercises the office's right of assignment under Subsection (1)(a).
- (2) The board, with the concurrence of the director, may reduce the office's right of reimbursement if the board determines that:
 - (a) the reduction will benefit the fund; or
 - (b) the victim has ongoing expenses related to the offense upon which the reparations claim is based and the benefit to the victim of reducing the office's right of reimbursement exceeds the benefit to the office of receiving full reimbursement.
- (3) The office reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the office's claim or the office's right of reimbursement.

Amended by Chapter 149, 2020 General Session

63M-7-521 Reparations award -- Payment methods -- Claims against the award.

- (1)
 - (a) Except as provided in Subsection (1)(b), a reparations officer may provide for the payment of a reparations award in a lump sum or in installments.
 - (b)
 - (i) The reparations officer shall pay the part of a reparations award equal to the amount of economic loss accrued to the date of the reparations award in a lump sum.
 - (ii) A reparations officer may not pay allowable expense that would accrue after an initial reparations award is made in a lump sum.
 - (iii) Except as provided in Subsection (2), a reparations officer shall award the part of a reparations award that may not be paid in a lump sum under this Subsection (1)(b) in installments.
- (2) At the request of the claimant, the reparations officer may convert future economic loss installment payments, other than allowable expense, to a lump sum payment, discounted to present value, but only upon a finding by the reparations officer that the reparations award in a lump sum will promote the interests of the claimant.
- (3)
 - (a) A reparations award for future economic loss payable in installments may be made only for a period for which the reparations officer can reasonably determine future economic loss.
 - (b) The reparations officer may reconsider and modify a reparations award for future economic loss payable in installments, upon the reparations officer's finding that a material and substantial change of circumstances has occurred.
- (4) A reparations award is not subject to execution, attachment, or garnishment, except that a reparations award for allowable expense is not exempt from a claim of a creditor to the extent that the creditor provided products, services, or accommodations, the costs of which are included in the reparations award.
- (5) An assignment or agreement to assign a reparations award for loss accruing in the future is unenforceable, except:
 - (a) an assignment of a reparations award of reparations for work loss to secure payment of alimony, maintenance, or child support;
 - (b) an assignment of a reparations award for allowable expense to the extent that the benefits are for the cost of products, services, or accommodations necessitated by the injury or death on which the reparations claim is based and are provided or to be provided by the assignee; or

- (c) an assignment to repay a loan obtained to pay for the obligations or expenses described in Subsection (5)(a) or (b).

Amended by Chapter 149, 2020 General Session

63M-7-521.5 Payments to medical service providers.

- (1)
 - (a) Except as provided in Subsection (2), a medical service provider who accepts payment from the office shall agree to accept payments as payment in full on behalf of the victim or claimant and may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.
 - (b) In the event the office is unable to make full payment in accordance with the office's rules, the medical service provider may collect from the victim or claimant, but not more than the amount the provider would have received from the office.
- (2)
 - (a) When a medical service provider receives notice that a reparations claim has been filed, the medical service provider may not, before the office determines whether to issue a reparations award, engage in debt collection for the claim, including:
 - (i) repeatedly calling or writing to a victim and threatening to refer unpaid health care costs to a debt collection agency, attorney, or other person for collection; or
 - (ii) filing for or pursuing a legal remedy for payment of unpaid health care costs.
 - (b) The statute of limitations for collecting a debt is tolled during the time in which a request for a reparations award is being reviewed by the office.
- (3) The office may:
 - (a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other fee schedule adopted by the board; and
 - (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the fee schedule adopted in accordance with this section.

Amended by Chapter 149, 2020 General Session

63M-7-522 Emergency reparations award.

- (1) If the reparations officer determines that the claimant will suffer financial hardship unless an emergency reparations award is made, and it appears likely that a final reparations award will be made, an amount may be paid to the claimant, to be deducted from the final reparations award or repaid by and recoverable from the claimant to the extent that it exceeds the final reparations award.
- (2) The board may limit emergency reparations awards under Subsection (1) to any amount the board considers necessary.

Amended by Chapter 149, 2020 General Session

63M-7-523 Review of reparations award decision.

- (1) The reparations officer shall review at least annually every reparations award being paid in installments.
- (2) An order on review of a reparations award does not require refund of amounts previously paid unless the reparations award was obtained by fraud or a material mistake of fact.

Amended by Chapter 149, 2020 General Session

63M-7-524 Attorney fees.

- (1) The claims procedures shall be sufficiently simple that the assistance of an attorney is unnecessary, and no attorney fees may be paid for the assistance of an attorney or any other representative in filing the reparations claim or providing information to the reparations officer.
- (2) Attorney fees may be granted in the following circumstances and shall be paid out of the reparations award not to exceed 15% of the amount of the reparations award:
 - (a) when a reparations award is denied and, after a hearing, the decision to deny is overturned; or
 - (b) when minor dependents of a deceased victim require assistance in establishing a trust or determining a guardian.
- (3)
 - (a) An attorney or any other person providing assistance in a reparations claim, who contracts for or receives sums not allowed under this part, is guilty of a class B misdemeanor.
 - (b) This Subsection (3) does not apply to attorneys who assist the victim in filing a civil action against the perpetrator.

Amended by Chapter 149, 2020 General Session

63M-7-525 Purpose -- Not entitlement program.

- (1)
 - (a) The purpose of the office is to assist victims of criminally injurious conduct who may be eligible for assistance from the fund.
 - (b) Reparation to a victim under this part is limited to the money available in the fund.
- (2)
 - (a) The assistance program described in Subsection (1) is not an entitlement program.
 - (b) A reparations award may be limited or denied as determined appropriate by the board.
 - (c) Failure to grant a reparations award does not create a cause of action against the office, the state, or any of its subdivisions and there is no right to judicial review over the decision whether or not to grant a reparations award.
- (3) A cause of action based on a failure to give or receive the notice required by this part does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents or employees nor does it affect or alter any requirement for filing or payment of a reparations claim.

Amended by Chapter 149, 2020 General Session

63M-7-526 Crime Victims Reparations Fund.

- (1)
 - (a) There is created an expendable special revenue fund known as the "Crime Victim Reparations Fund" to be administered and distributed as provided in this section by the office in cooperation with the Division of Finance.
 - (b) The fund shall consist of:
 - (i) appropriations by the Legislature; and
 - (ii) funds collected under Subsections (2) and (3).

- (c) Money deposited in this fund is for victim reparations, other victim services, and, as appropriated, for administrative costs of the office.
- (2)
- (a) A percentage of the income earned by inmates working for correctional industries in a federally certified private sector/prison industries enhancement program shall be deposited in the fund.
 - (b) The percentage of income deducted from inmate pay under Subsection (2)(a) shall be determined by the executive director of the Department of Corrections in accordance with the requirements of the private sector/prison industries enhancement program.
- (3)
- (a) Judges are encouraged to, and may in their discretion, impose additional reparations to be paid into the fund by convicted criminals.
 - (b) The additional discretionary reparations may not exceed the statutory maximum fine permitted by Title 76, Utah Criminal Code, for that offense.

Enacted by Chapter 230, 2020 General Session

Part 6

Utah Council on Victims of Crime

63M-7-601 Creation -- Members -- Chair.

- (1) There is created within the governor's office the Utah Council on Victims of Crime.
- (2) The Utah Council on Victims of Crime shall be composed of 25 voting members as follows:
 - (a) a representative of the Commission on Criminal and Juvenile Justice appointed by the executive director;
 - (b) a representative of the Department of Corrections appointed by the executive director;
 - (c) a representative of the Board of Pardons and Parole appointed by the chair;
 - (d) a representative of the Department of Public Safety appointed by the commissioner;
 - (e) a representative of the Division of Juvenile Justice Services appointed by the director;
 - (f) a representative of the Utah Office for Victims of Crime appointed by the director;
 - (g) a representative of the Office of the Attorney General appointed by the attorney general;
 - (h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;
 - (i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;
 - (j) a professional or volunteer working in the area of violence against women and families appointed by the governor;
 - (k) the chair of each judicial district's victims' rights committee;
 - (l) the following members appointed to serve four-year terms:
 - (i) a representative of the Statewide Association of Public Attorneys appointed by that association;
 - (ii) a representative of the Utah Chiefs of Police Association appointed by the president of that association;
 - (iii) a representative of the Utah Sheriffs' Association appointed by the president of that association;
 - (iv) a representative of a Children's Justice Center appointed by the attorney general; and

- (v) a citizen representative appointed by the governor; and
 - (m) the following members appointed by the members in Subsections (2)(a) through (2)(k) to serve four-year terms:
 - (i) an individual who works professionally with victims of crime; and
 - (ii) a victim of crime.
- (3) The council shall annually elect one member to serve as chair.

Amended by Chapter 246, 2019 General Session

63M-7-602 Reappointment -- Vacancies.

- (1) Members appointed to serve four-year terms shall be eligible for reappointment one time.
- (2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-7-603 Duties.

- (1) The council shall:
 - (a) make recommendations to the Legislature, the governor, and the Judicial Council on the following:
 - (i) enforcing existing rights of victims of crime;
 - (ii) enhancing rights of victims of crime;
 - (iii) the role of victims of crime in the criminal justice system;
 - (iv) victim restitution;
 - (v) educating and training criminal justice professionals on the rights of victims of crime; and
 - (vi) enhancing services to victims of crimes;
 - (b) provide training on the rights of victims of crime; and
 - (c) establish a subcommittee to consider complaints not resolved by the Victims' Rights Committee established in Section 77-37-5.
- (2) The council:
 - (a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;
 - (b) may establish additional subcommittees to assist in accomplishing its duties; and
 - (c) shall select and appoint persons pursuant to the provisions of Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.

Amended by Chapter 82, 2010 General Session

63M-7-604 Member expenses.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

63M-7-605 Staffing.

The Commission on Criminal and Juvenile Justice shall provide staff to the council and any subcommittees established by the council.

Renumbered and Amended by Chapter 382, 2008 General Session

Chapter 10
Serious Habitual Offender Comprehensive Action Program (SHOCAP) Act

Part 1
General Provisions

63M-10-101 Title.

This chapter is known as the "Serious Habitual Offender Comprehensive Action Program (SHOCAP) Act."

Renumbered and Amended by Chapter 382, 2008 General Session

Part 2
Serious Habitual Offender Comprehensive Action Program

63M-10-201 Creation -- Purpose -- Administration -- Access.

- (1) There is created the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to establish a SHOCAP Database to identify and track youthful offenders in order to assist agencies in providing collaborative and comprehensive services to them.
- (2) The database shall be administered by the Administrative Office of the Courts with information contributed by the following agencies:
 - (a) the State Board of Education and all school districts and charter schools;
 - (b) the Department of Health;
 - (c) the Department of Human Services, including all county mental health agencies;
 - (d) the Department of Public Safety;
 - (e) all county and municipal law enforcement agencies; and
 - (f) all county and district attorney offices.
- (3) The database shall be maintained in accordance with guidelines established by the Administrative Office of the Courts so that the agencies listed in Subsection (2) can efficiently access the database.
- (4) Information provided by schools in compliance with the provisions of this chapter is authorized under the Family Educational Rights and Privacy Act Regulations, 34 CFR Part 99.
- (5) Information in the database provided by an agency to the database is considered to be the property of the agency providing the information and retains any classification given it under Title 63G, Chapter 2, Government Records Access and Management Act.
- (6) Any person who knowingly releases or discloses information from the database for a purpose other than authorized by this chapter or to a person who is not entitled to it is guilty of a class B misdemeanor.

- (7) Neither the state nor the courts are liable to any person for gathering, managing, or using the information in the database as provided in this chapter.

Amended by Chapter 144, 2016 General Session

Chapter 11 Utah Commission on Aging

Part 1 General Provisions

63M-11-101 Title.

This chapter is known as "Utah Commission on Aging."

Renumbered and Amended by Chapter 382, 2008 General Session

63M-11-102 Creation -- Purpose.

- (1) In accordance with this chapter, there is created within the governor's office the Utah Commission on Aging.
- (2) The commission's purpose is to:
- (a) increase public and government understanding of the current and future needs of the state's aging population and how those needs may be most effectively and efficiently met;
 - (b) study, evaluate, and report on the projected impact that the state's increasing aging population will have on:
 - (i) government services;
 - (ii) health services;
 - (iii) social services;
 - (iv) the economy; and
 - (v) society in general;
 - (c) identify and recommend implementation of specific policies, procedures, and programs to respond to the needs and impact of the aging population relating to:
 - (i) government services;
 - (ii) health services;
 - (iii) social services;
 - (iv) the economy; and
 - (v) society in general;
 - (d) facilitate coordination of the functions of public and private entities concerned with the aging population; and
 - (e) accomplish the duties enumerated in Section 63M-11-203.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-11-103 Definitions.

As used in this chapter:

- (1) "Aging" and "aged" are as defined in Section 62A-3-101.

- (2) "Center on Aging" means the Center on Aging within the University of Utah.
- (3) "Commission" means the Utah Commission on Aging, created in Section 63M-11-102.

Renumbered and Amended by Chapter 382, 2008 General Session

Part 2 Commission

63M-11-201 Composition -- Appointments -- Terms -- Removal.

- (1) The commission shall be composed of 20 voting members as follows:
 - (a) the executive director of the Department of Health;
 - (b) the executive director of the Department of Human Services;
 - (c) the executive director of the Governor's Office of Economic Development;
 - (d) the executive director of the Department of Workforce Services; and
 - (e) 16 voting members, appointed by the governor, representing each of the following:
 - (i) the Utah Association of Area Agencies on Aging;
 - (ii) higher education in Utah;
 - (iii) the business community;
 - (iv) the Utah Association of Counties;
 - (v) the Utah League of Cities and Towns;
 - (vi) charitable organizations;
 - (vii) the health care provider industry;
 - (viii) financial institutions;
 - (ix) the legal profession;
 - (x) the public safety sector;
 - (xi) public transportation;
 - (xii) ethnic minorities;
 - (xiii) the industry that provides long-term care for the elderly;
 - (xiv) organizations or associations that advocate for the aging population;
 - (xv) the Alzheimer's Association; and
 - (xvi) the general public.
- (2)
 - (a) A member appointed under Subsection (1)(e) shall serve a two-year term.
 - (b) Notwithstanding the term requirements of Subsection (2)(a), the governor may adjust the length of the initial commission members' terms to ensure that the terms are staggered so that approximately 1/2 of the members appointed under Subsection (1)(e) are appointed each year.
 - (c) When, for any reason, a vacancy occurs in a position appointed by the governor under Subsection (1)(e), the governor shall appoint a person to fill the vacancy for the unexpired term of the commission member being replaced.
 - (d) Members appointed under Subsection (1)(e) may be removed by the governor for cause.
 - (e) A member appointed under Subsection (1)(e) shall be removed from the commission and replaced by the governor if the member is absent for three consecutive meetings of the commission without being excused by the chair of the commission.
- (3) In appointing the members under Subsection (1)(e), the governor shall:
 - (a) take into account the geographical makeup of the commission; and

- (b) strive to appoint members who are knowledgeable or have an interest in issues relating to the aging population.

Amended by Chapter 246, 2019 General Session

63M-11-202 Executive director -- Qualifications -- Appointment -- Functions.

- (1)
 - (a) Subject to Subsections (1)(b) and (c), the executive director of the Center on Aging shall appoint an executive director of the commission.
 - (b) The executive director appointed under Subsection (1)(a) shall be a person knowledgeable and experienced in matters relating to:
 - (i) management; and
 - (ii) the aging population.
 - (c) The appointment described in Subsection (1)(a) is not effective until ratified by the governor.
- (2) The executive director of the commission, under the direction of the commission and the executive director of the Center on Aging, shall administer the duties of the commission.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-11-203 Duties and powers of commission.

- (1) The commission shall:
 - (a) fulfill the commission's purposes as listed in Section 63M-11-102;
 - (b) facilitate the communication and coordination of public and private entities that provide services to the aging population;
 - (c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to the aging population;
 - (d) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of the aging population;
 - (e) facilitate and conduct the research and study of issues related to aging;
 - (f) provide a forum for public comment on issues related to aging;
 - (g) provide public information on the aging population and the services available to the aging population;
 - (h) facilitate the provision of services to the aging population from the public and private sectors; and
 - (i) encourage state and local governments to analyze, plan, and prepare for the impacts of the aging population on services and operations.
- (2) To accomplish its duties, the commission may:
 - (a) request and receive from any state or local governmental agency or institution, summary information relating to the aging population, including:
 - (i) reports;
 - (ii) audits;
 - (iii) projections; and
 - (iv) statistics;
 - (b) apply for and accept grants or donations for uses consistent with the duties of the commission from public or private sources; and
 - (c) appoint special committees to advise and assist the commission.
- (3) All funds received under Subsection (2)(b) shall be:

- (a) accounted for and expended in compliance with the requirements of federal and state law; and
 - (b) continuously available to the commission to carry out the commission's duties.
- (4)
- (a) Members of a special committee described in Subsection (2)(c):
 - (i) shall be appointed by the commission;
 - (ii) may be:
 - (A) members of the commission; or
 - (B) individuals from the private or public sector; and
 - (iii) notwithstanding Section 63M-11-206, shall not receive any reimbursement or pay for any work done in relation to the special committee.
 - (b) A special committee described in Subsection (2)(c) shall report to the commission on the progress of the special committee.
- (5) This chapter does not diminish the planning authority conferred on state, regional, and local governments by existing law.

Renumbered and Amended by Chapter 382, 2008 General Session

63M-11-204 Annual report by the commission.

- (1) The commission shall annually prepare and publish a report directed to the:
 - (a) governor; and
 - (b) Health and Human Services Interim Committee.
- (2) The report described in Subsection (1) shall:
 - (a) describe how the commission fulfilled its statutory purposes and duties during the year; and
 - (b) contain recommendations on how the state should act to address issues relating to the aging population.

Amended by Chapter 323, 2010 General Session

63M-11-205 Appointment of chair -- Meetings.

- (1) The governor shall appoint a member of the commission to serve as chair.
- (2)
 - (a) Subject to the other provisions of this Subsection (2), the chair is responsible for the call and conduct of meetings.
 - (b) The chair shall call and hold meetings of the commission at least quarterly.
 - (c) One of the quarterly meetings described in Subsection (2)(b) shall be held while the Legislature is convened in its annual session.
 - (d) One or more additional meetings may be called upon request by a majority of the commission's members.
- (3)
 - (a) A majority of the members of the commission constitute a quorum.
 - (b) The action of a majority of a quorum constitutes the action of the commission.

Amended by Chapter 95, 2017 General Session

63M-11-206 Members serve without pay -- Reimbursement for expenses.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 246, 2019 General Session

63M-11-207 Oversight -- Executive director salary -- Staff support -- Use of funds.

- (1) The Center on Aging shall:
 - (a) pay the salary, and oversee the performance of, the executive director of the commission;
 - (b) provide staff support for the executive director of the commission and the commission; and
 - (c) provide office space, furnishings, and supplies to the commission, the executive director of the commission, and support staff.
- (2) The funds appropriated by the Legislature for the commission may only be used for the purposes described in this chapter.

Renumbered and Amended by Chapter 382, 2008 General Session

Chapter 13
Governor's Early Childhood Commission

Part 1
General Provisions

63M-13-101 Title.

This chapter is known as the "Governor's Early Childhood Commission."

Enacted by Chapter 34, 2019 General Session

63M-13-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Governor's Early Childhood Commission created in Section 63M-13-201.
- (2) "Early childhood" refers to a child in the state who is six years of age or younger.

Enacted by Chapter 34, 2019 General Session

Part 2
Governor's Early Childhood Commission

63M-13-201 Creation of the Governor's Early Childhood Commission.

- (1) There is created within the governor's office the Governor's Early Childhood Commission consisting of the following five members:
 - (a) the lieutenant governor, who shall serve as chair of the commission;

- (b) the executive director of the Department of Workforce Services or the deputy director if designated by the executive director;
 - (c) the executive director of the Department of Health or the deputy director if designated by the executive director;
 - (d) the executive director of the Department of Human Services or the deputy director if designated by the executive director; and
 - (e) the state superintendent of public instruction or a deputy superintendent if designated by the superintendent.
- (2) The chair of the commission, with the approval of the commission, shall appoint a vice chair of the commission.
- (3) The commission chair:
- (a) is responsible for the call and conduct of meetings;
 - (b) shall call and hold meetings of the commission at least quarterly;
 - (c) shall call additional meetings upon request by a majority of the commission's members; and
 - (d) may delegate duties to the vice chair.
- (4) A majority of the members of the commission constitutes a quorum of the commission at any meeting and the action of the majority of members present is the action of the commission.
- (5) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (6) The Department of Workforce Services shall provide administrative staff support to the commission.

Enacted by Chapter 34, 2019 General Session

63M-13-202 Duties of the commission.

- (1) The responsibilities of the commission include:
- (a) supporting Utah parents and families, who have family members that are in early childhood, by providing comprehensive and accurate information regarding the availability of voluntary services that are available to children in early childhood from state agencies and other private and public entities;
 - (b) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;
 - (c) sharing and analyzing information regarding early childhood issues in the state;
 - (d) developing and coordinating a comprehensive delivery system of services for children in early childhood that addresses the following four areas:
 - (i) family support and safety;
 - (ii) health and development;
 - (iii) early learning; and
 - (iv) economic development; and
 - (e) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.
- (2) To fulfill the responsibilities described in Subsection (1), the commission shall:
- (a) directly engage with parents, families, community members, and public and private service providers to identify and address:

- (i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;
 - (ii) gaps and barriers to entry in the provision of services for children in early childhood; and
 - (iii) community-based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;
 - (b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:
 - (i) children in early childhood who live in urban, suburban, or rural areas of the state;
 - (ii) children in early childhood with varying socioeconomic backgrounds;
 - (iii) children in early childhood with varying ethnic or racial heritage;
 - (iv) children in early childhood from various geographic areas of the state; and
 - (v) children in early childhood with special needs;
 - (c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;
 - (d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;
 - (e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend and implement changes to those policies, procedures, and programs;
 - (f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend and implement changes to those policies, procedures, and programs;
 - (g) recommend policy, procedure, and program changes to address the needs of children in early childhood;
 - (h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services;
 - (i) develop, recommend, and coordinate a comprehensive delivery system of services for children in early childhood; and
 - (j) develop strategies and monitor efforts concerning:
 - (i) increasing school readiness;
 - (ii) improving access to child care and early education programs; and
 - (iii) improving family and community engagement in early childhood education and development.
- (3) In fulfilling the duties of the commission, the commission shall collaborate with the Early Childhood Utah Advisory Council created in Section 26-66-201.
- (4) In fulfilling the commission's duties, the commission may:
- (a) request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics; and
 - (b) appoint special advisory groups to advise and assist the commission.
- (5) Members of a special advisory group described in Subsection (4)(b):
- (a) shall be appointed by the commission;
 - (b) may include:
 - (i) members of the commission; and
 - (ii) individuals from the private or public sector; and
 - (c) may not receive reimbursement or pay for work done in relation to the special advisory group.

- (6) A special advisory group created in accordance with Subsection (4)(b) shall report to the commission on the progress of the special advisory group.

Amended by Chapter 354, 2020 General Session

63M-13-203 Annual report.

- (1) On or before October 1 of each year, the commission shall provide a report to the governor and the Economic Development and Workforce Services Interim Committee.
- (2) The annual report shall:
 - (a) describe how the commission fulfilled its statutory duties during the year;
 - (b) describe the commission's progress in developing and coordinating a comprehensive delivery system of services for children in early childhood; and
 - (c) include recommendations on how the state should act to address issues related to providing services for children in early childhood.

Enacted by Chapter 34, 2019 General Session