

**Effective 7/1/2021**

**Title 63N. Economic Opportunity Act**

**Chapter 1a  
Economic Opportunity Organization**

**Part 1  
General Provisions**

**63N-1a-101 Title.**

- (1) This title is known as the "Economic Opportunity Act."
- (2) This chapter is known as "Economic Opportunity Organization."

Renumbered and Amended by Chapter 282, 2021 General Session

**63N-1a-102 Definitions.**

As used in this title:

- (1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.
- (2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.
- (3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.
- (4) "Economic opportunity agency" includes:
  - (a) the Department of Workforce Services;
  - (b) the Department of Cultural and Community Engagement;
  - (c) the Department of Commerce;
  - (d) the Department of Natural Resources;
  - (e) the Office of Energy Development;
  - (f) the State Board of Education;
  - (g) institutions of higher education;
  - (h) the Utah Multicultural Commission;
  - (i) the World Trade Center Utah;
  - (j) local government entities;
  - (k) associations of governments;
  - (l) the Utah League of Cities and Towns;
  - (m) the Utah Association of Counties;
  - (n) the Economic Development Corporation of Utah;
  - (o) the Small Business Administration;
  - (p) chambers of commerce;
  - (q) industry associations;
  - (r) small business development centers; and
  - (s) other entities identified by the commission or the executive director.
- (5) "Executive director" means the executive director of the office.

- (6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:
  - (a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and
  - (b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.
- (7) "GO Utah board" means the Board of Economic Opportunity created in Section 63N-1a-401.
- (8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:
  - (a) at least 110% of the average wage of the county in which the employment position exists; or
  - (b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:
    - (i) at least 100% of the average wage of the county in which the employment position exists; or
    - (ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.
- (9)
  - (a) "Incremental job" means a full-time employment position in the state that:
    - (i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and
    - (ii) is created in addition to the number of baseline jobs that existed within a business entity.
  - (b) "Incremental job" includes a full-time employment position where the employee is hired:
    - (i) directly by a business entity; or
    - (ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.
- (10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.
- (11) "Office" or "GO Utah office" means the Governor's Office of Economic Opportunity.
- (12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:
  - (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
  - (b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;
  - (c) Title 59, Chapter 10, Part 2, Trusts and Estates;
  - (d) Title 59, Chapter 10, Part 4, Withholding of Tax; and
  - (e) Title 59, Chapter 12, Sales and Use Tax Act.
- (13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.
- (14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.
- (15) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section 53B-34-102.
- (16) "Targeted industry" means an industry or group of industries targeted by the commission under Section 63N-1a-202, for economic development in the state.

Amended by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session

**63N-1a-103 Purpose.**

- (1) The mission of the Economic Opportunity Act and the entities established herein is to catalyze strategic economic opportunities for all residents of the state with a vision of creating economically thriving communities, businesses, and families throughout the state.
- (2) The mission and vision are realized through targeted efforts that demonstrably improve quality of life, measured by the extent to which the efforts accomplish the following strategic goals:
  - (a) catalyzing targeted industry growth;
  - (b) supporting economically thriving communities;
  - (c) empowering students and workers with market-relevant skills;
  - (d) stimulating economic growth in rural and multicultural communities through household level efforts; and
  - (e) securing healthy and resilient ecosystems for current and future generations.

Enacted by Chapter 282, 2021 General Session

**Part 2**  
**Creation of Unified Economic Opportunity Commission**

**63N-1a-201 Creation of commission.**

- (1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the mission described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the state strategic goals.
- (2) The commission consists of:
  - (a) the following voting members:
    - (i) the governor, who shall serve as the chair of the commission;
    - (ii) the executive director, who shall serve as the vice chair of the commission;
    - (iii) the executive director of the Department of Workforce Services;
    - (iv) the executive director of the Department of Transportation;
    - (v) the executive director of the Department of Natural Resources;
    - (vi) the executive director of the Department of Commerce;
    - (vii) the commissioner of the Department of Agriculture and Food;
    - (viii) the executive director of the Governor's Office of Planning and Budget;
    - (ix) the commissioner of higher education;
    - (x) the state superintendent of public instruction;
    - (xi) the president of the Senate or the president's designee;
    - (xii) the speaker of the House of Representatives or the speaker's designee;
    - (xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;
    - (xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and
    - (xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and
  - (b) the following non-voting members:
    - (i) the chief executive officer of World Trade Center Utah;

- (ii) the chief executive officer of the Economic Development Corporation of Utah;
- (iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission; and
- (iv) the chief executive officer of one of the following entities, appointed by the chair of the commission:
  - (A) the Utah Inland Port Authority created in Section 11-58-201;
  - (B) the Point of the Mountain State Land Authority created in Section 11-59-201; or
  - (C) the Military Installation Development Authority created in Section 63H-1-201.
- (3) A majority of commission members constitutes a quorum for the purposes of conducting commission business and the action of a majority of a quorum constitutes the action of the commission.
- (4) The executive director of the office, or the executive director's designee, is the executive director of the commission.
- (5) The office shall provide:
  - (a) office space and administrative staff support for the commission; and
  - (b) the central leadership and coordination of the commission's efforts in the field of economic development.
- (6)
  - (a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:
    - (i) Sections 63A-3-106 and 63A-3-107; and
    - (ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
  - (b) Compensation and expenses of a commission 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 499, 2023 General Session

**63N-1a-202 Commission duties.**

- (1) The commission shall:
  - (a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:
    - (i) unifies and coordinates economic development efforts in the state;
    - (ii) includes key performance indicators for long-term progress toward the state strategic goals;
    - (iii) establishes reporting and accountability processes for the key performance indicators; and
    - (iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;
  - (b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;
  - (c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;
  - (d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the mission and vision described in Section 63N-1a-103;
  - (e) at least once every five years, identify which industries or groups of industries shall be targeted for economic development in the state;

- (f) establish strategies for the recruitment and retention of targeted industries while respecting the different needs of rural and urban areas throughout the state;
  - (g) establish strategies for supporting entrepreneurship and small business development in the state;
  - (h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;
  - (i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;
  - (j) support the development of a prepared workforce that can support targeted industries identified by the commission;
  - (k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;
  - (l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;
  - (m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;
  - (n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;
  - (o) support an integrated international trade strategy for the state;
  - (p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and
  - (q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees, the GO Utah board, the talent board, and any working groups established under Subsection (2).
- (2) The commission may establish working groups as is deemed appropriate to assist and advise the commission on specified topics or issues related to the commission's duties.
- (3) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:
- (a) the statewide economic development strategy;
  - (b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;
  - (c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and
  - (d) any legislative recommendations.

Amended by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session

### **Part 3**

## **Creation of Governor's Office of Economic Opportunity**

### **63N-1a-301 Creation of office -- Responsibilities.**

- (1) There is created the Governor's Office of Economic Opportunity.
- (2) The office is:

- (a) responsible for implementing the statewide economic development strategy developed by the commission; and
  - (b) the industrial and business promotion authority of the state.
- (3) The office shall:
- (a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;
  - (b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;
  - (c) administer and coordinate state and federal economic development grant programs;
  - (d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;
  - (e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;
  - (f) act to create, develop, attract, and retain business, industry, and commerce in the state;
    - (i) in accordance with the statewide economic development plan and commission directives; and
    - (ii) subject to the restrictions in Section 11-41-103;
  - (g) act to enhance the state's economy;
  - (h) act to assist strategic industries that are likely to drive future economic growth;
  - (i) assist communities in the state in developing economic development capacity and coordination with other communities;
  - (j) identify areas of education and workforce development in the state that can be improved to support economic and business development;
  - (k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:
    - (i) enhancing statewide access to entrepreneurship opportunities and small business support;
    - (ii) focusing industry recruitment and expansion of targeted industries;
    - (iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and
    - (iv) assisting communities with technical support to aid those communities in improving economic development opportunities;
  - (l) submit an annual written report as described in Section 63N-1a-306; and
  - (m) perform other duties as provided by the Legislature.
- (4) In order to perform its duties under this title, the office may:
- (a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;
  - (b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and
  - (c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.
- (5) Money received under Subsection (4)(c) shall be deposited into the General Fund as dedicated credits of the office.
- (6)
- (a) The office shall:
    - (i) obtain the advice of the GO Utah board before implementing a change to a policy, priority, or objective under which the office operates; and

- (ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).
- (b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Amended by Chapter 200, 2022 General Session

Amended by Chapter 307, 2022 General Session

**63N-1a-302 Executive director of office -- Appointment -- Removal -- Compensation.**

- (1) The office shall be administered, organized, and managed by an executive director appointed by the governor, with the advice and consent of the Senate.
- (2) The executive director serves at the pleasure of the governor.
- (3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Renumbered and Amended by Chapter 282, 2021 General Session

**63N-1a-303 Powers and duties of executive director.**

- (1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.
- (2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.
- (3) The executive director, with the approval of the governor:
  - (a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;
  - (b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and
  - (c) shall annually prepare and submit to the governor a budget of the office's financial requirements.
- (4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.
- (5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Planning and Budget to review data and metrics to be reported to the Legislature as described in Subsection 63N-1a-306(2)(b).
- (6) Unless otherwise provided in this title, the executive director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration of programs established under state law.

Amended by Chapter 362, 2022 General Session

**63N-1a-304 Executive director and the Public Service Commission.**

- (1) The executive director or the executive director's designee shall:
  - (a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and
  - (b) monitor and study the potential economic development impact of these proceedings.

- (2) In the discretion of the executive director or the executive director's designee, the office may appear in a proceeding before the Public Service Commission to testify, advise, or present argument regarding the economic development impact of a matter that is the subject of the proceeding.

Renumbered and Amended by Chapter 282, 2021 General Session

**63N-1a-305 Incentive review process.**

The Legislature intends that the office will develop an incentives review process under the direction of the speaker of the House and the president of the Senate.

Renumbered and Amended by Chapter 282, 2021 General Session

**63N-1a-306 Annual report -- Content -- Format.**

- (1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.
- (2) For each operation, activity, program, or service provided by the office, the annual report shall include:
  - (a) a description of the operation, activity, program, or service;
  - (b) data and metrics:
    - (i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
    - (ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Planning and Budget;
  - (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
  - (d) historical data from previous years for comparison with data reported under Subsections (2) (b) and (c);
  - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
  - (f) relevant federal and state statutory references and requirements;
  - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
  - (h) other information determined by the office that:
    - (i) may be needed, useful, or of historical significance; or
    - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (4) The office shall:
  - (a) submit the annual report in accordance with Section 68-3-14;
  - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and
  - (c) provide the data and metrics described in Subsection (2)(b) to the talent board.



Amended by Chapter 362, 2022 General Session

**63N-1a-307 Restrictions on pass through funding.**

- (1) As used in this section:
  - (a) "Pass through funding" means the same as that term is defined in Section 63J-1-220.
  - (b) "Recipient entity" means the same as that term is defined in Section 63J-1-220.
- (2) In addition to the requirements of Section 63J-1-220, the office may not distribute pass through funding to a recipient entity unless the office follows the standards or criteria established by the Legislature to distribute the pass through funding, as described in the applicable item of appropriation.
- (3) If an item of appropriation to the office for pass through funding does not include any standards or criteria for distributing the pass through funding, the funds shall lapse to the source fund at the end of the fiscal year, regardless of whether those funds are designated by law as nonlapsing.

Enacted by Chapter 362, 2022 General Session

**Part 4**  
**Creation of Board of Economic Opportunity**

**63N-1a-401 Creation of Board of Economic Opportunity.**

- (1)
  - (a) There is created within the office the Board of Economic Opportunity, consisting of 15 members appointed by the chair of the commission, in consultation with the executive director, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, at least five of whom reside in a county of the third, fourth, fifth, or sixth class.
  - (b) Notwithstanding the requirements of Subsection (1)(a), the chair of the commission 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) The members may not serve more than two full consecutive terms except where the chair of the commission determines that an additional term is in the best interest of the state.
- (2) In appointing members of the board, the chair of the commission shall ensure that:
  - (a) no more than eight members of the board are from one political party; and
  - (b) members represent a variety of geographic areas and economic interests of the state.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (4) Eight members of the board constitute a quorum for conducting board business and exercising board power.
- (5) The chair of the commission shall select one board member as the board's chair and one member as the board's vice chair.
- (6) 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 under Sections 63A-3-106 and 63A-3-107.
- (7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Renumbered and Amended by Chapter 362, 2022 General Session

**63N-1a-402 Board of Economic Opportunity duties and powers.**

- (1) The GO Utah board shall advise and assist the office to:
  - (a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;
  - (b) promote and encourage the development, attraction, expansion, and retention of businesses, industries, and commerce in the state;
  - (c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce in the state;
  - (d) act to enhance the state's economy;
  - (e) develop policies, priorities, and objectives regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;
  - (f) administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state;
  - (g) ensure that economic development programs are available to all areas of the state in accordance with federal and state law;
  - (h) identify local, regional, and statewide rural economic development and planning priorities;
  - (i) understand, through study and input, issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration;
  - (j) make recommendations regarding loans, grants, or other assistance from the Industrial Assistance Account as provided in Section 63N-3-105; and
  - (k) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the GO Utah board may, in consultation with the executive director, make rules for the conduct of the GO Utah board's business.

Renumbered and Amended by Chapter 362, 2022 General Session

**Chapter 1b  
Commission Subcommittees**

**Part 1  
General Provisions**

**63N-1b-102 Subcommittees generally.**

- (1) Each subcommittee created under this part or by the commission in accordance with this section serves under the direction of the commission and shall assist the commission in performing the commission's duties.
- (2) In addition to the subcommittees created under this part, the commission may establish one or more subcommittees to assist and advise the commission on specified topics or issues relevant to the commission's duties, including:
  - (a) rural economic growth;
  - (b) sustainable community growth;
  - (c) small business and entrepreneurship;
  - (d) multicultural economic empowerment; and
  - (e) international relations, trade, and immigration.
- (3) When establishing a subcommittee under Subsection (2), the commission shall:
  - (a) appoint members to the subcommittee that represent a range of views and expertise; and
  - (b) adopt subcommittee procedures and directives.
- (4)
  - (a) A member of a subcommittee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
  - (b) Compensation and expenses of a subcommittee member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (5) In addition to the subcommittees created under this part, the Commission on Housing Affordability created in Section 35A-8-2202 shall serve as a subcommittee of the commission and shall assist the commission in performing the commission's duties.

Amended by Chapter 118, 2022 General Session

## **Part 4**

### **Women in the Economy Subcommittee**

#### **63N-1b-401 Definitions.**

As used in this part:

- (1) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.
- (2) "Subcommittee" means the Women in the Economy Subcommittee created in Section 63N-1b-402.

Renumbered and Amended by Chapter 362, 2022 General Session

#### **63N-1b-402 Women in the Economy Subcommittee created.**

- (1) There is created a subcommittee of the commission called the Women in the Economy Subcommittee.
- (2) The subcommittee shall consist of 15 members as follows:
  - (a) one senator appointed by the president of the Senate;
  - (b) one senator appointed by the minority leader of the Senate;

- (c) one representative appointed by the speaker of the House of Representatives;
- (d) one representative appointed by the minority leader of the House of Representatives;
- (e) the executive director of the department, or the executive director's designee; and
- (f) 10 members appointed by the governor as follows:
  - (i) two individuals who represent businesses in the state that:
    - (A) have fewer than 50 employees; and
    - (B) have demonstrated a commitment to women in the economy;
  - (ii) two individuals who represent businesses in the state that:
    - (A) have 50 or more employees, but fewer than 500 employees; and
    - (B) have demonstrated a commitment to women in the economy;
  - (iii) two individuals who represent businesses in the state that:
    - (A) have 500 or more employees; and
    - (B) have demonstrated a commitment to women in the economy;
  - (iv) an individual who has experience in economic and demographic work;
  - (v) one individual from a nonprofit organization that focuses on women's advocacy;
  - (vi) one individual with managerial experience with organized labor; and
  - (vii) one individual who serves as an officer, employee, or appointee of a local government, nominated by the Utah League of Cities and Towns.

- (3)
  - (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(f), the governor shall appoint a person to fill the vacancy.
  - (b) A member appointed under Subsection (2)(f) shall serve a term of four years.
  - (c) Notwithstanding Subsection (3)(b), for members appointed under Subsection (2)(f), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of subcommittee members are staggered so that approximately half of the subcommittee members appointed under Subsection (2)(f) are appointed every two years.
  - (d) Members appointed under Subsection (2)(f) may be removed by the governor for cause.
  - (e) A member appointed under Subsection (2)(f) shall be removed from the subcommittee and replaced by the governor if the member is absent for three consecutive meetings of the subcommittee without being excused by the chair of the subcommittee.
  - (f) A member serves until the member's successor is appointed and qualified.

- (4) In appointing the members under Subsection (2)(f), the governor shall:
  - (a) take into account the geographical makeup of the subcommittee; and
  - (b) strive to appoint members who are knowledgeable or have an interest in issues related to women in the economy.

- (5)
  - (a) The subcommittee shall select two members who are legislators to serve as cochairs, of which:
    - (i) one cochair shall be a member of the Senate; and
    - (ii) one cochair shall be a member of the House of Representatives.
  - (b) Subject to the other provisions of this Subsection (5), the cochairs are responsible for the call and conduct of meetings.
  - (c) The cochairs shall call and hold meetings of the subcommittee at least four times per year.

- (6)
  - (a) A majority of the members of the subcommittee constitutes a quorum.
  - (b) The action of a majority of a quorum constitutes the action of the subcommittee.

(7)

- (a) A member of the subcommittee described in Subsection (2)(e) or (f) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance pursuant 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.
- (8) The office shall provide staff support to the subcommittee.

Amended by Chapter 499, 2023 General Session

**63N-1b-403 Purpose -- Powers and duties of the subcommittee.**

- (1) The subcommittee's purpose is to:
  - (a) increase public and government understanding of the current and future impact and needs of the state's women in the economy and how those needs may be most effectively and efficiently met;
  - (b) identify and recommend implementation of specific policies, procedures, and programs to respond to the rights, needs, and impact of women in the economy; and
  - (c) facilitate coordination of the functions of public and private entities concerned with women in the economy.
- (2) The subcommittee shall:
  - (a) facilitate the communication and coordination of public and private entities that provide services to women or protect the rights of women;
  - (b) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to women or protect the rights of women;
  - (c) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of women in the economy or protect the rights of women;
  - (d) facilitate and conduct the research and study of issues related to women in the economy;
  - (e) provide a forum for public comment on issues related to women in the economy;
  - (f) provide public information on women in the economy and the services available to women; and
  - (g) encourage state and local governments to analyze, plan, and prepare for the impact of women in the economy on services and operations.
- (3) To accomplish the subcommittee's duties, the subcommittee may:
  - (a) request and receive from a state or local government agency or institution summary information relating to women in the economy, including:
    - (i) reports;
    - (ii) audits;
    - (iii) projections; and
    - (iv) statistics;
  - (b) in coordination with the office, apply for and accept grants or donations for uses consistent with the duties of the subcommittee from public or private sources; and
  - (c) appoint one or more working groups to advise and assist the subcommittee.
- (4) Money received by the office under Subsection (3)(b) shall be:
  - (a) accounted for and expended in compliance with the requirements of federal and state law; and
  - (b) continuously available to the subcommittee to carry out the subcommittee's duties.

- (5)
- (a) A member of a working group described in Subsection (3)(c):
    - (i) shall be appointed by the subcommittee;
    - (ii) may be:
      - (A) a member of the subcommittee; or
      - (B) an individual from the private or public sector; and
    - (iii) notwithstanding Section 63N-1b-402, may not receive reimbursement or pay for any work done in relation to the working group.
  - (b) A working group described in Subsection (3)(c) shall report to the subcommittee on the progress of the working group.

Amended by Chapter 499, 2023 General Session

**63N-1b-404 Annual report.**

- (1) The subcommittee shall annually prepare a report for inclusion in the commission's report to the office under Subsection 63N-1a-202(3).
- (2) The report described in Subsection (1) shall:
  - (a) describe how the subcommittee fulfilled the subcommittee's statutory purposes and duties during the year; and
  - (b) contain recommendations on how the state should act to address issues relating to women in the economy.

Amended by Chapter 499, 2023 General Session

**Chapter 2**  
**Tax Credit Incentives for Economic Development**  
**Part 1**  
**Economic Development Tax Increment Financing**

**63N-2-101 Title.**

- (1) This chapter is known as "Tax Credit Incentives for Economic Development."
- (2) This part is known as "Economic Development Tax Increment Financing."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-102 Purpose.**

This part is enacted to:

- (1) foster and develop targeted industries in the state, to stimulate community-focused economic growth, and to diversify and catalyze the state's economy;
- (2) create high paying employment opportunities in the state;
- (3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and
- (4) provide a cooperative and unified working relationship between state and local economic development efforts.

Amended by Chapter 200, 2022 General Session

**63N-2-103 Definitions.**

As used in this part:

- (1)
  - (a) "Business entity" means a person that enters into a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.
  - (b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104.3(2), "business entity" includes a nonprofit entity.
- (2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.
- (3) "Development zone" means an economic development zone created under Section 63N-2-104.
- (4) "Local government entity" means a county, city, town, or metro township.
- (5) "New commercial project" means an economic development opportunity that:
  - (a) involves a targeted industry;
  - (b) is located within:
    - (i) a county of the third, fourth, fifth, or sixth class; or
    - (ii) a municipality that has a population of 10,000 or less and the municipality is located within a county of the second class; or
  - (c) involves an economic development opportunity that the commission determines to be eligible for a tax credit under this part.
- (6) "Remote work opportunity" means a new commercial project that:
  - (a) does not require a physical office in the state where employees associated with the new commercial project are required to work; and
  - (b) requires employees associated with the new commercial project to:
    - (i) work remotely from a location within the state; and
    - (ii) maintain residency in the state.
- (7) "Significant capital investment" means an investment in capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state.
- (8) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.
- (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.
- (10) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the business entity to which the office authorizes a tax credit;
  - (b) lists the business entity's taxpayer identification number;
  - (c) lists the amount of tax credit that the office authorizes the business entity for the taxable year; and
  - (d) may include other information as determined by the office.
- (11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.

Amended by Chapter 200, 2022 General Session

**63N-2-104 Creation of economic development zones -- Tax credits -- Assignment of tax credit.**

- (1) The office may create an economic development zone in the state if the following requirements are satisfied:
  - (a) the area is located within a commercial or industrial zone;
  - (b) the local government entity having jurisdiction over the area supports the creation of the development zone; and
  - (c) the local government entity described in Subsection (1)(b) provides or commits to provide local incentives within the area in accordance with the local government entity's approved incentive policy.
- (2) A local government entity may, for the purpose of incentivizing new commercial projects within the local government entity's boundaries, create an economic development zone if the following requirements are satisfied:
  - (a) the area is located:
    - (i) within a commercial or industrial zone; and
    - (ii) within the geographic boundaries of the local government entity;
  - (b) the local government entity adopts a long-term plan that addresses the following planning elements within the area:
    - (i) transportation and infrastructure;
    - (ii) workforce development; and
    - (iii) housing needs; and
  - (c) the office approves the local government entity's request to create the development zone.

Amended by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session

**63N-2-104.1 Eligibility for tax credit -- Economic impact study.**

- (1) The office shall certify a business entity's eligibility for a tax credit as provided in this section.
- (2) A business entity is eligible to receive a tax credit for a new commercial project if:
  - (a) the new commercial project:
    - (i)
      - (A) is located and provides direct investment within the geographic boundaries of a development zone; or
      - (B) creates a remote work opportunity;
    - (ii) includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors; and
    - (iii) generates new state revenues; and
  - (b) the business entity has not claimed a High Cost Infrastructure Development Tax Credit under Section 79-6-603 for the same new commercial project, if the new commercial project is located within a county of the first or second class.
- (3) The office shall conduct a study of the economic impacts associated with a new commercial project to determine whether a business entity meets the requirements of Subsection (2).
- (4) In determining whether a new commercial project meets the requirements of Subsection (2)(a)(ii), the office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within a development zone, or remotely from elsewhere in the state.



Enacted by Chapter 200, 2022 General Session

Amended by Chapter 362, 2022 General Session, (Coordination Clause)

**63N-2-104.2 Written agreement -- Contents -- Grounds for amendment or termination.**

- (1) If the office determines that a business entity is eligible for a tax credit under Section 63N-2-104.1, the office may enter into a written agreement with the business entity that:
  - (a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;
  - (b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;
  - (c) establishes the length of time the business entity may claim a tax credit;
  - (d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;
  - (e) requires the business entity to submit to audits for verification of any tax credit claimed; and
  - (f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.
- (2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:
  - (a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;
  - (b) consider the following factors:
    - (i) whether the new commercial project provides vital or specialized support to supply chains;
    - (ii) whether the new commercial project provides an innovative product, technology, or service;
    - (iii) the number and wages of new incremental jobs associated with the new commercial project;
    - (iv) the amount of financial support provided by local government entities for the new commercial project;
    - (v) the amount of capital expenditures associated with the new commercial project;
    - (vi) whether the new commercial project returns jobs transferred overseas;
    - (vii) the rate of unemployment in the county in which the new commercial project is located;
    - (viii) whether the new commercial project creates a remote work opportunity;
    - (ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);
    - (x) whether the business entity commits to hiring Utah workers for the new commercial project;
    - (xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;
    - (xii) whether the business entity's headquarters are located within the state;
    - (xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;
    - (xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; and
    - (xv) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and
  - (c) consult with the GO Utah board.

- (3)
  - (a) In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:
    - (i) authorize a higher or optimized amount of tax credit for a new commercial project located within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and
    - (ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.
  - (b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.
- (4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:
  - (a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;
  - (b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or
  - (c) an increase in the business entity's operations that:
    - (i) is outside the scope of the written agreement or outside the boundaries of a development zone; and
    - (ii) results in new state revenue not subject to the incentive.

Enacted by Chapter 200, 2022 General Session

**63N-2-104.3 Limitations on tax credit amount.**

- (1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:
  - (a) 50% of the new state revenues from the new commercial project in any given year;
  - (b) 30% of the new state revenues from the new commercial project over a period of up to 20 years; or
  - (c) 35% of the new state revenues from the new commercial project over a period of up to 20 years, if:
    - (i) the new commercial project brings 2,500 or more new incremental jobs to the state;
    - (ii) the amount of capital expenditures associated with the new commercial project is \$1,000,000,000 or more; and
    - (iii) the commission approves the tax credit.
- (2) If the office authorizes a tax credit for a new commercial project located within the boundary of:
  - (a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years;
  - (b) a county of the third class, the office may authorize a tax credit of up to 50% of new state revenues from the new commercial project over a period of up to 20 years; and
  - (c) a county of the fourth, fifth, or sixth class, the office may authorize a tax credit of 50% of new state revenues from the new commercial project over a period of up to 20 years.

Amended by Chapter 499, 2023 General Session

**63N-2-105 Requirements for claiming tax credit -- Application for tax credit certificate -- Procedure.**

- (1) A business entity may claim a tax credit under this part if the office:
  - (a) determines that the business entity is eligible for a tax credit under Section 63N-2-104.1;
  - (b) enters into a written agreement with the business entity in accordance with Section 63N-2-104.2; and
  - (c) issues a tax credit certificate to the business entity in accordance with this section.
- (2) A business entity seeking to receive a tax credit shall provide the office with:
  - (a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;
  - (b) documentation of the new state revenues from the business entity's new commercial project that were paid during a calendar year;
  - (c) known or expected detriments to the state or existing businesses in the state;
  - (d) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
  - (e) a document that expressly directs and authorizes the Department of Workforce Services to disclose to the office the business entity's unemployment insurance contribution reports that would otherwise be subject to confidentiality under Section 35A-4-312; and
  - (f) documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement.
- (3)
  - (a)
    - (i) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.
    - (ii) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(d).
  - (b)
    - (i) The office shall submit the document described in Subsection (2)(e) to the Department of Workforce Services.
    - (ii) Upon receipt of the document described in Subsection (2)(e), the Department of Workforce Services shall provide the office with the information that the Department of Workforce Services is directed or authorized to provide to the office in accordance with Subsection (2)(e).
- (4) If the returns and other information provided under Subsections (2) and (3) provide the office with a reasonable justification for authorizing or continuing a tax credit, the office shall:
  - (a) determine the amount of the tax credit to be granted to the business entity, consistent with the terms of the written agreement;
  - (b) issue a tax credit certificate to the business entity; and
  - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (5)
  - (a) A business entity may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

- (b) A business entity that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Amended by Chapter 200, 2022 General Session

**63N-2-106 Reports -- Posting monthly and annual reports -- Audit and study of tax credits.**

- (1) The office shall include the following information in the annual written report described in Section 63N-1a-306:
  - (a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;
  - (b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;
  - (c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;
  - (d) the economic impact on the state from new state revenues and the provision of tax credits under this part;
  - (e) the estimated costs and economic benefits of the tax credit commitments made by the office;
  - (f) the actual costs and economic benefits of the tax credit commitments made by the office; and
  - (g) tax credit commitments made by the office, with the associated calculation.
- (2) Each month, the office shall post on its website and on a state website:
  - (a) the new tax credit commitments made by the office during the previous month; and
  - (b) the estimated costs and economic benefits of those tax credit commitments.
- (3)
  - (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:
    - (i) conduct an audit of the tax credits allowed under Section 63N-2-105;
    - (ii) study the tax credits allowed under Section 63N-2-105; and
    - (iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.
  - (b) The audit shall include an evaluation of:
    - (i) the cost of the tax credits;
    - (ii) the purposes and effectiveness of the tax credits;
    - (iii) the extent to which the state benefits from the tax credits; and
    - (iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.
  - (c) The office shall provide the results of the audit described in this Subsection (3):
    - (i) in the written annual report described in Subsection (1); and
    - (ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.

Amended by Chapter 282, 2021 General Session

**63N-2-107 Reports of new state revenues, partial rebates, and tax credits.**

- (1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a)
    - (i) the total estimated amount of new state revenues created from new commercial projects;

- (ii) the estimated amount of new state revenues from new commercial projects that will be generated from:
  - (A) sales tax;
  - (B) income tax; and
  - (C) corporate franchise and income tax; and
- (iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and
- (b) the total estimated amount of tax credits that the office projects that business entities will qualify to claim under this part.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) each new written agreement that the office entered into since the last report;
  - (b) the estimated amount of new state revenues that will be generated under each written agreement described in Subsection (2)(a);
  - (c) the estimated maximum amount of tax credits that a business entity could qualify for under each written agreement described in Subsection (2)(a); and
  - (d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.
- (3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.
- (4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Amended by Chapter 200, 2022 General Session

**63N-2-109 Payment of partial rebates.**

- (1) As used in this section:
  - (a) "Account" means the Economic Incentive Restricted Account created in Subsection (2).
  - (b) "Partial rebate" means an agreement between the office and a business entity under which the state agrees to pay back to the business entity a portion of new state revenue generated by a business entity's new commercial project.
- (2)
  - (a) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.
  - (b) The account shall consist of money transferred into the account by the Division of Finance from the General Fund as provided in this section.
  - (c) The Division of Finance shall make payments from the account as required by this section.
- (3) The Division of Finance shall make partial rebate payments due under an agreement initially entered into by the office before May 5, 2008, as provided in this section.
- (4)

- (a) Each business entity seeking a partial rebate shall follow the procedures and requirements of this Subsection (4) to obtain a partial rebate.
- (b) Within 90 days of the end of each calendar year, a business entity seeking a partial rebate shall:
  - (i) provide the office with documentation of the new state revenue that the business entity generated during the preceding calendar year;
  - (ii) provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
  - (iii) ensure that the documentation includes:
    - (A) the types of taxes and corresponding amounts of taxes paid directly to the State Tax Commission; and
    - (B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the State Tax Commission.
- (c) The office shall:
  - (i) audit or review the documentation for accuracy;
  - (ii) based on the office's analysis of the documentation, determine the amount of a partial rebate that the business entity earned under the agreement; and
  - (iii) submit to the Division of Finance:
    - (A) a request for payment of a partial rebate to the business entity;
    - (B) the name and address of the payee; and
    - (C) any other information requested by the Division of Finance.
- (5) Upon receipt of a request for payment of a partial rebate from the office, the Division of Finance shall:
  - (a) transfer from the General Fund to the restricted account the amount contained in the request for payment of a partial rebate after reducing the amount transferred by any unencumbered balances in the restricted account; and
  - (b) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(3)(c), after receiving a request for payment of a partial rebate and making the transfer required by Subsection (5)(a), pay the partial rebate from the account.

Enacted by Chapter 190, 2016 General Session

**63N-2-110 Rulemaking authority.**

The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this part.

Enacted by Chapter 200, 2022 General Session

**Part 2**  
**Enterprise Zone Act**

**63N-2-201 Title.**

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

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-202 Definitions.**

As used in this part:

- (1) "Business entity" means an entity, sole proprietorship, or individual:
  - (a) including a claimant, estate, or trust; and
  - (b) under which or by whom business is conducted or transacted.
- (2) "Claimant" means a resident or nonresident person that has:
  - (a) Utah taxable income as defined in Section 59-7-101; or
  - (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.
- (3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- (5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:
  - (a) claim:
    - (i) as provided by statute; and
    - (ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:
      - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
      - (B) Title 59, Chapter 10, Individual Income Tax Act; and
  - (b) carry forward or carry back:
    - (i) if allowed by statute; and
    - (ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:
      - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
      - (B) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.
- (8) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Amended by Chapter 465, 2019 General Session

**63N-2-203 Powers of the office.**

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;
- (2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;
- (3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;
- (4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;
- (5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
  - (a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;
  - (b) the total amount awarded in tax credits for each development zone;
  - (c) the number of new full-time employee positions reported to obtain tax credits in each development zone;
  - (d) the amount of tax credits awarded for rehabilitating a building in each development zone;
  - (e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and
  - (f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

Amended by Chapter 282, 2021 General Session

**63N-2-204 Criteria for designation of enterprise zones -- Application.**

- (1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:
  - (a) verifies that the county has a population of not more than 70,000; and
  - (b) provides clear evidence of the need for development in the county.
- (2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:
  - (a) verifies that the municipality has a population that does not exceed 20,000;
  - (b) verifies that the municipality is within a county that has a population of not more than 70,000; and
  - (c) provides clear evidence of the need for development in the municipality.
- (3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:
  - (a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;
  - (b) the county applicant or municipal applicant has a development plan that outlines:
    - (i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;
    - (ii) the specific investment or development reasonably expected to take place;
    - (iii) any commitments obtained from businesses;
    - (iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;
    - (v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and
    - (vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;
  - (c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;
  - (d) any additional information required by the office; and
  - (e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.
- (4) On or after January 1, 2021, no new enterprise zones shall be designated.



Amended by Chapter 360, 2020 General Session

**63N-2-205 Qualifying local contributions.**

- (1) An area may be designated as an enterprise zone only if the county applicant or municipal applicant agrees to make a qualifying local contribution.
- (2) The qualifying local contribution may vary depending on available resources, and may include such elements as:
  - (a) simplified procedures for obtaining permits;
  - (b) dedication of available government grants;
  - (c) dedication of training funds;
  - (d) waiver of business license fees;
  - (e) infrastructure improvements;
  - (f) private contributions;
  - (g) utility rate concessions;
  - (h) small business incubator programs; or
  - (i) management assistance programs.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-206 Eligibility review.**

- (1) The office shall:
  - (a) review and evaluate the applications submitted under Section 63N-2-204; and
  - (b) determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.
- (2)
  - (a) The office shall designate enterprise zones.
  - (b) The office shall consider and evaluate an application using the following criteria:
    - (i) the pervasiveness of poverty, unemployment, and general distress in the proposed zone;
    - (ii) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the proposed zone, and the extent of property tax arrearages in the proposed zone;
    - (iii) the potential for new investment and economic development in the proposed zone;
    - (iv) the county applicant's or municipal applicant's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;
    - (v) the extent to which the projected development in the zone will provide employment to residents of the county and particularly individuals who are unemployed or who are economically disadvantaged;
    - (vi) the degree to which the county applicant's or municipal applicant's application promotes innovative solutions to economic development problems and demonstrates local initiative; and
    - (vii) other relevant factors that the office specifies in its recommendation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-207 Quarterly consideration.**

The office shall consider designating enterprise zones quarterly.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-208 Duration of designation.**

- (1) Each enterprise zone has a duration of five years.
- (2) On or after January 1, 2021, neither a municipality nor a county may reapply for an enterprise zone designation for an enterprise zone that has reached the end of the enterprise zone's five-year duration.

Amended by Chapter 360, 2020 General Session

**63N-2-209 Contingent designations.**

- (1) The office may accept applications for, and may at any time grant, a contingent designation of any county as an enterprise zone for purposes of seeking a designation of the county as a federally designated zone.
- (2) This designation does not entitle a business operating in that county to the tax incentives under this part.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-210 Revocation of designations.**

- (1) The office may revoke the designation of an enterprise zone if no businesses utilize the tax incentives during a calendar year.
- (2) Prior to that action, the office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Amended by Chapter 11, 2016 General Session

**63N-2-211 Disqualifying transfers.**

Except in a county of the first or second class, tax incentives provided by this part are not available to a business entity that closes or permanently curtails operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Amended by Chapter 11, 2016 General Session

**63N-2-212 Business entities qualifying for tax incentives.**

- (1) Except as otherwise provided in Subsection (2), the tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in:
  - (a) the county in which the enterprise zone is located; or
  - (b) an enterprise zone that is immediately adjacent and contiguous to the county in which the enterprise zone is located.
- (2) Subsection (1) does not apply to a business entity that has no employees.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-213 State tax credits.**

- (1) The office shall certify a business entity's eligibility for a tax credit described in this section.
- (2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:
  - (a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and
  - (b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.
- (3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:
  - (a) deny the tax credit; or
  - (b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.
- (4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:
  - (a) determine the amount of the tax credit to be granted to the business entity;
  - (b) issue a tax credit certificate to the business entity; and
  - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:
  - (a) the form and content of an application for a tax credit under this section;
  - (b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and
  - (c) administration of the program, including relevant timelines and deadlines.
- (7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:
  - (a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;
  - (b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:
    - (i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or
    - (ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;
  - (c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;
  - (d) an additional tax credit of \$200 may be claimed for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an

- employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;
- (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and
  - (f) an annual investment tax credit may be claimed in an amount equal to 5% of the first \$750,000 qualifying investment in plant, equipment, or other depreciable property.
- (8)
- (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.
  - (b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:
    - (i) the business entity has created a new full-time position within the enterprise zone; and
    - (ii) the total number of employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of employee positions that existed at the business entity in the previous taxable year.
  - (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).
- (9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.
- (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade, residential rental property, or by a public utilities business.
- (11) A business entity that has no employees:
- (a) may not claim tax credits under Subsections (7)(a) through (d); and
  - (b) may claim tax credits under Subsections (7)(e) through (f).
- (12)
- (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.
  - (b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.
- (13)
- (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.
  - (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:
    - (i) schedule time on at least one committee agenda to conduct the review;
    - (ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;
    - (iii) ensure that the recommendations described in this section include an evaluation of:
      - (A) the cost of the tax credits to the state;

- (B) the purpose and effectiveness of the tax credits; and
- (C) the extent to which the state benefits from the tax credits; and
- (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Amended by Chapter 282, 2021 General Session

**63N-2-214 Annual report.**

Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the office regarding the economic activity that has occurred in the zone following the designation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-215 Indian tribes -- Application.**

- (1) For purposes of this section:
  - (a) "Indian reservation" has the same meaning as defined in Section 9-9-210.
  - (b) "Indian tribe" has the same meaning as defined in Section 9-9-402.
  - (c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).
- (2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.
- (3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections 63N-2-204(2)(a) and (b).

Amended by Chapter 79, 2019 General Session

**Part 3**  
**Targeted Business Income Tax Credit in an Enterprise Zone**

**63N-2-301 Title.**

This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."

Enacted by Chapter 283, 2015 General Session

**63N-2-302 Definitions.**

As used in this part:

- (1) "Business applicant" means a business that:
  - (a) is a claimant, estate, or trust; and
  - (b) meets the criteria established in Section 63N-2-304.
- (2)
  - (a) Except as provided in Subsection (2)(b), "claimant" means a resident person or a nonresident person.
  - (b) "Claimant" does not include an estate or trust.
- (3) "Community investment project" means a project that includes one or more of the following criteria in addition to the normal operations of the business applicant:

- (a) significant new employment; or
- (b) significant new capital development.
- (4) "Enterprise zone" means an area within a county or municipality that has been designated as an enterprise zone by the office under Part 2, Enterprise Zone Act.
- (5) "Estate" means a resident estate or a nonresident estate.
- (6) "Refundable tax credit" means a tax credit that a claimant, estate, or trust may claim:
  - (a) as provided by statute; and
  - (b) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:
    - (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
    - (ii) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Targeted business income tax credit" means a refundable tax credit available under this part.
- (8) "Targeted business income tax credit eligibility certificate" means a document provided by the office to a business applicant before the applicant may claim a targeted business income tax credit under this part.
- (9) "Trust" means a resident trust or a nonresident trust.

Amended by Chapter 352, 2017 General Session

**63N-2-303 Duties of the office.**

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the effectiveness of the targeted business income tax credit in bringing significant new employment and significant new capital development to rural communities;
- (2) determine a business entity's eligibility for a targeted business income tax credit award;
- (3) ensure that tax credits are only awarded under this part to a business applicant that has satisfied performance benchmarks as determined by the office;
- (4) ensure that the amount of targeted business income tax credit awarded to a business applicant through a targeted business income tax credit eligibility certificate is no more than \$100,000 for the business applicant's taxable year;
- (5) ensure that the aggregate amount of targeted business income tax credits awarded to business applicants through targeted business income tax credit eligibility certificates is no more than \$300,000 for each fiscal year;
- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
  - (a) the identity of each business applicant that was provided a targeted business income tax credit eligibility certificate by the office during the year of the annual report; and
  - (b) the total amount awarded in targeted business income tax credit for each development zone; and
- (7) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding:
  - (a) the determination of what constitutes:
    - (i) significant new employment;
    - (ii) significant new capital development; and
    - (iii) a community investment project;
  - (b) the form and content of an application for a targeted business income tax credit eligibility certificate under this part;

- (c) documentation or other requirements for a business applicant to receive a targeted business income tax credit eligibility certificate under this part; and
- (d) administration of targeted business income tax credit awards and the issuing of targeted business income tax credit eligibility certificates, including relevant timelines and deadlines.

Amended by Chapter 282, 2021 General Session

**63N-2-304 Application for targeted business income tax credit.**

- (1)
  - (a) For a taxable year that begins before January 1, 2023, a business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:
    - (i) is located in:
      - (A) an enterprise zone; and
      - (B) a county with a population of less than 25,000;
    - (ii) meets the requirements of Section 63N-2-212;
    - (iii) provides a community investment project within the enterprise zone; and
    - (iv) is not engaged in the following:
      - (A) construction;
      - (B) retail trade; or
      - (C) public utility activities.
  - (b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.
- (2)
  - (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.
  - (b) The application described in Subsection (2)(a) shall include:
    - (i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);
    - (ii) a plan developed by the business applicant that describes:
      - (A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;
      - (B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;
      - (C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;
      - (D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;
      - (E) any matching funds that will be used for the community investment project;
      - (F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and
      - (G) the requested amount of the targeted business income tax credit; and
    - (iii) any additional information required by the office.

- (3)
- (a) The office shall:
    - (i) evaluate an application filed under Subsection (2);
    - (ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and
    - (iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.
  - (b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:
    - (i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);
    - (ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than \$100,000 for the business applicant in a taxable year; and
    - (iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.
  - (c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:
    - (i) certify that the business applicant is eligible for a targeted business income tax credit;
    - (ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with:
      - (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or
      - (B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and
    - (iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.
- (4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed \$300,000 in any fiscal year.
- (5)
- (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.
  - (b) The office may audit a business applicant to ensure:
    - (i) eligibility for a targeted business income tax credit; and
    - (ii) compliance with this section.

Amended by Chapter 264, 2022 General Session

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



**63N-2-501 Title.**

This part is known as "New Convention Facility Development Incentives."

Renumbered and Amended by Chapter 283, 2015 General Session

***Contingently Superseded 1/1/2025***

**63N-2-502 Definitions.**

As used in this part:

- (1) "Agreement" means an agreement described in Section 63N-2-503.
- (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.
- (3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.
- (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.
- (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- (6) "Commission" means the Utah State Tax Commission.
- (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.
- (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- (10) "Eligibility period" means:
  - (a) the period that:
    - (i) begins the date construction of a qualified hotel begins; and
    - (ii) ends:
      - (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
      - (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
  - (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
    - (i) begins no earlier than the date construction of a qualified hotel begins; and
    - (ii) is shorter than the period described in Subsection (10)(a).
- (11) "Endorsement letter" means a letter:
  - (a) from the county in which a qualified hotel is located or is proposed to be located;
  - (b) signed by the county executive; and
  - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community reinvestment agency of the host local government.
- (13) "Host local government" means:

- (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
  - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
- (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
  - (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
- (a) Section 59-12-204;
  - (b) Section 59-12-301;
  - (c) Sections 59-12-352 and 59-12-353;
  - (d) Subsection 59-12-603(1)(a); or
  - (e) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
- (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- (22) "Public infrastructure" means:
- (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
  - (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
  - (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:
- (a) requires a significant capital investment;
  - (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
  - (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- (25) "Review committee" means the independent review committee established under Section 63N-2-504.
- (26) "Significant capital investment" means an amount of at least \$200,000,000.
- (27) "State portion" means the portion of new tax revenue that is generated by state taxes.

- (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(e)(i)(A).
- (29) "Third-party seller" means a person who is a seller in a transaction:
  - (a) occurring other than on hotel property;
  - (b) that is:
    - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
    - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
  - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 459, 2023 General Session

***Contingently Effective 1/1/2025***

**63N-2-502 Definitions.**

As used in this part:

- (1) "Agreement" means an agreement described in Section 63N-2-503.
- (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.
- (3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.
- (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.
- (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- (6) "Commission" means the Utah State Tax Commission.
- (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.
- (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- (10) "Eligibility period" means:
  - (a) the period that:
    - (i) begins the date construction of a qualified hotel begins; and
    - (ii) ends:
      - (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
      - (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
  - (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
    - (i) begins no earlier than the date construction of a qualified hotel begins; and

- (ii) is shorter than the period described in Subsection (10)(a).
- (11) "Endorsement letter" means a letter:
  - (a) from the county in which a qualified hotel is located or is proposed to be located;
  - (b) signed by the county executive; and
  - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community reinvestment agency of the host local government.
- (13) "Host local government" means:
  - (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
  - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
  - (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
  - (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
  - (a) Section 59-12-204;
  - (b) Section 59-12-301;
  - (c) Sections 59-12-352 and 59-12-353;
  - (d) Subsection 59-12-603(1)(a); or
  - (e) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
  - (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
  - (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- (22) "Public infrastructure" means:
  - (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
  - (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
  - (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:
  - (a) requires a significant capital investment;

- (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
- (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- (25) "Review committee" means the independent review committee established under Section 63N-2-504.
- (26) "Significant capital investment" means an amount of at least \$200,000,000.
- (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), or (2)(e)(i) (A).
- (29) "Third-party seller" means a person who is a seller in a transaction:
  - (a) occurring other than on hotel property;
  - (b) that is:
    - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
    - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
  - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 459, 2023 General Session

**63N-2-503 Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.**

- (1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:
  - (a) for the development of a qualified hotel; and
  - (b) to authorize a convention incentive:
    - (i) to the qualified hotel owner or host local government, but not both;
    - (ii) for a period not to exceed the eligibility period;
    - (iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;
    - (iv) if:
      - (A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and
      - (B) all applicable requirements of this part and the agreement are met; and
    - (v) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).
- (2) An agreement under Subsection (1) shall:
  - (a) specify the requirements for the qualified hotel owner or host local government to qualify for a convention incentive;
  - (b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;
  - (c) require the amount of certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;
  - (d) with respect to the state portion of the convention incentive:

- (i) specify the maximum dollar amount that the qualified hotel owner or host local government may receive, subject to a maximum of:
    - (A) for any calendar year, the amount of the state portion in that calendar year; and
    - (B) \$75,000,000 in the aggregate for the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the convention incentive amount under Subsection (1)(b)(iv) had not occurred; and
  - (ii) specify the maximum percentage of the state portion that may be used in calculating the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each calendar year and in the aggregate;
  - (e) establish a shorter period of time than the period described in Subsection 63N-2-502(10)(a) during which the qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;
  - (f) require the qualified hotel owner to retain books and records supporting a claim for the convention incentive as required by Section 59-1-1406;
  - (g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;
  - (h) limit the expenditure of funds received under the convention incentive as provided in Section 63N-2-512; and
  - (i) require the qualified hotel owner or host local government to submit to any audit and to provide any audit level review or other level of review the office considers appropriate for verification of any claim.
- (3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63N-2-508(3)(a).

Amended by Chapter 282, 2021 General Session

**63N-2-503.5 Convention Incentive Fund.**

- (1) There is created an expendable special revenue fund known as the Convention Incentive Fund.
- (2)
  - (a) The incentive fund shall be funded by new tax revenue, as provided in Subsection (3).
  - (b) No legislative appropriation is required to fund the incentive fund.
  - (c) All interest generated from the investment of money in the incentive fund shall be deposited into the incentive fund.
- (3)
  - (a) During the portion of the eligibility period specified by the office under Subsection 63N-2-505(7)(a), the commission shall cause new tax revenue to be deposited into the incentive fund as provided in this Subsection (3).
  - (b) To the extent the commission is able to identify sellers involved in transactions generating state taxes or local taxes before the payment of those taxes, the commission shall deposit new tax revenue directly into the incentive fund, notwithstanding Subsection 59-12-103(3) and before the allocations required by Section 59-12-204, Subsection 59-12-205(2), Section 59-12-401, Section 59-12-603, and Section 59-12-1102.
  - (c) The commission shall, within 30 days after the office provides the information required under Subsection 63N-2-505(7)(b):

- (i) except as provided in Subsection (3)(d), withhold from distribution to counties, cities, and towns the local portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b) and transfer that local portion to the incentive fund; and
- (ii) transfer to the incentive fund any state portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b).
- (d) The commission may equalize over a 12-month period the withholding required under Subsection (3)(c)(i) for a county, city, or town that requests equalization.
- (4) One year after the end of the eligibility period, the commission shall transfer any money remaining in the incentive fund to the Stay Another Day and Bounce Back Fund created in Section 63N-2-511, except to the extent the money is needed to pay an unpaid certified claim.
- (5) Except as otherwise provided in this chapter, an agreement with or approval by a local government entity is not required for the use of the state portion or local portion to fund a convention incentive.
- (6) Distributions of money from the incentive fund shall be in accordance with Section 63N-2-505.

Enacted by Chapter 417, 2015 General Session

**63N-2-504 Independent review committee.**

- (1) In accordance with rules adopted by the office under Section 63N-2-509, the GO Utah board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.
- (2) The review committee shall consist of:
  - (a) one member appointed by the executive director to represent the office;
  - (b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;
  - (c) two members appointed by:
    - (i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or
    - (ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;
  - (d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;
  - (e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;
  - (f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and
  - (g) one member appointed by the GO Utah board.
- (3)
  - (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.
  - (b) A vacancy may be filled in the same manner as an appointment under Subsection (2).
- (4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.
- (5) The office shall provide any necessary staff support to the review committee.

Amended by Chapter 282, 2021 General Session

**63N-2-505 Submission of written claim for convention incentive -- Disclosure of tax returns and other information -- Determination of claim.**

- (1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:
  - (a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and
  - (b) the office approves and certifies the claim, as provided in this section.
- (2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:
  - (a) a written claim for a convention incentive;
  - (b)
    - (i) for a claim submitted by a qualified hotel owner:
      - (A) a certification by the individual signing the claim that the individual is duly authorized to sign the claim on behalf of the qualified hotel owner;
      - (B) documentation of the new tax revenue previously generated, itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;
      - (C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;
      - (D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
      - (E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
      - (F) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
      - (G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and
      - (H) any other documentation that the agreement or office requires; and
    - (ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;
  - (c) if the host local government intends to assign the convention incentive to a community reinvestment agency, a document signed by the governing body members of the community reinvestment agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
  - (d) an audit level attestation, or other level of review approved by the office, from an independent certified public accountant, hired by the claimant, attesting to the accuracy and validity of the amount of the state portion and the local portion being claimed by the claimant.



- (3)
  - (a) The office shall submit to the commission the documents described in Subsections (2)(b)(i) (C), (D), and (E) and (2)(c) authorizing disclosure of the tax returns and other information.
  - (b) Upon receipt of the documents described in Subsection (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.
- (4) If the office determines that the tax returns and other information are inadequate to enable the office to approve and certify a claim, the office shall inform the claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the claim.
- (5) If the office determines that the returns and other information, including any additional documentation provided under Subsection (4), comply with applicable requirements and provide reasonable justification to approve and certify the claim, the office shall:
  - (a) approve and certify the claim;
  - (b) determine the amount of the certified claim; and
  - (c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).
- (6) The office shall pay claims from available money in the incentive fund at least annually.
- (7) For each certified claim, the office shall provide the commission:
  - (a) for onsite revenue:
    - (i) the identity of sellers operating upon the hotel property;
    - (ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63N-2-503.5 for each seller operating upon the hotel property;
    - (iii) the date that the commission is to stop depositing or transferring onsite revenue to the incentive fund under Section 63N-2-503.5 for each seller operating upon the hotel property; and
    - (iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63N-2-503.5;
  - (b) for construction revenue and offsite revenue:
    - (i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;
    - (ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and
    - (iii) the type of sales or use tax that constitutes the construction revenue of offsite revenue described in Subsection (7)(b)(ii); and
  - (c) any other information the commission requires.

Amended by Chapter 350, 2016 General Session

**63N-2-507 Assigning convention incentive.**

- (1) A host local government that enters into an agreement with the office may, by resolution, assign a convention incentive to a community reinvestment agency, in accordance with rules adopted by the office.
- (2) A host local government that adopts a resolution assigning a convention incentive under Subsection (1) shall provide a copy of the resolution to the office.

Amended by Chapter 350, 2016 General Session

**63N-2-508 Payment of incremental property tax revenue.**

(1) As used in this section:

- (a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency, except for Subsection (2)(b), from tax increment revenue generated from the project area in which the hotel property is located.
- (b) "Secured obligations" means bonds or other obligations of a host agency for the payment of which the host agency has, before March 13, 2015, pledged tax increment generated from the project area in which the hotel property is located.
- (c) "Tax increment" means the same as that term is defined in Section 17C-1-102.
- (d) "Tax increment shortfall" means the amount of displaced tax increment a host agency needs to receive, in addition to any other tax increment the host agency receives from the project area in which the hotel property is located, to provide the host agency sufficient tax increment funds to be able to pay the debt service on its secured obligations.

(2)

- (a) In accordance with rules adopted by the office and subject to Subsection (5), a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period.
- (b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year, subject to Subsection (5).
- (c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:
  - (i) states the amount of displaced tax increment for that year;
  - (ii) states the number of years remaining in the eligibility period;
  - (iii) provides a detailed accounting of how the displaced tax increment was used; and
  - (iv) explains how the displaced tax increment will be used in the following taxable year.

(3) Incremental property tax revenue may be used only for:

- (a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:
  - (i) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;
  - (ii) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or
  - (iii) any labor and overhead costs associated with the construction described in Subsections (3)(a)(i) and (ii); and
- (b) public infrastructure.

(4)

- (a) Incremental property tax:
  - (i) is not tax increment; and
  - (ii) is not subject to:
    - (A) Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act; or
    - (B) any other law governing tax increment, except as provided in Subsection (4)(c).

(b) The payment and use of incremental property tax, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.

(c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.

(5)

- (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental property tax revenue that is displaced tax increment until after 30 days after the county provides the notice required under Subsection (2)(c).
- (b) If, within 30 days after the county provides the notice required under Subsection (2)(c), a host agency provides written notice to the county that the host agency will experience a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the host agency displaced tax increment in the amount of the tax increment shortfall.

Amended by Chapter 350, 2016 General Session

**63N-2-509 Rulemaking authority -- Requirements for rules.**

- (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.
- (2) The rules the office makes under Subsection (1) shall:
  - (a) establish, consistent with this part, the conditions required for a convention incentive;
  - (b) require that a significant capital investment be made in the development of the hotel property;
  - (c) require a claimant to meet all applicable requirements in order to receive a distribution from the incentive fund;
  - (d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and
  - (e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63N-2-504.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 417, 2015 General Session

**63N-2-510 Report by office -- Posting of report.**

- (1) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:
  - (a) the state's success in attracting new conventions and corresponding new state revenue;
  - (b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;
  - (c) the economic impact on the state related to generating new state revenue and providing convention incentives; and
  - (d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.
- (2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:
  - (a) referring to the two annual deposits required under Subsection 59-12-103(10); and
  - (b) notifying the Division of Finance that construction on the qualified hotel has begun.

Amended by Chapter 471, 2023 General Session

**63N-2-511 Stay Another Day and Bounce Back Fund.**

- (1) As used in this section:

- (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).
- (b) "Tourism board" means the Board of Tourism Development created in Section 63N-7-201.
- (2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.
- (3) The bounce back fund shall:
  - (a) be administered by the tourism board;
  - (b) earn interest; and
  - (c) be funded by:
    - (i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;
    - (ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and
    - (iii) any money that the Legislature chooses to appropriate to the bounce back fund.
- (4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.
- (5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Amended by Chapter 362, 2022 General Session

**63N-2-512 Hotel Impact Mitigation Fund.**

- (1) As used in this section:
  - (a) "Affected hotel" means a hotel built in the state before July 1, 2014.
  - (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.
  - (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).
- (2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.
- (3) The mitigation fund shall:
  - (a) be administered by the GO Utah board;
  - (b) earn interest; and
  - (c) be funded by:
    - (i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);
    - (ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and
    - (iii) any money deposited into the mitigation fund under Subsection (6).
- (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.
- (5)
  - (a) In accordance with office rules, the GO Utah board shall annually pay up to \$2,100,000 of money in the mitigation fund:
    - (i) to affected hotels;
    - (ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and
    - (iii) to mitigate direct losses.
  - (b)
    - (i) If the amount the GO Utah board pays under Subsection (5)(a) in any year is less than \$2,100,000, the GO Utah board shall pay to the Stay Another Day and Bounce Back Fund,

created in Section 63N-2-511, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

- (ii) The GO Utah board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the GO Utah board is required to pay to affected hotels under Subsection (5)(a).
- (6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Amended by Chapter 471, 2023 General Session

**63N-2-513 Authorized expenditures of convention incentive.**

- (1) A qualified hotel owner or host local government may spend money received from the state portion of a convention incentive only for a purpose described in Subsection 63N-2-508(2)(a).
- (2) A qualified hotel owner or host local government may spend money received from the local portion of a convention incentive only for:
  - (a) a purpose described in Subsection (1);
  - (b) public infrastructure; and
  - (c) other purposes as specified in the agreement.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 417, 2015 General Session

**Part 8**  
**Technology and Life Science Economic Development Act**

**63N-2-801 Title.**

This part is known as the "Technology and Life Science Economic Development Act."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-802 Definitions.**

As used in this part:

- (1) "Claimant" means the same as that term is defined in Section 59-10-1002.
- (2) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
  - (a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and
  - (b) receives a tax credit certificate from the office in accordance with this part.
- (3) "Life science establishment" means the same as that term is defined in Section 59-10-1025.
- (4) "Tax credit" means a tax credit under Section 59-10-1025.
- (5) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.
- (6) "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.
- (7) "Tax credit certificate recipient" means an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Amended by Chapter 354, 2016 General Session

**63N-2-803 Tax credits issued by office.**

- (1) The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.
- (2)
- (a) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.
  - (b) For fiscal year 2016-17 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
  - (c) For fiscal year 2017-18 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
- (3) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

Amended by Chapter 354, 2016 General Session

**63N-2-804 Person may not claim or pass through a tax credit without tax credit certificate.**

A person may not claim or pass through a tax credit unless the person has received a tax credit certificate from the office for the taxable year for which the person claims or passes through the tax credit.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-805 Application process.**

- (1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:
- (a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (b) on a form and in the manner prescribed by the office.
- (2) The application shall include:
- (a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and
  - (b) other documentation as required by the office.
- (3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the

office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:

- (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
  - (b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.
- (4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.
- (5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:
- (a) deny the tax credit; or
  - (b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-806 Criteria for tax credits.**

- (1) A tax credit applicant shall establish as part of the application required by Section 63N-2-805 that the tax credit applicant:
- (a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and
  - (b) will provide a long-term economic benefit to the state.
- (2) The office may not issue a tax credit certificate to a tax credit applicant if:
- (a) the tax credit applicant fails to meet the requirements of Subsection (1)(a); and
  - (b) the life science establishment does not enter into an agreement described in Section 63N-2-808 with the office.

Amended by Chapter 354, 2016 General Session

**63N-2-807 Rulemaking authority.**

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

- (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and
- (2) procedures for documenting the office's application of the criteria described in Subsection (1).

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-808 Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.**

- (1)
- (a) The office, with advice from the GO Utah board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.
  - (b) The agreement described in Subsection (1)(a) shall:

- (i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;
  - (ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and
  - (iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.
- (2)
- (a) The office, with advice from the GO Utah board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.
  - (b) The agreement described in Subsection (2)(a):
    - (i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
    - (ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;
    - (iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and
    - (iv) may require the life science establishment to provide the office with other data that:
      - (A) ensure compliance with the requirements of this chapter; and
      - (B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Amended by Chapter 282, 2021 General Session

**63N-2-809 Issuance of tax credit certificates.**

- (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:
  - (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;
  - (b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and
  - (c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:
    - (i) the agreement with the office described in Section 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least \$1,000,000,000 in the state; and
    - (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000 in the state in accordance with the agreement with the office described in Section 63N-2-808.
- (2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-2-810 Reports on tax credit certificates.**



The office shall include the following information in the annual written report described in Section 63N-1a-306:

- (1) the total amount listed on tax credit certificates the office issues under this part;
- (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and
- (3) the economic impact on the state related to providing tax credits under this part.

Amended by Chapter 362, 2022 General Session

**63N-2-811 Reports of tax credits.**

- (1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) the total amount listed on tax credit certificates the office issues under this part; and
  - (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
  - (a) each new agreement entered into by the office since the last report;
  - (b) the total amount listed on tax credit certificates the office issues under this part; and
  - (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Amended by Chapter 382, 2021 General Session

**Chapter 3**  
**Economic Development Programs**  
  
**Part 1**  
**Industrial Assistance Account**

**63N-3-101 Title -- Purpose.**

- (1) This chapter is known as "Economic Development Programs."
- (2) This part is known as the "Industrial Assistance Account."
- (3) The Legislature finds and declares that the fostering and development of industry in Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment for its citizens.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-102 Definitions.**

As used in this part:

- (1) "Administrator" means the executive director or the executive director's designee.

- (2) "Economic opportunities" means business situations or community circumstances which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state.
- (3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.
- (4) "Talent development grant" means a grant awarded under Section 63N-3-112.

Amended by Chapter 499, 2023 General Session

**63N-3-103 Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.**

- (1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account".
- (2) The administrator shall administer the restricted account.
- (3) The administrator may hire appropriate support staff to perform the duties required under this section.
- (4) The cost of administering the restricted account shall be paid from money in the restricted account.
- (5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.
- (6) The office shall review the activities and progress of grant recipients under this chapter on a regular basis and, as part of the office's annual written report described in Section 63N-1a-306, report on the economic impact of activities funded by each grant.

Amended by Chapter 282, 2021 General Session

**63N-3-105 Qualification for assistance -- Application requirements.**

- (1) Subject to the requirements of this part, the administrator may provide loans, grants, or other financial assistance from the restricted account to an entity offering an economic opportunity if that entity:
  - (a) applies to the administrator in a form approved by the administrator; and
  - (b) meets the qualifications of Subsection (2).
- (2) As part of an application for receiving financial assistance under this part, an applicant shall demonstrate the following to the satisfaction of the administrator:
  - (a) the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the expenditure of money necessitated by the economic opportunity;
  - (b) how the economic opportunity will act in concert with other state, federal, or local agencies to achieve the economic benefit;
  - (c) that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;
  - (d) for an application for a loan, the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

- (e) any other criteria the administrator considers appropriate.
- (3)
- (a) The administrator may exempt an applicant from any of the requirements of Subsection (2) if:
    - (i) the applicant is part of a targeted industry;
    - (ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and the applicant's operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state;or
    - (iii) the GO Utah board recommends awarding a grant to the applicant.
  - (b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(1)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.
- (4) The GO Utah board shall make recommendations to the administrator regarding applications for loans, grants, or other financial assistance from the Industrial Assistance Account.
- (5) Before awarding any money under this part, the administrator shall:
- (a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);
  - (b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;
  - (c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and
  - (d) make funding decisions based upon appropriate findings and compliance.

Amended by Chapter 499, 2023 General Session

**63N-3-106 Structure of loans, grants, and assistance -- Repayment -- Earned credits.**

- (1)
- (a) Subject to Subsection (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.
  - (b) Loans made under this part shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.
  - (c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.
- (2)
- (a) The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.
  - (b) The value of the credits described in Subsection (2)(a) shall be based on factors determined by the administrator, including:
    - (i) the number of Utah jobs created;
    - (ii) the increased economic activity in Utah; or
    - (iii) other events and activities that occur as a result of the restricted account assistance.
- (3)
- (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

- (b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (2).
- (4)
  - (a)
    - (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.
    - (ii) The set aside under Subsection (4)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.
  - (b) The set aside required by Subsection (4)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:
    - (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;
    - (ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and
    - (iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.
  - (c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Amended by Chapter 499, 2023 General Session

**63N-3-107 Agreements.**

The administrator shall enter into agreements with each successful applicant that have specific terms and conditions for each loan, grant, or financial assistance under this part, including:

- (1) for a loan:
  - (a) repayment schedules;
  - (b) interest rates;
  - (c) specific economic activity required to qualify for the loan or for repayment credits;
  - (d) collateral or security, if any; and
  - (e) other terms and conditions considered appropriate by the administrator; and
- (2) for a grant or other financial assistance:
  - (a) requirements for compliance monitoring, for a period of five years;
  - (b) repayment for nonperformance or departure from the state;
  - (c) collateral or security, if any; and
  - (d) other terms and conditions considered appropriate by the administrator.

Amended by Chapter 499, 2023 General Session

**63N-3-111 Annual policy considerations.**

- (1)
  - (a) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

- (b) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.
- (2) In evaluating the economic impact of applications for assistance, the GO Utah board shall use an econometric cost-benefit model.
- (3) The GO Utah board may establish:
  - (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and
  - (b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(2).

Amended by Chapter 499, 2023 General Session

**63N-3-112 Talent development grants.**

- (1) A for-profit business that is creating new incremental high paying jobs in the state, may apply to receive a talent development grant from the restricted account.
- (2) In accordance with the provisions of this section and in consultation with the GO Utah board, the administrator may award up to \$10,000 per new job created.
- (3) The administrator shall designate an application process for a business to apply for the grant.
- (4) A business may apply to receive a grant only after each employee has been employed at qualifying wage levels for at least 12 consecutive months.
- (5) Money granted for a talent development grant under this section shall be deducted from any other money or incentive awarded by the office to the business.
- (6) Grants awarded under this section are only to reimburse a business for the costs incurred to recruit, hire, train, and otherwise employ an employee in a newly created job.
- (7) A business shall submit a hiring and training plan detailing what the grant money will be used for as part of the application process.
- (8) The administrator may only grant an award up to an amount that is no more than 25% of the estimated costs to be incurred by the business for the costs in the hiring and training plan.

Amended by Chapter 362, 2022 General Session

**63N-3-113 Financial assistance to entities offering technical assistance to municipalities in connection with planning.**

- (1) The administrator may provide money from the Industrial Assistance Account to an entity offering technical assistance to a municipality in connection with planning for housing, transportation, and growth.
- (2) As part of an application for receiving money under this section, an applicant shall:
  - (a) describe the activities the entity will undertake to provide technical assistance to a municipality in connection with planning for housing, transportation, and growth; and
  - (b) satisfy other criteria the administrator considers appropriate.
- (3) Before awarding any money under this section, the administrator shall:
  - (a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);
  - (b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activities are to occur;

- (c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and
- (d) make funding decisions based upon appropriate findings and compliance.

Enacted by Chapter 406, 2022 General Session

## **Part 2**

### **Technology Commercialization and Innovation Act**

#### **63N-3-204 Administration -- Grants and loans.**

- (1) The office shall administer this part.
- (2)
  - (a)
    - (i) The office may award Utah Technology Innovation Funding Program grants or issue loans under this part to small businesses.
    - (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing procedures for applying for and issuing grants or loans under this part.
  - (c)
    - (i) An applicant that receives a grant or loan under this part shall return the grant or loan proceeds or a portion of the grant or loan proceeds to the office if the applicant:
      - (A) does not maintain the applicant's principal place of business in the state; or
      - (B) initially maintains the applicant's principal place of business in the state, but within five years after issuance of the grant or loan, the applicant transfers the applicant's principal place of business to an out-of-state location.
    - (ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant or loan.
- (3) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for commercialization and broad impact.
- (4) The office shall review the activities and progress of grant or loan recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1a-306, report on the accomplishments, direction, and usefulness of the Utah Technology Innovation Funding Program, including recommendations on:
  - (a) whether the program is beneficial to the state and should continue; and
  - (b) whether other office programs or programs in other agencies could provide similar state benefits more effectively or at a lower cost.

Amended by Chapter 362, 2022 General Session

## **Part 4**

### **Transient Room Tax Fund Act**

#### **63N-3-401 Title.**

This part is known as the "Transient Room Tax Fund Act."

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-402 Definitions.**

As used in this part, "fund" means the Transient Room Tax Fund created by Section 63N-3-403.

Renumbered and Amended by Chapter 283, 2015 General Session

**63N-3-403 Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.**

(1) There is created an expendable special revenue fund known as the Transient Room Tax Fund.

(2)

(a) The fund shall be funded by the portion of the sales and use tax described in Subsection 59-12-301(2).

(b)

(i) The fund shall earn interest.

(ii) Any interest earned on fund money shall be deposited into the fund.

(3)

(a) Subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:

(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;

(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply; or

(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The executive director may not expend more than \$20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

Renumbered and Amended by Chapter 283, 2015 General Session

**Part 6  
Housing and Transit Reinvestment Zone Act**

**63N-3-601 Title.**

This part is known as the "Housing and Transit Reinvestment Zone Act."

Enacted by Chapter 411, 2021 General Session

**63N-3-602 Definitions.**

As used in this part:

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

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

- (3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.
- (4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.
- (5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.
- (6) "Bus rapid transit station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal that is specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:
  - (a) along an existing bus rapid transit line; or
  - (b) along an extension to an existing bus rapid transit line or new bus rapid transit line.
- (7)
  - (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.
  - (b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.
- (8) "Commuter rail station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:
  - (a) along an existing commuter rail line;
  - (b) along an extension to an existing commuter rail line or new commuter rail line; or
  - (c) along a fixed guideway extension from an existing commuter rail line.
- (9)
  - (a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.
  - (b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:
    - (i) parks;
    - (ii) recreation facilities;
    - (iii) open space;
    - (iv) trails;
    - (v) publicly-owned roadway facilities; or
    - (vi) other public facilities.
- (10) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.
- (11) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities.
- (12) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.
- (13) "Fixed guideway" means the same as that term is defined in Section 59-12-102.
- (14) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.



- (15) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.
- (16) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.
- (17) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.
- (18) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:
  - (a) dedicated to exclusive use by light-rail public transit vehicles;
  - (b) that may cross streets at grade; and
  - (c) that may share parts of surface streets.
- (19) "Light rail station" means an existing station, stop, or terminal or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:
  - (a) along an existing light rail line; or
  - (b) along an extension to an existing light rail line or new light rail line.
- (20) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.
- (21) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.
- (22) "Municipality" means the same as that term is defined in Section 10-1-104.
- (23) "Participant" means the same as that term is defined in Section 17C-1-102.
- (24) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.
- (25) "Public transit county" means a county that has created a small public transit district.
- (26) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.
- (27) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.
- (28) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.
- (29) "Sales and use tax increment" means the difference between:
  - (a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and
  - (b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.
- (30) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.
- (31) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.
- (32) "Tax Commission" means the State Tax Commission created in Section 59-1-201.
- (33) "Tax increment" means the difference between:
  - (a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

- (b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.
- (34) "Taxing entity" means the same as that term is defined in Section 17C-1-102.
- (35) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Amended by Chapter 357, 2023 General Session

**63N-3-603 Applicability, requirements, and limitations on a housing and transit reinvestment zone.**

- (1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:
  - (a) higher utilization of public transit;
  - (b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;
  - (c) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;
  - (d) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;
  - (e) conservation of water resources through efficient land use;
  - (f) improving air quality by reducing fuel consumption and motor vehicle trips;
  - (g) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;
  - (h) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);
  - (i) increasing access to employment and educational opportunities; and
  - (j) increasing access to child care.
- (2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:
  - (a) except as provided in Subsection (3), at least 10% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units;
  - (b) at least 51% of the developable area within the housing and transit reinvestment zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50 dwelling units per acre or greater;
  - (c) mixed-use development; and
  - (d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom.
- (3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).
- (4)

- (a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:
- (i) subject to Subsection (5)(a):
    - (A)
      - (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;
      - (II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or
      - (III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and
    - (B) has a total area of no more than 125 noncontiguous acres;
  - (ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and
  - (iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).
- (b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:
- (i) subject to Subsection (5):
    - (A) does not exceed:
      - (I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus rapid transit station or light rail station;
      - (II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or
      - (III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and
    - (B) has a total area of no more than 100 noncontiguous acres;
  - (ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and
  - (iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).
- (c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's tax increment above the base year is 60%.
- (d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

- (e) A county of the first class may not propose a housing and transit reinvestment zone that includes an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702.
- (5)
  - (a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).
  - (b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).
- (6) The notice of commencement of collection of tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:
  - (a) the tax commission;
  - (b) the State Board of Education;
  - (c) the state auditor;
  - (d) the auditor of the county in which the housing and transit reinvestment zone is located;
  - (e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and
  - (f) the Governor's Office of Economic Opportunity.
- (7)
  - (a) The maximum number of housing and transit reinvestment zones at light rail stations is eight in any given county.
  - (b) Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three.
- (8)
  - (a) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.
  - (b)
    - (i) A county described in Subsection (8)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.
    - (ii) A county described in Subsection (8)(a) that, on December 31, 2022, was noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate income housing report that the county complied with Subsection (8)(b)(i), may cure the deficiency in the county's moderate income housing report by submitting satisfactory proof to the Housing and Community Development Division that, notwithstanding the deadline in Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone.
  - (c)
    - (i) A county described in Subsection (8)(a) may not propose a housing and transit reinvestment zone if more than 15% of the acreage within the housing and transit reinvestment zone boundary is owned by the county.
    - (ii) For purposes of determining the percentage of acreage owned by the county as described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for highways,

bus rapid transit, light rail, or commuter rail within the boundary of the housing and transit reinvestment zone.

- (d) To accomplish the objectives described in Subsection (1), if a county described in Subsection (8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an application before December 31, 2022, an owner of undeveloped property who has submitted a land use application to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(a), including parcels that are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use development including the following:
- (i) excluding the parcels devoted to commercial uses as described in Subsection (8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least 10% of the dwelling units as affordable housing units;
  - (ii) commercial uses including office, retail, educational, and healthcare in support of the mixed-use development constituting up to 1/3 of the total planned gross building square footage of the subject parcels; and
  - (iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including parking infrastructure, streets, sidewalks, parks, and trails.

Amended by Chapter 357, 2023 General Session

**63N-3-604 Process for a proposal of a housing and transit reinvestment zone -- Analysis.**

- (1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:
- (a) prepare a proposal for the housing and transit reinvestment zone that:
    - (i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);
    - (ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a);
    - (iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;
    - (iv) defines the boundaries of:
      - (A) the housing and transit reinvestment zone; and
      - (B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;
    - (v) includes maps of the proposed housing and transit reinvestment zone to illustrate:
      - (A) the proposed boundary and radius from a public transit hub;
      - (B) proposed housing density within the housing and transit reinvestment zone; and
      - (C) existing zoning and proposed zoning changes related to the housing and transit reinvestment zone;
    - (vi) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;
    - (vii) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);
    - (viii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;
    - (ix) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone;

- (x) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;
  - (xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;
  - (xii) evaluates possible benefits to active and public transportation availability and impacts on air quality;
  - (xiii) proposes a finance schedule to align expected revenue with required financing costs and payments;
  - (xiv) provides a pro-forma for the planned development including the cost differential between surface parked multi-family development and enhanced development that satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and
  - (xv) for a housing and transit reinvestment zone at a commuter rail station, light rail station, or bus rapid transit station that is proposed and not in public transit service operation as of the date of submission of the proposal, demonstrates that the proposed station is:
    - (A) included in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan; and
    - (B) reasonably anticipated to be constructed in the near future; and
  - (b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.
- (2) As part of the proposal described in Subsection (1), a municipality or public transit county shall study and evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and housing and transit reinvestment zone.
- (3)
- (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall:
    - (i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(b), provide notice of the proposal to all affected taxing entities, including the Tax Commission, cities, counties, school districts, and metropolitan planning organizations; and
    - (ii) at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).
  - (b) The gap analysis required in Subsection (3)(a)(ii) shall include:
    - (i) a description of the planned development;
    - (ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;
    - (iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal;
    - (iv) an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and
    - (v) based on the market analysis and other findings, an opinion relative to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

- (c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed housing and transit reinvestment zone as described in Subsection (3)(a)(i), the Tax Commission shall:
  - (i) evaluate the feasibility of administering the tax implications of the proposal; and
  - (ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the Tax Commission can feasibly administer the proposal.
- (4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:
  - (a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or
  - (b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.
- (5)
  - (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to \$20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).
  - (b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Amended by Chapter 357, 2023 General Session

**63N-3-605 Housing and Transit Reinvestment Zone Committee -- Creation.**

- (1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).
- (2) Each housing and transit reinvestment zone committee shall consist of the following members:
  - (a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;
  - (b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;
  - (c) a member of the Transportation Commission created in Section 72-1-301;
  - (d) a member of the board of trustees of a large public transit district;
  - (e) one individual from the Office of the State Treasurer, designated by the state treasurer;
  - (f) one member designated by the president of the Senate;
  - (g) one member designated by the speaker of the House of Representatives;
  - (h) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;
  - (i) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and
  - (j) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.
- (3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.
- (4)

- (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.
  - (b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.
- (5) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.
- (6)
- (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.
  - (b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.
- (7)
- (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.
  - (b) The housing and transit reinvestment zone committee shall:
    - (i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and
    - (ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).
- (8)
- (a) Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:
    - (i) request changes to the housing and transit reinvestment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-604; or
    - (ii) vote to approve or deny the proposal.
  - (b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.
- (9) If a housing and transit reinvestment zone is approved by the committee:
- (a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal;
  - (b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal; and
  - (c) each affected taxing municipality is required to participate at the same rate as a participating county.
- (10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Amended by Chapter 357, 2023 General Session



**63N-3-606 Notice requirements.**

- (1) In approving a housing and transit reinvestment zone proposal the housing and transit reinvestment zone committee shall follow the hearing and notice requirements for creating a housing and transit reinvestment zone area proposal.
- (2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed housing and transit reinvestment zone, the municipality or public transit county shall:
  - (a) record with the recorder of the county in which the housing and transit reinvestment zone is located a document containing:
    - (i) a description of the land within the housing and transit reinvestment zone;
    - (ii) a statement that the proposed housing and transit reinvestment zone has been approved; and
    - (iii) the date of adoption;
  - (b) transmit a copy of the description of the land within the housing and transit reinvestment zone and an accurate map or plat indicating the boundaries of the housing and transit reinvestment zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and
  - (c) transmit a copy of the approved housing and transit reinvestment zone proposal, map, and description of the land within the housing and transit reinvestment zone, to:
    - (i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the housing and transit reinvestment zone is located;
    - (ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
    - (iii) the legislative body or governing board of each taxing entity;
    - (iv) the tax commission; and
    - (v) the State Board of Education.

Enacted by Chapter 411, 2021 General Session

**63N-3-607 Payment, use, and administration of revenue from a housing and transit reinvestment zone.**

- (1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.
- (2)
  - (a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.
  - (b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.
  - (c)
    - (i) Tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.
    - (ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

- (A) are consistent with the approval of the housing and transit reinvestment zone committee;  
and
  - (B) meet the requirements of Section 63N-3-603.
- (3)
- (a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.
  - (b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.
- (4) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:
- (a) income targeted housing costs;
  - (b) structured parking within the housing and transit reinvestment zone;
  - (c) enhanced development costs;
  - (d) horizontal construction costs;
  - (e) vertical construction costs;
  - (f) property acquisition costs within the housing and transit reinvestment zone; or
  - (g) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 1% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(2).
- (5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.
- (6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.
- (7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Amended by Chapter 433, 2022 General Session

**63N-3-608 Applicability to an existing community reinvestment project.**

For a housing and transit reinvestment zone created under this part that overlaps any portion of an existing inactive industrial site community reinvestment project area plan created pursuant to Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

- (1) if the community reinvestment project area plan captures less than 80% of the tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area plan, the housing and transit reinvestment zone may capture the difference between:
  - (a) 80%; and

- (b) the percentage of tax increment captured pursuant to the community reinvestment project area plan; and
- (2) if a community reinvestment project area plan expires before the housing and transit reinvestment zone, the housing and transit reinvestment zone may capture the tax increment allocated to the community reinvestment project area plan for any remaining portion of the term of the housing and transit reinvestment zone.

Enacted by Chapter 411, 2021 General Session

**63N-3-609 Tax increment protections.**

- (1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a housing and transit reinvestment zone, a housing and transit reinvestment zone may suspend or terminate the collection of tax increment in a housing and transit reinvestment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:
  - (a) a substantial portion of the tax increment collected in the housing and transit reinvestment zone has not or will not be used for the purposes provided in Section 63N-3-607; and
  - (b)
    - (i) the housing and transit reinvestment zone has no indebtedness; or
    - (ii) the housing and transit reinvestment zone has no binding financial obligations.
- (2) A housing and transit reinvestment zone may not collect tax increment in excess of the tax increment projections or limitations set forth in the housing and transit reinvestment proposal.
- (3) The agency administering the tax increment collected in a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c), shall have standing in a court with proper jurisdiction to enforce provisions of the housing and transit reinvestment zone proposal, participation agreements, and other agreements for the use of the tax increment collected.
- (4) The agency administering tax increment from a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c) which is collecting tax increment shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.
- (5) For each housing and transit reinvestment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

Enacted by Chapter 411, 2021 General Session

**63N-3-610 Sales and use tax increment in a housing and transit reinvestment zone.**

- (1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:
  - (a) create a sales and use tax boundary as described in Subsection (2); and
  - (b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone.
- (2)
  - (a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:
    - (i) is based on state sales and use tax collection boundaries; and
    - (ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone.

- (b) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.
- (3) Beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.
- (4)
  - (a) The requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).
  - (b) The notice described in Subsection (4)(a) shall include:
    - (i) a statement that the housing and transit reinvestment zone will be established under this part;
    - (ii) the approval date and effective date of the housing and transit reinvestment zone; and
    - (iii) the definitions of the sales and use tax boundary and sales and use tax base year.

Amended by Chapter 433, 2022 General Session

## **Part 8**

### **State Small Business Credit Initiative Program Fund**

#### **63N-3-801 Creation and administration.**

- (1) There is created an enterprise fund known as the "State Small Business Credit Initiative Program Fund" administered by the office.
- (2) The executive director or the executive director's designee is the administrator of the fund.
- (3) Revenues deposited into the fund shall consist of:
  - (a) grants, pay backs, bonuses, entitlements, and other money received from the federal government to implement the State Small Business Credit Initiative; and
  - (b) transfers, grants, gifts, bequests, and other money made available from any source to implement this part.
- (4)
  - (a) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act.
  - (b) Interest and other earnings derived from the fund money shall be deposited in the fund.
- (5) The office may use fund money for administration of the fund.

Amended by Chapter 499, 2023 General Session

#### **63N-3-802 Distribution of fund money.**

- (1) The office shall distribute federal money in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government under the Small Business Jobs Act of 2010, 12 U.S.C. Sec. 5701 et seq., as amended.
- (2) The office may:

- (a) enact rules to establish procedures for the distribution of fund money by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Amended by Chapter 499, 2023 General Session

**63N-3-803 Annual accounting.**

- (1) The office shall monitor the activities of recipients of the loans and loan guarantees issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the office under this part.
- (2) An entity receiving a loan or loan guarantee under this part shall provide the office with an annual accounting of how the money it received from the fund was spent.
- (3) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:
  - (a) an accounting of expenditures made from the fund; and
  - (b) an evaluation of the effectiveness of the loan and loan guarantee program.

Renumbered and Amended by Chapter 22, 2022 General Session

**Part 9**  
**Strategic Innovation Grant Pilot Program**

**63N-3-901 Definitions.**

As used in this part:

- (1) "Applicable agency" means:
  - (a) for a project related to air quality, the Division of Air Quality created in Section 19-1-105; or
  - (b) for a project related to water resources, the Division of Water Resources created in Section 73-10-18.
- (2) "Business entity" means a for-profit or nonprofit business entity.
- (3) "Grant" means a grant awarded as part of the pilot program.
- (4) "Pilot program" means the Strategic Innovation Grant Pilot Program created in Section 63N-3-902.

Enacted by Chapter 361, 2022 General Session

**63N-3-902 Strategic Innovation Grant Pilot Program.**

- (1) There is created within the office the Strategic Innovation Grant Pilot Program.
- (2) Subject to available funds, the office, in consultation with each applicable agency, shall award grants to business entities to implement projects to improve:
  - (a) air quality in the state; or
  - (b) the conservation or more efficient utilization of water resources in the state.
- (3)
  - (a) The office, in consultation with each applicable agency, shall develop goals and objectives specific to each type of project described in Subsection (2).

- (b) The office shall issue a public solicitation for participation in the pilot program that describes the goals and objectives developed for each particular type of project.
- (4)
  - (a) A business entity may apply to the office for a grant under the pilot program.
  - (b) An application under Subsection (4)(a) shall:
    - (i) specify:
      - (A) the expected outcomes that the funding would be used to achieve;
      - (B) how the business entity intends to achieve the expected outcomes;
      - (C) how the project is expected to meet the goals and objectives developed for that particular type of project under Subsection (3);
      - (D) the extent to which the project offers a strategic and innovative solution to achieve the expected outcomes;
      - (E) the date on which the business entity expects to complete the project, subject to Subsection (6)(b)(vii); and
      - (F) the total amount of money needed for the project; and
    - (ii) include any other information requested by the office.
- (5) The office shall review and make a determination regarding a grant application after consulting with the applicable agency.
- (6)
  - (a) Before the office may award a grant to a business entity under the pilot program, the office, in consultation with the applicable agency, shall enter into a written agreement with the business entity.
  - (b) The written agreement described in Subsection (6)(a) shall:
    - (i) specify the amount of the grant;
    - (ii) specify the time period for distributing the grant;
    - (iii) specify the terms and conditions for receiving the grant, including reporting requirements;
    - (iv) identify specific targets and benchmarks that align with the grant proposal;
    - (v) require the business entity to coordinate or partner with the applicable agency in implementing the project;
    - (vi) require the business entity to submit to independent evaluations over the course of the project's implementation by the Kem C. Gardner Policy Institute at the University of Utah, the Institute of Land, Water, and Air at Utah State University, or the Bingham Research Center at Utah State University to determine whether the project is meeting:
      - (A) the targets and benchmarks specified in the written agreement; and
      - (B) the goals and objectives developed for that particular type of project under Subsection (3); and
    - (vii) require the business entity to complete the project no later than July 1, 2026.
  - (c) In awarding grants under this section, the office, in consultation with each applicable agency, shall prioritize projects that:
    - (i) offer a strategic and innovative solution for achieving the intended outcomes; or
    - (ii) demonstrate a funding match from a private entity.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office, in consultation with each applicable agency, shall make rules to administer the pilot program.
- (8) The office shall, as part of the office's written report under Section 63N-1a-306 submitted in 2026, and if otherwise requested by the Economic Development and Workforce Services Interim Committee, report the following information:
  - (a) the total amount of grants the office awarded to business entities under the pilot program;
  - (b) a description of the projects for which the office awarded grants under the pilot program;

- (c) a summary of the results of the independent evaluations conducted in accordance with Subsection (6)(b)(vi); and
- (d) the office's recommendations regarding the effectiveness of the pilot program and any suggestions for legislation.

Enacted by Chapter 361, 2022 General Session

## **Part 10**

### **Economic Assistance Grant Program**

#### **63N-3-1001 Definitions.**

As used in this part:

- (1) "Business entity" means a for-profit or nonprofit entity.
- (2) "Grant" means a grant awarded as part of the Economic Assistance Grant Program created in Section 63N-3-1002.
- (3) "Grant program" means the Economic Assistance Grant Program created in Section 63N-3-1002.

Enacted by Chapter 362, 2022 General Session

#### **63N-3-1002 Creation of Economic Assistance Grant Program -- Requirements -- Rulemaking -- Annual report.**

- (1) There is created the Economic Assistance Grant Program administered by the office.
- (2) Subject to appropriations from the Legislature, the office may award one or more grants to a business entity to provide funding for projects that:
  - (a) promote and support economic opportunities in the state; and
  - (b) provide a service in the state related to industry, education, community development, or infrastructure.
- (3) In awarding grants, the office may prioritize projects:
  - (a) that develop targeted industries in the state;
  - (b) where an applicant identifies clear metrics to measure the progress, effectiveness, and scope of the project;
  - (c) where an applicant demonstrates comprehensive planning of the project; and
  - (d) that require one-time funds.
- (4) Before a business entity may receive a grant, the business entity shall enter into a written agreement with the office that specifies:
  - (a) the amount of the grant;
  - (b) the time period for distributing the grant;
  - (c) the terms and conditions that the business entity shall meet to receive the grant;
  - (d) the structure of the grant; and
  - (e) the expenses for which the business entity may expend the grant.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.
- (6) The office shall include in the annual written report described in Section 63N-1a-306 a report on the grant program.

Amended by Chapter 499, 2023 General Session

## **Part 11 Manufacturing Modernization Grant Program**

### **63N-3-1101 Definitions.**

As used in this part:

- (1) "Grant" means a grant awarded under Section 63N-3-1102.
- (2) "Program" means the Manufacturing Modernization Grant Program created in Section 63N-3-1102.
- (3) "Targeted industry" means an industry or group of industries targeted by the GO Utah board under Section 63N-3-111 for economic development in the state.

Enacted by Chapter 296, 2022 General Session

### **63N-3-1102 Manufacturing Modernization Grant Program -- Creation -- Purpose -- Requirements -- Rulemaking -- Report.**

- (1)
  - (a) There is created the Manufacturing Modernization Grant Program to be administered by the office.
  - (b) The purpose of the program is to award grants to existing Utah businesses to establish, relocate, retain, or develop manufacturing industry in the state and lessen dependence on manufacturing overseas.
- (2)
  - (a) An entity that submits a proposal for a grant to the office shall include details in the proposal regarding:
    - (i) how the entity plans to use the grant to fulfill the purpose described in Subsection (1)(b);
    - (ii) any plan to use funding sources in addition to a grant for the proposal; and
    - (iii) any existing or planned partnerships between the entity and another individual or entity to implement the proposal.
  - (b) In evaluating a proposal for a grant, the office shall consider:
    - (i) the likelihood the proposal will accomplish the purpose described in Subsection (1)(b);
    - (ii) the extent to which any additional funding sources or existing or planned partnerships will benefit the proposal; and
    - (iii) the viability and sustainability of the proposal.
  - (c) In determining a grant award, the office:
    - (i) shall consult with the GO Utah board; and
    - (ii) may prioritize a targeted industry or an entity with fewer than 250 employees.
- (3) Before receiving the grant, a grant recipient shall enter into a written agreement with the office that specifies:
  - (a) the grant amount;
  - (b) the time period and structure for distribution of the grant, including any terms and conditions the recipient is required to meet to receive a distribution; and
  - (c) the expenses for which the recipient may use the grant, including:
    - (i) to acquire manufacturing equipment;
    - (ii) production, design, or engineering costs;



- (iii) specialized employee training;
  - (iv) technology upgrades; or
  - (v) to provide a grant to another individual or entity for the expenses described in Subsections (3)(c)(i) through (iv) or to otherwise fulfill the recipient's proposal.
- (4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:
- (a) the form and process for submitting a proposal to the office for a grant;
  - (b) which entities are eligible to apply for a grant;
  - (c) the method and formula for determining a grant amount; and
  - (d) the reporting requirements for a grant recipient.
- (5) On or before November 30 of each year, the office shall provide a written report to the Economic Development and Workforce Services Interim Committee regarding:
- (a) each grant awarded; and
  - (b) the economic impact of each grant.

Enacted by Chapter 296, 2022 General Session

## **Part 12**

### **Redevelopment Matching Grant Program**

#### **63N-3-1201 Definitions.**

As used in this part:

- (1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.
- (2) "Grant" means a financial grant awarded as part of the Redevelopment Matching Grant Program created in Section 63N-3-1202.
- (3) "Grant program" means the Redevelopment Matching Grant Program created in Section 63N-3-1202.
- (4) "Local government" means a county or municipality.

Enacted by Chapter 499, 2023 General Session

#### **63N-3-1202 Creation of Redevelopment Matching Grant Program -- Eligibility and program requirements -- Rulemaking -- Reporting.**

- (1) There is created the Redevelopment Matching Grant Program administered by the office.
- (2) Subject to appropriations from the Legislature, the office shall award grants to:
  - (a) local governments that meet the qualifications described in Subsection (3), to provide support for projects or services that increase the supply of affordable and high quality living units; and
  - (b) water conservancy districts, special districts, and special service districts that meet the qualifications described in Subsection (4), to provide support for projects or services that conserve or develop water assets.
- (3) To qualify for a grant, a local government shall:
  - (a) demonstrate that the local government has approved a development application after January 1, 2021, that allows for the creation of new or additional affordable housing units, attached or detached, at a density of at least eight units per acre;
  - (b) demonstrate that the project for which grant funds are sought is not subject to a land use referendum or initiative;

- (c) provide an equal amount of matching funds; and
- (d) certify that the local government will spend grant funds:
  - (i) on a project or service that increases the supply of affordable and high quality living units;
  - (ii) within six months of receiving the grant; and
  - (iii) in accordance with the American Rescue Plan Act.
- (4) To qualify for a grant, a water conservancy district, special district, or special service district shall:
  - (a) provide an equal amount of matching funds; and
  - (b) certify that the water conservancy district, special district, or special service district will spend grant funds:
    - (i) on a project or service that conserves or develops water assets; and
    - (ii) in accordance with the American Rescue Plan Act.
- (5) In awarding grants to local governments, the office may award an initial grant to a local government in an amount of up to \$2,500,000, and an additional grant of up to \$1,500,000, if the project includes a minimum of 1,000 housing units or a minimum of 40 units per acre.
- (6) The office may not award more than 35% of the total amount of grant funds available for projects to conserve or develop water assets.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the eligibility and reporting criteria for grants, including:
  - (a) the form and process of applying for grants;
  - (b) the method and formula for determining grant amounts; and
  - (c) the reporting requirements of grant recipients.
- (8) The office shall annually prepare and submit a report describing the distribution and uses of grants to the Governor's Office of Planning and Budget and to the Office of the Legislative Fiscal Analyst.
- (9) In addition to the report described in Subsection (8), the office shall include in the annual written report described in Section 63N-1a-306 a report on the grant program.

Enacted by Chapter 499, 2023 General Session

## **Chapter 4 Rural Development Act**

### **Part 1 Center for Rural Development**

#### **63N-4-101 Title -- Definitions.**

- (1) This chapter is known as the "Rural Development Act."
- (2) As used in this part, "program" means the Rural Development Program created in Section 63N-4-102.

Amended by Chapter 282, 2021 General Session

#### **63N-4-102 Rural Development Program -- Supervision by office.**

- (1) There is created within the office the Center for Rural Development.

- (2) The Center for Rural Development is under the administration and general supervision of the office.

Amended by Chapter 282, 2021 General Session

**63N-4-103 Purpose of the Center for Rural Development.**

The Center for Rural Development is established to:

- (1) foster and support economic development programs and activities for the benefit of rural counties and communities;
- (2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;
- (3) foster and support leadership training programs and activities for the benefit of:
  - (a) rural leaders in both the public and private sectors;
  - (b) economic development and planning personnel; and
  - (c) rural government officials;
- (4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges;
- (5) work to enhance the capacity of the GO Utah office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and
- (6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Amended by Chapter 274, 2022 General Session

**63N-4-104 Duties.**

- (1) The Center for Rural Development shall:
  - (a) work to enhance the capacity of the office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;
  - (b) work with the GO Utah board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah;
  - (c) assist in administering the Rural Opportunity Program created in Section 63N-4-802; and
  - (d) in accordance with economic development and planning policies set by state government, coordinate relations between:
    - (i) the state;
    - (ii) rural governments;
    - (iii) other public and private groups engaged in rural economic planning and development; and
    - (iv) federal agencies.
- (2)
  - (a) The Center for Rural Development may:
    - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

- (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and
  - (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.
- (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Amended by Chapter 362, 2022 General Session

**63N-4-105 Program manager.**

- (1) The executive director shall appoint a director for the Center for Rural Development with the approval of the governor.
- (2) The director of the Center for Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.
- (3) Upon change of the executive director, the director of the Center for Rural Development may not be dismissed without cause for at least 180 days.

Amended by Chapter 282, 2021 General Session

**63N-4-106 Annual report.**

The office shall include in the annual written report described in Section 63N-1a-306, a report of the program's operations and recommendations.

Amended by Chapter 282, 2021 General Session

### **Part 3 Utah Rural Jobs Act**

**63N-4-301 Title.**

This part is known as the "Utah Rural Jobs Act."

Enacted by Chapter 274, 2017 General Session

**63N-4-302 Definitions.**

As used in this part:

- (1)
  - (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.
  - (b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.
- (2) "Claimant" means a resident or nonresident person that has state taxable income.
- (3) "Closing date" means the date on which a rural investment company collects:
  - (a) all of the investments described in Subsection 63N-4-303(7) related to phase one investment authority; or

- (b) all of the investments described in Subsection 63N-4-303(7) related to phase two investment authority.
- (4)
  - (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).
  - (b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.
- (5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:
  - (a) has fewer than 150 employees;
  - (b) has less than \$10,000,000 in net income for the preceding taxable year;
  - (c) maintains the business's principal business operations in the state; and
  - (d) is engaged in an industry related to:
    - (i) aerospace;
    - (ii) defense;
    - (iii) energy and natural resources;
    - (iv) financial services;
    - (v) life sciences;
    - (vi) outdoor products;
    - (vii) software development;
    - (viii) information technology;
    - (ix) manufacturing; or
    - (x) agribusiness.
- (6)
  - (a) "Excess return" means the difference between:
    - (i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and
    - (ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.
  - (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.
- (7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.
- (8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.
- (9)
  - (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.
- (10)

- (a) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.
  - (b) "Growth investment" does not include, with respect to phase two investment authority:
    - (i) a secured loan or a revolving line of credit to an eligible small business, unless the eligible small business sought and was denied similar financing from a commercial bank, as established by an affidavit from the president or chief executive officer of the eligible small business; or
    - (ii) any portion of an investment, including any amount reinvested, in an eligible small business that, when added to existing investments in the eligible small business from all rural investment companies under phase two investment authority, exceeds \$15,000,000.
- (11)
- (a) "High wage" means a wage that is at least 100% of the county average wage.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.
- (12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.
- (13)
- (a) "New annual jobs" means the difference between:
    - (i)
      - (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or
      - (B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and
    - (ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.
  - (b) If the amount calculated in Subsection (13)(a) is less than zero, the new annual jobs amount is equal to zero.
- (14) "Phase one investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(i).
- (15) "Phase two investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(ii).
- (16)
- (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.
  - (b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection (16)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.
- (17) "Program" means the provisions of this part applicable to a rural investment company.
- (18) "Rural county" means:
- (a) with respect to phase one investment authority, any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties; or

- (b) with respect to phase two investment authority, any county in this state except Salt Lake, Utah, Davis, and Weber counties.
- (19) "Rural investment company" means a person approved by the office under Section 63N-4-303.
- (20)
  - (a) "State reimbursement amount" means the difference between:
    - (i) 50% of the rural investment company's credit-eligible capital contributions; and
    - (ii) the product of:
      - (A) the total sum of new annual jobs reported to the office; and
      - (B) \$20,000 with respect to phase one investment authority, or \$15,000 with respect to phase two investment authority.
  - (b) If the amount calculated in Subsection (20)(a) is less than zero, the state reimbursement amount is equal to zero.
- (21) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.
- (22) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the person to which the office authorizes a tax credit;
  - (b) lists the person's taxpayer identification number;
  - (c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and
  - (d) may include other information as determined by the office.

Amended by Chapter 195, 2022 General Session

**63N-4-303 Application, approval, and allocations.**

- (1)
  - (a) A person seeking approval as a rural investment company shall submit an application to the office.
  - (b)
    - (i) For the investment authority described in Subsection (6)(a)(i), the office shall begin accepting applications on November 1, 2017.
    - (ii) For the investment authority described in Subsection (6)(a)(ii), the office shall begin accepting applications on November 1, 2022.
- (2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office, and shall include the following:
  - (a) the total investment authority sought by the applicant, which may not exceed \$42,000,000;
  - (b) a copy of the applicant's or an affiliate of the applicant's license as a federally licensed rural business investment company or as a federally licensed small business investment company;
  - (c) evidence that before the date the application is submitted, the applicant or affiliates of the applicant have invested at least \$50,000,000 in nonpublic companies located in counties in the United States with fewer than 50,000 inhabitants;
  - (d) a signed affidavit from each claimant that commits to make a credit-eligible capital contribution to the applicant, stating the amount of that commitment; and
  - (e) the sum of all credit-eligible capital contribution commitments described in Subsection (2)(d), which must equal 58% of the total investment authority sought by the applicant.
- (3) The office shall:
  - (a) review and evaluate the applications submitted under this section within 30 days of receipt in the order in which the applications are received; and
  - (b) consider applications received on the same day to have been received simultaneously.

- (4)
  - (a) If, after review and evaluation of an application, the office determines that the application does not meet the requirements of Subsection (2), the office shall:
    - (i) deny the application; or
    - (ii)
      - (A) notify the applicant that the application was inadequate and allow the applicant to provide additional information to the office to complete, clarify, or cure defects identified by the office in the application; and
      - (B) inform the applicant that the additional information described in Subsection (4)(a)(ii)(A) must be received by the office within five days of the notice in order to be considered.
  - (b) If an applicant submits additional information to the office in accordance with Subsection (4)(a)(ii), the office shall:
    - (i) consider the application to have been received on the date it was originally received by the office; and
    - (ii) review and evaluate the additional information within 10 days of receiving the additional information.
- (5) If, after review and evaluation of an application submitted under this section and any additional information submitted in accordance with Subsection (4)(a)(ii), the office determines that the application meets the requirements of Subsection (2), the office shall:
  - (a) determine the amount of investment authority to award the applicant in accordance with Subsection (6);
  - (b) provide to the applicant a written notice of approval as a rural investment company specifying the amount of the applicant's investment authority; and
  - (c) notify each claimant whose affidavit was included in the application under Subsection (2) that the claimant qualifies for a tax credit that will be issued in accordance with Section 63N-4-304.
- (6)
  - (a)
    - (i) For the first application period described in Subsection (1)(b)(i), the office may not approve more than \$42,000,000 in total investment authority and not more than \$24,360,000 in total credit-eligible contributions under this part.
    - (ii) For the second application period described in Subsection (1)(b)(ii), the office may not approve more than \$42,000,000 in total investment authority and not more than \$24,360,000 in total credit-eligible contributions under this part.
  - (b) Subject to Subsection (6)(d), if an application is approved under Subsection (5), the office shall approve the amount of investment authority requested on the application.
  - (c)
    - (i) During the first application period described in Subsection (1)(b)(i), the office may continue to accept applications under this section until the amount of approved investment authority reaches \$42,000,000.
    - (ii) During the second application period described in Subsection (1)(b)(ii), the office may continue to accept applications under this section until the amount of approved investment authority reaches \$42,000,000.
  - (d) If the office approves multiple applications received simultaneously under Subsection (3) and the total amount of investment authority requested on those applications exceeds the amount of investment authority remaining, the office shall proportionally reduce the investment authority and credit-eligible capital contributions for each of these applications as necessary



to avoid exceeding the amount of investment authority and credit-eligible capital contributions remaining.

- (7) Within 65 days after the day on which a rural investment company receives approval under Subsection (5)(b), the rural investment company shall:
- (a) collect the total amount of committed credit-eligible capital contributions from each claimant whose affidavit was included in the application under Subsection (2);
  - (b) collect one or more cash equity investments contributed by affiliates of the rural investment company, including employees, officers, and directors of such affiliates, that equal at least 10% of the rural investment company's investment authority;
  - (c) collect one or more cash investments that, when added to the amounts collected under Subsections (7)(a) and (b), equal the rural investment company's investment authority; and
  - (d) send sufficient documentation to the office to prove that the amounts described in this Subsection (7) have been collected.
- (8) If the rural investment company fails to fully comply with Subsection (7):
- (a) the rural investment company's approval shall lapse and the corresponding investment authority and credit-eligible capital contributions shall not count toward the limits on the program size described in Subsection (6);
  - (b) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection (6)(d), which a rural investment company may allocate to the rural investment company's investors at the company's discretion; and
  - (c) the office may award any remaining investment authority to new applicants.

Amended by Chapter 195, 2022 General Session

**63N-4-304 Tax credit.**

- (1) On the closing date, a claimant whose affidavit was included in an approved application submitted under Section 63N-4-303 shall earn a vested tax credit equal to the amount of the claimant's credit-eligible capital contribution to the rural investment company.
- (2) In each of the taxable years that includes the fourth through seventh anniversaries of the closing date, the office shall:
  - (a) issue a tax credit certificate to each approved claimant, specifying a tax credit amount for the taxable year equal to 25% of the claimant's total credit-eligible capital contribution; and
  - (b) provide a report to the State Tax Commission listing each claimant that received a tax credit certificate under Subsection (2)(a) and the tax credit amount listed on the certificate.
- (3)
  - (a) A claimant may not claim a tax credit under this section unless the claimant has a tax credit certificate issued by the office.
  - (b) A claimant claiming a credit under this section shall retain a tax credit certificate the claimant receives from the office for the same time period a person is required to keep books and records under Section 59-1-1406.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:
  - (a) the documentation requirements for a business entity to receive a tax credit certificate under this section; and
  - (b) administration of the program, including relevant timelines and deadlines.

Enacted by Chapter 274, 2017 General Session

**63N-4-305 Revocation of tax credit certificates and exit.**

- (1) Except as provided in Subsection (2), the office shall revoke a tax credit certificate issued under Section 63N-4-304 if the rural investment company in which the credit-eligible capital contribution was made does any of the following before the rural investment company exits the program in accordance with Section 63N-4-309:
- (a) fails to invest 100% of the rural investment company's investment authority in growth investments in this state within three years of the closing date;
  - (b) fails to maintain growth investments in this state equal to 100% of the rural investment company's investment authority until the seventh anniversary of the closing date in accordance with this section;
  - (c) makes a distribution or payment that results in the rural investment company having less than 100% of the rural investment company's investment authority invested in growth investments in this state or available for investment in growth investments and held in cash and other marketable securities;
  - (d)
    - (i) with respect to phase one investment authority, fails to maintain growth investments equal to 70% of the rural investment company's investment authority in eligible small businesses that maintain their principal business operations in a rural county; or
    - (ii) with respect to phase two investment authority, fails to maintain growth investments equal to 100% of the rural investment company's investment authority in eligible small businesses that maintain their principal business operations in a rural county;
  - (e) invests more than \$5,000,000 from the investment authority in the same eligible small business, including amounts invested in affiliates of the eligible small business, exclusive of growth investments made with repaid or redeemed growth investments or interest or profits realized on the repaid or redeemed growth investments;
  - (f) makes a growth investment in an eligible small business that directly, or indirectly through an affiliate:
    - (i) owns or has the right to acquire an ownership interest in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company; or
    - (ii) makes a loan to or an investment in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company; or
  - (g) fails to timely provide a document described in Subsection 63N-4-307(1)(d).
- (2)
- (a)
    - (i) For the purposes of Subsection (1), an investment is maintained even if the investment is sold or repaid if the rural investment company reinvests an amount equal to the capital returned or recovered by the fund from the original investment, exclusive of any profits realized, in other growth investments in this state within 12 months of the receipt of such capital.
    - (ii) Amounts received periodically by a rural investment company are treated as continually invested in growth investments if the amounts are reinvested in one or more growth investments by the end of the following calendar year.
    - (iii) A rural investment company is not required to reinvest capital returned from growth investments after the sixth anniversary of the closing date and such growth investments are considered as being held continuously by the rural investment company through the seventh anniversary of the closing date.

- (b)
    - (i) Subsection (1)(g) does not apply to investments in publicly traded securities by an eligible small business or an owner or affiliate of an eligible small business.
    - (ii) Under Subsection (1)(g), a rural investment company is not considered an affiliate of a business concern solely as a result of the rural investment company's growth investment.
  - (c) A growth investment in an eligible small business that is not located in a rural county may count toward the requirements of Subsection (1)(d) if the office determines that the eligible small business is located in an economically disadvantaged rural area as defined by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
- (a) Before revoking one or more tax credit certificates under this section, the office shall notify the rural investment company of the reasons for the pending revocation.
  - (b) If the rural investment company corrects any violation outlined in the notice to the satisfaction of the office within 90 days after the day on which the notice was sent, the office may not revoke the tax credit certificate.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish criteria to determine what constitutes a correction under Subsection (3)(b).
- (4) If tax credit certificates are revoked under this section:
- (a)
    - (i) the rural investment company shall make a cash distribution to the office in an amount equal to the sum of all tax credits awarded to persons that have made credit-eligible contributions to the rural investment company; and
    - (ii) if the rural investment company is able to provide documentation to the office that proves that a tax credit described in Subsection (4)(a)(i) has not been claimed, the amount owed under Subsection (4)(a)(i) shall be reduced by the amount of the unclaimed tax credit;
  - (b) the rural investment company's investment authority and credit-eligible capital contributions will not count toward the limits on the program size described in Subsection 63N-4-303(6);
  - (c) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection 63N-4-303(6)(d), which a rural investment company may allocate to the rural investment company's investors at the rural investment company's discretion; and
  - (d) the office may award any remaining investment authority to new applicants.
- (5) The office may not revoke a tax credit certificate after a rural investment company has exited the program in accordance with Section 63N-4-309.

Amended by Chapter 195, 2022 General Session

**63N-4-306 Request for determination.**

- (1) A rural investment company, before making a growth investment, may request from the office a written opinion as to whether the business in which a rural investment company proposes to invest is an eligible small business.
- (2) The office shall notify the rural investment company of the office's determination within 30 days after receipt of the request.

- (3) If the office fails to notify the rural investment company of the office's determination in accordance with this section, the business in which the rural investment company proposes to invest shall be considered an eligible small business.

Enacted by Chapter 274, 2017 General Session

**63N-4-307 Reporting obligations -- Authorization to disclose tax information -- Credit for new annual jobs.**

- (1) A rural investment company shall submit an annual report to the office on or before the last day of February for each preceding calendar year until the rural investment company exits the program in accordance with Section 63N-4-309. The annual report shall provide documentation as to the rural investment company's growth investments and include:
  - (a) a bank statement evidencing each growth investment;
  - (b) the name, location, and industry of each business concern receiving a growth investment, including either the determination letter set forth in Section 63N-4-306 or evidence that the business qualified as an eligible small business at the time the investment was made;
  - (c) the number of new annual jobs at each eligible small business for the preceding calendar year, accompanied by a report from a third-party accounting firm attesting that the number of new annual jobs was calculated in accordance with procedures approved by the office;
  - (d) unless provided in a previously submitted annual report, for each eligible small business to which the rural investment company provided a growth investment during the preceding calendar year, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the eligible small business's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403; and
  - (e) any other information required by the office.
- (2) For the annual report due in 2022, each rural investment company shall submit the documents described in Subsection (1)(d) on or before July 1, 2022.
- (3)
  - (a) Within 60 days of receipt of an annual report, the office shall provide written confirmation to the rural investment company of the number of new annual jobs the rural investment company has been credited with for the preceding calendar year.
  - (b) When granting credit for one or more new annual jobs at an eligible small business that received or held a growth investment from more than one rural investment company during the preceding calendar year, the office shall allocate credit for each new annual job between the rural investment companies:
    - (i) in proportion to each rural investment company's share of the total growth investments the eligible small business received during the calendar year; or
    - (ii) in accordance with any written agreement between the rural investment companies.
- (4) By the fifth business day after the third anniversary of the closing date, a rural investment company shall submit a report to the office providing evidence that the rural investment company is in compliance with the investment requirements of Section 63N-4-305.
- (5) In accordance with rules made by the office, a rural investment company that receives phase one investment authority and phase two investment authority shall submit an annual report under this section that provides separate information related to the phase one investment authority and the phase two investment authority.
- (6)
  - (a) The office shall submit the document described in Subsection (1)(d) to the State Tax Commission.

- (b) Upon receipt of a document described in Subsection (1)(d), the State Tax Commission shall provide the office with the returns and other information the office requests and that the State Tax Commission is directed and authorized to provide.

Amended by Chapter 195, 2022 General Session

**63N-4-308 Annual fee.**

- (1) The office shall calculate an annual fee to be paid by each rural investment company by dividing \$50,000 by the number of rural investment companies approved under this part and notify each rural investment company of the amount of the annual fee.
- (2)
  - (a) The initial annual fee shall be due and payable to the office along with the evidence of receipt of the cash investment in the rural investment company as described in Subsection 63N-4-303(7)(d).
  - (b) After the initial annual fee, an annual fee shall be due and payable to the office on or before the last day of February of each year.
  - (c) An annual fee shall not be required once a rural investment company has exited the program under Section 63N-4-309.
- (3) To maintain an aggregate annual fee of \$50,000, the office shall recalculate the annual fee as needed upon the lapse of any approval under Subsection 63N-4-303(8), the revocation of tax credit certificates under Section 63N-4-305, or a rural investment company's exit from the program under Section 63N-4-309.
- (4) The annual fee collected under this section shall be deposited into the General Fund as a dedicated credit for use by the office to implement this part.

Enacted by Chapter 274, 2017 General Session

**63N-4-309 Exit.**

- (1)
  - (a) On or after the seventh anniversary of the closing date, and on or before the twelfth anniversary of the closing date, each rural investment company shall apply to the office to exit the program and no longer be subject to this part.
  - (b) A rural investment company that receives phase one investment authority and phase two investment authority shall separately apply to exit the program in relation to the phase one investment authority and the phase two investment authority.
- (2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office and shall include a calculation of the state reimbursement amount.
- (3) In evaluating the exit application, if no tax credit certificates have been revoked and the rural investment company has not received a notice of revocation that has remained uncorrected under Subsection 63N-4-305(3)(b), the rural investment company is eligible for exit.
- (4)
  - (a) The office shall respond to the application within 30 days of receipt and include confirmation of the state reimbursement amount.
  - (b) The office shall not unreasonably deny an application submitted under this section.
  - (c) If the office denies the application, the office shall provide the reasons for the determination to the rural investment company.

- (5) If a rural investment company fails to submit an exit application in accordance with Subsection (1), the office shall:
  - (a) calculate the state reimbursement amount using the best available information; and
  - (b) provide the confirmation described in Subsection (4)(a) within 30 days of the twelfth anniversary of the closing date.
- (6) Within 60 days after the day on which the confirmation of the state reimbursement amount is received by the rural investment company, the rural investment company shall make a cash distribution to the state in an amount equal to the lesser of:
  - (a) the state reimbursement amount; and
  - (b) the excess return.
- (7) The office shall notify the rural investment company once payments equal to the amount described in Subsection (4) have been received.
- (8) Any amounts collected under this section shall be deposited into the General Fund.

Amended by Chapter 195, 2022 General Session

## **Part 4**

### **Rural Employment Expansion Program**

#### **63N-4-401 Title.**

This part is known as the "Rural Employment Expansion Program."

Enacted by Chapter 340, 2018 General Session

#### **63N-4-402 Definitions.**

As used in this part:

- (1)
  - (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
  - (b) "Business entity" does not include a business primarily engaged in the following:
    - (i) construction;
    - (ii) staffing;
    - (iii) retail trade; or
    - (iv) public utility activities.
- (2) "Grant" means a grant awarded as part of the Rural Employment Expansion Grant Program created in Section 63N-4-403.
- (3) "Grant program" means the Rural Employment Expansion Grant Program created in Section 63N-4-403.
- (4) "Mining company" means an entity whose primary business is the exploration for or extraction of minerals from the earth.
- (5) "Mining services company" means an entity whose primary business is providing support services for a mining company, including drilling or geological modeling.
- (6)
  - (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

- (i) the entity or a portion of the entity; or
- (ii) an employee, agent, or independent contractor of the entity.
- (b) "Owner or officer" includes:
  - (i) a member of a board of directors or other governing body of an entity; or
  - (ii) a partner in any type of partnership.
- (7) "Rural county" means a county of the third, fourth, fifth, or sixth class.

Amended by Chapter 362, 2022 General Session

**63N-4-403 Creation of Rural Employment Expansion Grant Program -- Duties of the office.**

- (1) There is created the Rural Employment Expansion Grant Program administered by the office.
- (2) The office shall:
  - (a) review a business entity's application for a grant in the order in which the application is received by the office;
  - (b) ensure that a grant is only awarded to a business entity that meets the requirements of this part; and
  - (c) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
    - (i) the identity of each business entity that was provided a grant by the office during the year of the annual report;
    - (ii) the total amount awarded in grants for each county; and
    - (iii) an evaluation of the effectiveness of the grant in bringing significant new employment to rural communities.
- (3) The office may:
  - (a) authorize a grant for a business entity under this part;
  - (b) audit a business entity to ensure:
    - (i) eligibility for a grant; and
    - (ii) compliance with this part; and
  - (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding the:
    - (i) form and content of an application for a grant;
    - (ii) documentation or other requirements for a business entity to receive a grant; and
    - (iii) administration of grants, including an appeal process and relevant timelines and deadlines.

Amended by Chapter 362, 2022 General Session

**63N-4-404 Grant application process.**

- (1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a grant shall provide the office with an application in a form approved by the office that includes:
  - (a) a certification, by an officer of the business entity, of each signature on the application;
  - (b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a grant; and
  - (c) any additional information required by the office.
- (2)
  - (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the grant, the office shall:

- (i) deny the application; or
  - (ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.
- (b)
- (i) If the office denies an application, the business entity may appeal the denial to the office.
  - (ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant.
- (3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:
- (a) indicates the maximum grant amount the business entity is authorized to receive;
  - (b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
  - (c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and
  - (d) specifies the deadlines to provide the documentation described in Subsection (3)(c).
- (4)
- (a) Subject to available funds, the office may award a grant to a business entity as follows:
    - (i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;
    - (ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and
    - (iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.
  - (b) A business entity may qualify for no more than \$250,000 in grants in any fiscal year.
- (5)
- (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:
    - (i) in a form prescribed by the office under Subsection (3)(c);
    - (ii) before the deadline described in Subsection (3)(d); and
    - (iii) that demonstrates that the business applicant has created new full-time employee positions.
  - (b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection (1).
- (6) Nothing in this part prevents a business entity that has received a grant from concurrently applying for or receiving another grant or incentive administered by the office.
- (7) If an applicant for a grant is a mining company or mining services company having business operations within five miles of a rural county, the applicant shall be treated as if the applicant were located within the adjacent rural county in determining whether the applicant qualifies for the grant program.

Amended by Chapter 362, 2022 General Session



## **Part 5**

### **Rural Coworking and Innovation Center Grant Program**

#### **63N-4-501 Title.**

This part is known as the "Rural Coworking and Innovation Center Grant Program."

Enacted by Chapter 467, 2019 General Session

#### **63N-4-502 Definitions.**

As used in this part:

- (1) "Advisory committee" means the Rural Online Working Hubs Grant Advisory Committee created in Section 63N-4-505.
- (2) "Coworking and innovation center" means a facility designed to provide individuals with the infrastructure and equipment to participate in the online workforce.
- (3) "Entity" means a county, city, nonprofit organization, or institution of higher education.
- (4) "Grant" means a grant awarded as part of the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.
- (5) "Grant program" means the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.
- (6) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Amended by Chapter 129, 2022 General Session

#### **63N-4-503 Creation and purpose of the Rural Coworking and Innovation Center Grant Program.**

- (1) There is created the Rural Coworking and Innovation Center Grant Program administered by the office.
- (2) The office may seek to accomplish the following objectives in administering the grant program:
  - (a) constructing or renovating a facility in one or more rural areas to create one or more coworking and innovation centers;
  - (b) extending and improving utilities and broadband service connections to one or more coworking and innovation centers in one or more rural areas; and
  - (c) purchasing equipment, furniture, and security systems as part of one or more coworking and innovation centers in one or more rural areas.

Enacted by Chapter 467, 2019 General Session

#### **63N-4-504 Requirements for awarding a working hubs grant.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:
  - (a) the form and process of submitting an application to the office for a grant;
  - (b) which entities are eligible to apply for a grant;
  - (c) the method and formula for determining grant amounts; and
  - (d) the reporting requirements of grant recipients.

- (2) In determining the award of a grant, the office may prioritize projects:
  - (a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;
  - (b) where an applicant demonstrates comprehensive planning of the project but has limited access to financial resources, including financial resources from local or county government; and
  - (c) that maximize economic development opportunities in collaboration with the economic development needs or plans of an educational institution, a county, and a municipality.
- (3) Subject to legislative appropriation, a grant may only be awarded by the executive director after consultation with the advisory committee.
- (4) A grant may only be awarded under this part:
  - (a) if the grant recipient agrees to provide any combination of funds, land, buildings, or in-kind work in an amount equal to at least 25% of the grant;
  - (b) if the grant recipient agrees not to use grant money for the ongoing operation or maintenance of a coworking and innovation center; and
  - (c) in an amount no more than \$500,000 to a grant applicant.

Enacted by Chapter 467, 2019 General Session

**63N-4-505 Rural Online Working Hubs Grant Advisory Committee -- Membership -- Duties -- Expenses.**

- (1) There is created in the office the Rural Online Working Hubs Grant Advisory Committee, composed of the following seven members:
  - (a) the executive director, or the executive director's designee;
  - (b) a member of the Senate, or a member of the House of Representatives, who represents rural constituents, chosen by the president of the Senate;
  - (c) one member representing municipal government in a rural county, recommended by the Utah League of Cities and Towns and appointed by the executive director;
  - (d) one member representing rural county government, recommended by the Utah Association of Counties and appointed by the executive director;
  - (e) one member representing higher education, appointed by the executive director;
  - (f) one member representing the information technology sector, recommended by the Utah Technology Council and appointed by the executive director; and
  - (g) one member representing the commercial real estate development community, recommended by the Utah chapter of the Commercial Real Estate Development Association and appointed by the executive director.
- (2) The advisory committee shall advise and make recommendations to the office regarding awarding grants under this part.
- (3)
  - (a) Except as required by Subsection (3)(b), as terms of advisory committee members appointed by the executive director expire, the executive director shall appoint each new member or reappointed member to a four-year term.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of advisory committee members appointed by the executive director are staggered so that approximately half of the appointed advisory committee members are appointed every two years.

- (4) The executive director, or the director's designee, shall serve as chair of the advisory committee.
- (5) The advisory committee shall elect annually a vice chair from the advisory committee's members.
- (6) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.
- (7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.
- (8) The office shall provide administrative staff support for the advisory committee.
- (9) A member may not receive compensation or benefits for the member's service, but a member, who is not a legislator, 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.

Enacted by Chapter 467, 2019 General Session

## **Part 8**

### **Rural Opportunity Act**

#### **63N-4-801 Definitions.**

As used in this part:

- (1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.
- (2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.
- (3)
  - (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
  - (b) "Business entity" does not include a business primarily engaged in the following:
    - (i) construction;
    - (ii) staffing;
    - (iii) retail trade; or
    - (iv) public utility activities.
- (4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.
- (5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.
- (6) "Qualified asset" means a physical asset that provides or supports an essential public service.
- (7) "Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:
  - (a) telecom and high-speed Internet infrastructure;
  - (b) power and energy infrastructure;
  - (c) water and sewerage infrastructure;

- (d) healthcare infrastructure; or
- (e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (8) "Rural community" means a rural county or rural municipality.
- (9) "Rural county" means a county of the third, fourth, fifth, or sixth class.
- (10) "Rural municipality" means a city, town, or metro township located within the boundaries of:
  - (a) a county of the third, fourth, fifth, or sixth class; or
  - (b) a county of the second class, if the municipality has a population of 10,000 or less.
- (11) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Amended by Chapter 499, 2023 General Session

**63N-4-802 Creation of Rural Opportunity Program -- Awarding of grants and loans -- Rulemaking -- Reporting.**

- (1) There is created the Rural Opportunity Program.
- (2) The program shall be overseen by the advisory committee and administered by the office.
- (3)
  - (a) In overseeing the program, the advisory committee shall make recommendations to the office on the awarding of grants and loans under this section.
  - (b) After reviewing the recommendations of the advisory committee, and subject to appropriations from the Legislature, the office shall:
    - (i) award grants to rural communities and business entities in accordance with Subsection (4) and rules made by the center under Subsection (6); and
    - (ii) award loans to rural communities in accordance with Subsection (5) and rules made by the center under Subsection (6).
- (4)
  - (a) The office shall annually distribute an equal amount of grant money to all rural counties that have created a CEO board and apply for a grant, in an amount up to and including \$200,000 annually per county.
  - (b) In addition to the grant money distributed to rural counties under Subsection (4)(a), the office may use program funds to:
    - (i) award grants to rural communities that demonstrate a funding match, in an amount established by rule under Subsection (6);
    - (ii) award grants to business entities that create new jobs within rural communities; and
    - (iii) award grants to associations of governments, subject to Subsection (4)(e).
  - (c) The office shall award grants under this Subsection (4) to address the economic development needs of rural communities, which needs may include:
    - (i) business recruitment, development, and expansion;
    - (ii) workforce training and development; and
    - (iii) infrastructure, industrial building development, and capital facilities improvements for business development.
  - (d) In awarding grants under this Subsection (4), the office:
    - (i) shall prioritize applications in accordance with rules made by the office under Subsection (6);
    - (ii) may not award more than \$800,000 annually to a rural community or business entity; and
    - (iii) may not award more than 20% of the total amount of grant funds made available each year to associations of governments.

- (e) An association of governments may not receive a grant from the program unless the association of governments demonstrates to the office that each county belonging to the association of governments has approved the request for grant funds.
- (5)
- (a) In addition to the awarding of grants under Subsection (4), the office may use program funds to award loans to rural communities to provide financing for qualified projects.
  - (b)
    - (i) A rural community may not receive a loan from the program for a qualified project unless:
      - (A) the rural community demonstrates to the office that the rural community has exhausted all other means of securing funding from the state for the qualified project; and
      - (B) the rural community enters into a loan contract with the office.
    - (ii) A loan contract under Subsection (5)(b)(i)(B):
      - (A) shall be secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the rural community to the repayment of the loan; and
      - (B) may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.
  - (c) A loan under this Subsection (5) shall bear interest at a rate:
    - (i) not less than bond market interest rates available to the state; and
    - (ii) not more than .5% above bond market interest rates available to the state.
  - (d) Before a rural community may receive a loan from the office, the rural community shall:
    - (i) publish the rural community's intention to obtain the loan at least once in accordance with the publication and notice requirements described in Section 11-14-316; and
    - (ii) adopt an ordinance or resolution authorizing the loan.
  - (e)
    - (i) If a rural community that receives a loan from the office fails to comply with the terms of the loan contract, the office may seek any legal or equitable remedy to obtain compliance or payment of damages.
    - (ii) If a rural community fails to make loan payments when due, the state shall, at the request of the office, withhold an amount of money due to the rural community and deposit the withheld money into the fund to pay the amount due under the contract.
    - (iii) The office may elect when to take any action or request the withholding of money under this Subsection (5)(e).
  - (f) All loan contracts, bonds, notes, or other evidence of indebtedness securing any loans shall be collected and accounted for in accordance with Section 63B-1b-202.
- (6)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the advisory committee, the office shall make rules to administer the program.
  - (b) The rules under Subsection (6)(a) shall establish:
    - (i) eligibility criteria for a rural community or business entity to receive a grant or loan under the program;
    - (ii) application requirements;
    - (iii) funding match requirements for a rural community to receive a grant under Subsection (4)(b);
    - (iv) a process for prioritizing grant and loan applications; and
    - (v) reporting requirements.

- (7) The office shall include the following information in the annual written report described in Section 63N-1a-306:
- (a) the total amount of grants and loans the office awarded to rural communities and business entities under the program;
  - (b) a description of the projects for which the office awarded a grant or loan under the program;
  - (c) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under the program;
  - (d) whether the grants and loans awarded under the program have resulted in economic development within rural communities; and
  - (e) the office's recommendations regarding the effectiveness of the program and any suggestions for legislation.

Amended by Chapter 499, 2023 General Session

**63N-4-803 County Economic Opportunity Advisory Board.**

- (1)
- (a) Each rural county that seeks to obtain a grant from the office under Subsection 63N-4-802(4)(a), shall create a CEO board composed of at least the following members appointed by the county legislative body:
    - (i) a county representative;
    - (ii) a representative of a municipality in the county;
    - (iii) a workforce development representative;
    - (iv) a private-sector representative; and
    - (v) a member of the public who lives in the county.
  - (b) The county legislative body may also appoint additional members with experience or expertise in economic development matters.
  - (c) In appointing members of the CEO board, the county legislative body may consider gender and socioeconomic diversity.
- (2) Each CEO board shall assist and advise the county legislative body on:
- (a) applying for a grant under Subsection 63N-4-802(4)(a);
  - (b) what projects should be funded by grant money provided to a rural county under Subsection 63N-4-802(4)(a); and
  - (c) preparing reporting requirements for grant money received by a rural county under Subsection 63N-4-802(4)(a).

Renumbered and Amended by Chapter 362, 2022 General Session

**63N-4-804 Rural Opportunity Advisory Committee.**

- (1) There is created within the office the Rural Opportunity Advisory Committee.
- (2) The advisory committee shall be composed of seven members appointed by the executive director, at least five of whom shall reside in a rural county.
- (3) The advisory committee shall advise and make recommendations to the office regarding the awarding of grants and loans under the Rural Opportunity Program.
- (4)
  - (a) Subject to Subsection (4)(b), each member of the advisory committee shall be appointed for a four-year term unless a member is appointed to complete an unexpired term.

- (b) The executive director may adjust the length of term at the time of appointment or reappointment so that approximately half of the advisory committee is appointed every two years.
- (5) The advisory committee shall annually elect a chair from among the advisory committee's members.
- (6) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.
- (7) The office shall provide staff support for the advisory committee.
- (8) 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.

Enacted by Chapter 362, 2022 General Session

**63N-4-805 Rural Opportunity Fund.**

- (1) There is created an enterprise fund known as the "Rural Opportunity Fund".
- (2) The fund shall be administered by the office for the purposes described in Subsection (5).
- (3) The fund consists of:
  - (a) money appropriated by the Legislature;
  - (b) donations or grants from public or private entities; and
  - (c) all money collected from the repayment of fund money used for a loan issued under the Rural Opportunity Program.
- (4)
  - (a) The fund shall earn interest.
  - (b) All interest earned on money in the fund shall be deposited into the fund.
- (5) Money in the fund may only be used by the office to:
  - (a) award grants and loans under the Rural Opportunity Program;
  - (b) award grants under the Rural Employment Expansion Program created in Section 63N-4-403;
  - (c) award grants under the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503; and
  - (d) pay for administrative costs related to this chapter.
- (6) The office may establish separate accounts in the fund for separate programs, administrative and operating expenses, or any other purpose to implement this chapter.
- (7) Money in the fund shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.
- (8) The office shall include a report of how money from the fund was used in the annual written report described in Section 63N-1a-306.

Enacted by Chapter 362, 2022 General Session

**Chapter 6**

## Utah Venture Capital Enhancement Act

### Part 1 General Provisions

#### **63N-6-103 Definitions.**

As used in this chapter:

- (1) "Board" means the board of directors of the corporation.
- (2) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.
- (3) "Restricted account" means the Utah Capital Investment Restricted Account created in Section 63N-6-204.
- (4) "Utah fund of funds" means a limited liability company established under Section 63N-6-401.

Amended by Chapter 139, 2023 General Session

### Part 2 Utah Capital Investment Restricted Account

#### **63N-6-204 Utah Capital Investment Restricted Account.**

- (1) There is created a restricted account within the General Fund known as the Utah Capital Investment Restricted Account.
- (2) The restricted account shall be funded by disbursements from the Utah fund of funds or the corporation.
- (3) The state treasurer shall:
  - (a) administer the account;
  - (b) invest money in the restricted account in accordance with Title 51, Chapter 7, State Money Management Act; and
  - (c) deposit interest or other earnings derived from investment of restricted account money into the restricted account.
- (4) The Legislature may appropriate funds from the restricted account to the General Fund or for any other lawful purpose.

Amended by Chapter 298, 2022 General Session

### Part 3 Utah Capital Investment Corporation

#### **63N-6-301 Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.**

- (1)
  - (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.
  - (b) The corporation:
    - (i) may exercise all powers conferred on independent corporations under Section 63E-2-106;



- (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and
- (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.
- (c) The corporation shall file with the Division of Corporations and Commercial Code:
  - (i) articles of incorporation; and
  - (ii) any amendment to its articles of incorporation.
- (d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.
- (e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.
- (2) The purposes of the corporation are to:
  - (a) administer the Utah fund of funds;
  - (b) select an investment fund allocation manager to manage investments by the Utah fund of funds;
  - (c) negotiate the terms of a contract with the investment fund allocation manager;
  - (d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds; and
  - (e) receive investment returns from the Utah fund of funds.
- (3) The corporation may not:
  - (a) exercise governmental functions;
  - (b) have members;
  - (c) pledge the credit or taxing power of the state or any political subdivision of the state; or
  - (d) make its debts payable out of any money except money of the corporation.
- (4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.
- (5) The corporation may:
  - (a) engage consultants and legal counsel;
  - (b) expend funds;
  - (c) invest funds;
  - (d) issue debt and equity, and borrow funds;
  - (e) enter into contracts;
  - (f) insure against loss;
  - (g) hire employees; and
  - (h) perform any other act necessary to carry out its purposes.
- (6)
  - (a) The corporation shall publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:
    - (i) the governor;
    - (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;
    - (iii) the Business and Labor Interim Committee; and
    - (iv) the Retirement and Independent Entities Interim Committee.
  - (b) The annual report shall:
    - (i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;
    - (ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;

- (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;
- (iv) include detailed information regarding:
  - (A) realized gains from investments and any realized losses; and
  - (B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;
- (v) include detailed information regarding all yearly expenditures, including:
  - (A) administrative, operating, and financing costs;
  - (B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and
  - (C) expenses related to the allocation manager;
- (vi) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;
- (vii) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds; and
- (viii) include an aggregate total value for all funds the Utah fund of funds is invested in.

Amended by Chapter 298, 2022 General Session

Amended by Chapter 362, 2022 General Session

**63N-6-303 Board of directors.**

- (1) The corporation's board of directors comprises the state treasurer and two individuals designated by the state treasurer.
- (2) Two members of the board are a quorum for the transaction of business.
- (3) Members of the board of directors:
  - (a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation; and
  - (b) may not participate in a vote by the board of directors related to an investment by the Utah fund of funds, if the member has an interest in the investment.
- (4) Directors of the corporation:
  - (a) shall be compensated for direct expenses and mileage; and
  - (b) may not receive a director's fee or salary for service as directors.

Amended by Chapter 298, 2022 General Session

**63N-6-305 Management fee -- Additional financial assistance.**

- (1) The corporation may charge a management fee on assets under management in the Utah fund of funds.
- (2) The management fee described in Subsection (1) may not, in a calendar year, exceed 1% of the asset value of the Utah fund of funds on the immediately preceding December 31.
- (3) In addition to the management fee, the Utah fund of funds will pay directly or reimburse the corporation for out-of-pocket expenses, including fund administration, tax and audit fees and costs, investment and monitoring costs, and similar expenses incurred in connection with the operation of the corporation or the Utah fund of funds.

Amended by Chapter 298, 2022 General Session

## **Part 4 Utah Fund of Funds**

### **63N-6-401 Organization of Utah fund of funds.**

- (1) The corporation shall organize, and be the sole member and manager of, the Utah fund of funds.
- (2) The Utah fund of funds shall hold and manage investments made by the Utah fund of funds and proceeds from those investments until disbursed to the restricted account or used to pay the fees and expenses described in this chapter.
- (3) The Utah fund of funds shall be organized as a limited liability company, with the corporation as the sole member and manager.
- (4) The Utah fund of funds may not invest money after May 4, 2022, unless the Utah fund of funds committed to the investment before May 4, 2022.
- (5) The corporation may disburse proceeds of investments from the Utah fund of funds into the restricted account at any time the corporation determines is in the best interest of the state, leaving sufficient funds to pay expenses and fees owed by, or needed to wind up the affairs of, the corporation or the Utah fund of funds.
- (6) The state treasurer shall notify the Executive Appropriations Committee when all investments held by the Utah fund of funds mature and the state treasurer determines it is advisable to complete winding up the affairs of the corporation.

Amended by Chapter 298, 2022 General Session

### **63N-6-402 Compensation from the Utah fund of funds to the corporation -- Transfer to restricted account.**

- (1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section 63N-6-305.
- (2)
  - (a) On or before June 30, 2022, the Utah fund of funds shall transfer \$15,000,000 to the state treasurer.
  - (b) The state treasurer shall deposit the money described in Subsection (2)(a) into the restricted account.

Amended by Chapter 298, 2022 General Session

### **63N-6-404 Powers of Utah fund of funds.**

The Utah fund of funds may:

- (1) engage consultants and legal counsel;
- (2) expend funds;
- (3) enter into contracts; and
- (4) perform any other act necessary to carry out its purposes.

Amended by Chapter 298, 2022 General Session

**63N-6-405 Annual audits.**

- (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.
- (2)
  - (a) The audit shall be conducted by:
    - (i) the state auditor; or
    - (ii) an independent auditor engaged by the state auditor.
  - (b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:
    - (i) the corporation; or
    - (ii) the Utah fund of funds.
- (3) The corporation shall pay the costs associated with the annual audit.
- (4) The annual audit report shall:
  - (a) be delivered to:
    - (i) the corporation; and
    - (ii) the state treasurer;
  - (b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;
  - (c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection 63N-6-301(6); and
  - (d) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Subsection 63N-6-301(6).

Amended by Chapter 298, 2022 General Session

**63N-6-410 Powers and effectiveness.**

- (1) This chapter may not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this chapter are cumulative to those powers.
- (2) This chapter shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers to those conferred by any other laws.

Amended by Chapter 298, 2022 General Session

**63N-6-412 Exemption from certain statutes.**

- (1) Except as otherwise provided in this part, the corporation is exempt from statutes governing state agencies, as provided in Section 63E-2-109.
- (2) The corporation is exempt from:
  - (a) Title 52, Chapter 4, Open and Public Meetings Act; and
  - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (3) The board is exempt from the requirement to report fund performance of venture firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 283, 2015 General Session

## Chapter 7 Utah Office of Tourism

### Part 1 General Provisions

#### **63N-7-101 Definitions.**

As used in this chapter:

- (1) "Board" means the Board of Tourism Development created in Section 63N-7-201.
- (2) "Managing director" means the managing director of the Utah Office of Tourism.
- (3) "Sports organization" means an organization that:
  - (a) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;
  - (b) maintains the organization's principal location in the state;
  - (c) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and
  - (d) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting the state for the purpose of attracting sporting events in the state.
- (4) "Tourism office" means the Utah Office of Tourism created in Section 63N-7-102.

Repealed and Re-enacted by Chapter 362, 2022 General Session

#### **63N-7-102 Utah Office of Tourism created -- Appointment of managing director -- Responsibilities of tourism office.**

- (1) There is created within the GO Utah office the Utah Office of Tourism.
- (2)
  - (a) The executive director shall appoint a managing director of the tourism office.
  - (b) The managing director may, with the approval of the executive director, appoint staff.
- (3) The tourism office shall:
  - (a) be the tourism development authority of the state;
  - (b) develop a tourism advertising, marketing, branding, destination development, and destination management program for the state;
  - (c) receive approval from the board under Subsection 63N-7-202(1)(a) before implementing the program described in Subsection (3)(b);
  - (d) develop a plan to increase the economic contribution by tourists visiting the state;
  - (e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and advantages of the state at large;
  - (f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the state;
  - (g) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

- (h) ensure that any plan or program developed under this Subsection (3) addresses, but not be limited to, the following policies:
  - (i) enhancing the state's image;
  - (ii) promoting the state as a year-round destination;
  - (iii) encouraging expenditures by visitors to the state; and
  - (iv) expanding the markets where the state is promoted.

Repealed and Re-enacted by Chapter 362, 2022 General Session

**63N-7-103 Annual report.**

The executive director shall include, in the annual written report described in Section 63N-1a-306, a report from the managing director on the activities of the tourism office, including information regarding the economic efficiency and results of the tourism advertising, marketing, branding, destination development, and destination management program developed under Section 63N-7-102.

Repealed and Re-enacted by Chapter 362, 2022 General Session

**63N-7-104 Agreements with other governmental entities.**

The tourism office may enter into agreements with state or federal agencies to accept services, quarters, or facilities as a contribution in carrying out the duties and functions of the tourism office.

Enacted by Chapter 362, 2022 General Session

## **Part 2 Board of Tourism Development**

**63N-7-201 Board of Tourism created -- Members -- Meetings -- Expenses.**

- (1) There is created within the tourism office the Board of Tourism Development.
- (2)
  - (a) The board shall consist of 15 members appointed by the governor to four-year terms with the advice and consent of the Senate.
  - (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.
- (3) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.
- (4) Not more than eight members of the board may be from the same political party.
- (5)
  - (a) The members shall be representative of:
    - (i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (5)(b); and
    - (ii) a diverse mix of business ownership or executive management of tourism related industries.
  - (b) The geographical representatives shall be appointed as follows:
    - (i) one member from Salt Lake, Tooele, or Morgan County;
    - (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

- (iii) one member from Utah, Summit, Juab, or Wasatch County;
  - (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
  - (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
  - (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.
- (c) The tourism industry representatives of ownership or executive management shall be appointed as follows:
- (i) one member from ownership or executive management of the lodging industry, as recommended by the tourism industry for the governor's consideration;
  - (ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;
  - (iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and
  - (iv) one member from ownership or executive management of a tourism-related transportation provider, as recommended by the tourism industry for the governor's consideration.
- (d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.
- (e) One member shall be appointed from the Utah Tourism Industry Association, as recommended by the association for the governor's consideration.
- (f) One member shall be appointed to represent the state's counties, as recommended by the Utah Association of Counties for the governor's consideration.
- (g) One member shall be appointed from an arts and cultural organization, as recommended by the arts and cultural community for the governor's consideration.
- (h) One member shall be appointed to represent the outdoor recreation industry, as recommended by the outdoor recreation industry for the governor's consideration.
- (i)
- (i) The governor may choose to disregard a recommendation made for the board members described in Subsections (5)(c), (e), and (f) through (h).
  - (ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (5)(i)(i).
- (6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.
- (7) Eight members of the board constitute a quorum for conducting board business and exercising board powers.
- (8) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.
- (9) 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 under Sections 63A-3-106 and 63A-3-107.
- (10) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.
- (11) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.
- (12)
- (a) The board shall determine attendance requirements for maintaining a designated board seat.

- (b) If a board member fails to attend according to the requirements established pursuant to Subsection (12)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.
  - (c) A replacement appointed by the governor under Subsection (12)(b) shall serve for the remainder of the board member's unexpired term.
- (13)
- (a) The board's office shall be in Salt Lake City.
  - (b) The tourism office shall provide staff support to the board.

Repealed and Re-enacted by Chapter 362, 2022 General Session

**63N-7-202 Board duties.**

- (1) The board shall:
- (a) approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the tourism office from:
    - (i) the Tourism Marketing Performance Account created in Section 63N-7-301; and
    - (ii) the Stay Another Day and Bounce Back Account created in Section 63N-2-511;
  - (b) review tourism office programs to coordinate and integrate advertising and branding themes, which may include recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and advantages of the state, to be used in tourism office programs;
  - (c) encourage and assist in coordinating activities of persons, firms, associations, corporations, civic groups, and governmental agencies that are engaged in publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the state;
  - (d) advise the tourism office in establishing a cooperative program using funds from the Tourism Marketing Performance Account created in Section 63N-7-301; and
  - (e) advise the tourism office on the tourism office's planning, policies, and strategies and on trends and opportunities for tourism development that may exist in the various areas of the state.
- (2) The board may:
- (a) solicit and accept contributions of money, services, and facilities from any other sources, whether public or private, and shall use these funds for promoting the general interest of the state in tourism; and
  - (b) establish subcommittees for the purpose of assisting the board in an advisory role.
- (3) The board may not, except as otherwise provided under Subsection (1)(a), make policy related to the management or operation of the tourism office.

Repealed and Re-enacted by Chapter 362, 2022 General Session

**Part 3**  
**Tourism Marketing Performance Account**

***Superseded 1/1/2025***

**63N-7-301 Tourism Marketing Performance Account.**



- (1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.
- (2) The account shall be administered by the tourism office for the purposes listed in Subsections (6) through (8).
- (3)
  - (a) The account shall earn interest.
  - (b) All interest earned on account money shall be deposited into the account.
- (4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.
- (5) The managing director shall use account money appropriated to the tourism office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the tourism office.
- (6)
  - (a) For each fiscal year, the tourism office shall annually allocate 10% of the account money appropriated to the tourism office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.
  - (b) The sports organization shall:
    - (i) provide an annual written report to the tourism office that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and
    - (ii) promote the state and encourage economic growth in the state.
- (7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.
- (8)
  - (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.
  - (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:
    - (i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or
    - (ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year

two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

- (c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than \$3,000,000.
- (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).
- (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
  - (i) 80% of the sales from each business under NAICS Codes:
    - (A) 532111 Passenger Car Rental;
    - (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;
    - (C) 5615 Travel Arrangement and Reservation Services;
    - (D) 7211 Traveler Accommodation; and
    - (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;
  - (ii) 25% of the sales from each business under NAICS Codes:
    - (A) 51213 Motion Picture and Video Exhibition;
    - (B) 532292 Recreational Goods Rental;
    - (C) 711 Performing Arts, Spectator Sports, and Related Industries;
    - (D) 712 Museums, Historical Sites, and Similar Institutions; and
    - (E) 713 Amusement, Gambling, and Recreation Industries;
  - (iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;
  - (iv) 18% of the sales from each business under NAICS Codes:
    - (A) 447 Gasoline Stations; and
    - (B) 81293 Parking Lots and Garages;
  - (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and
  - (vi) 5% of the sales from each business under NAICS Codes:
    - (A) 445 Food and Beverage Stores;
    - (B) 446 Health and Personal Care Stores;
    - (C) 448 Clothing and Clothing Accessories Stores;
    - (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
    - (E) 452 General Merchandise Stores; and
    - (F) 453 Miscellaneous Store Retailers.
- (9)
  - (a) For each fiscal year, the tourism office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (9).
  - (b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of

supplementing money committed by these entities for advertising and promoting sites and events in the state.

- (c) The tourism office shall establish:
  - (i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;
  - (ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and
  - (iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.
- (d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Amended by Chapter 274, 2022 General Session

Amended by Chapter 362, 2022 General Session

Amended by Chapter 362, 2022 General Session, (Coordination Clause)

**Effective 1/1/2025**

**63N-7-301 Tourism Marketing Performance Account.**

- (1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.
- (2) The account shall be administered by the tourism office for the purposes listed in Subsections (6) and (7).
- (3)
  - (a) The account shall earn interest.
  - (b) All interest earned on account money shall be deposited into the account.
- (4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.
- (5) The managing director shall use account money appropriated to the tourism office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the tourism office.
- (6)
  - (a) For each fiscal year, the tourism office shall annually allocate 10% of the account money appropriated to the tourism office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.
  - (b) The sports organization shall:
    - (i) provide an annual written report to the tourism office that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and
    - (ii) promote the state and encourage economic growth in the state.
- (7)
  - (a) For each fiscal year, the tourism office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (7).
  - (b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.
  - (c) The tourism office shall establish:

- (i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;
  - (ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and
  - (iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.
- (d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Amended by Chapter 459, 2023 General Session

## **Chapter 8**

### **Motion Picture Incentives**

#### **63N-8-101 Title -- Purpose.**

- (1) This chapter is known as "Motion Picture Incentives."
- (2) The Legislature finds that:
  - (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety of magnificent settings from which the motion picture industry can choose to film part or all of major or independent motion pictures, made-for-television movies, and television series;
  - (b) the state has an abundance of resources, including a skilled and able workforce, the required infrastructure, and a friendly and hospitable populace that have been instrumental in the filming of hundreds of successful motion pictures and several television series; and
  - (c) further development of the motion picture industry in Utah is a state public purpose that will significantly impact growth in the state's economy and contribute to the fiscal well being of the state and its people.
- (3) The purpose of this chapter is to:
  - (a) encourage the use of Utah as a site for the production of motion pictures, television series, and made-for-television movies;
  - (b) provide financial incentives to the film industry so that Utah might compete successfully with other states and countries for filming locations; and
  - (c) help develop a strong motion picture industry presence in the state that will contribute substantially to improving the state's economy.

Renumbered and Amended by Chapter 283, 2015 General Session

#### **63N-8-102 Definitions.**

As used in this chapter:

- (1) "Digital media company" means a company engaged in the production of a digital media project.
- (2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

- (3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:
- (a) an expenditure that is subject to:
    - (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;
    - (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and
    - (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or
    - (iv) a combination of Subsections (3)(a)(i), (ii), and (iii);
  - (b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and
  - (c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.
- (4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.
- (5) "Motion picture company" means a company engaged in the production of:
- (a) motion pictures;
  - (b) television series; or
  - (c) made-for-television movies.
- (6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.
- (7) "New state revenues" means:
- (a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;
  - (b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:
    - (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
    - (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;
    - (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;
    - (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or
    - (v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);
  - (c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or
  - (d) a combination of Subsections (7)(a), (b), and (c).
- (8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.
- (9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.
- (10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.
- (11) "Rural production" means a state-approved production in which at least 75% of the total number of production days occur within:
- (a) a county of the third, fourth, fifth, or sixth class; or
  - (b) a county of the second class that has a national park within or partially within the county's boundaries.

- (12) "State-approved production" means a production under Subsections (2) and (5) that is:
  - (a) approved by the office and ratified by the GO Utah board; and
  - (b) produced in the state by a motion picture company.
- (13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.
- (14) "Tax credit certificate" means a certificate issued by the office that:
  - (a) lists the name of the applicant;
  - (b) lists the applicant's taxpayer identification number;
  - (c) lists the amount of tax credit that the office awards the applicant for the taxable year; and
  - (d) may include other information as determined by the office.

Amended by Chapter 499, 2023 General Session

**63N-8-103 Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.**

- (1)
  - (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.
  - (b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.
  - (c) The restricted account shall consist of an annual appropriation by the Legislature.
  - (d) The office shall:
    - (i) with the advice of the GO Utah board, administer the restricted account; and
    - (ii) make payments from the restricted account as required under this section.
  - (e) The cost of administering the restricted account shall be paid from money in the restricted account.
- (2)
  - (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).
  - (b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).
  - (c) For a motion picture company, an independent certified public accountant shall:
    - (i) review the incentive request form submitted by the motion picture company; and
    - (ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.
  - (d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

- (e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.
  - (f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).
  - (g) Subject to Subsection (3), for a motion picture company the office shall:
    - (i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and
    - (ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.
  - (h) Subject to Subsection (3), for a digital media company, the office shall:
    - (i) ensure the digital media project results in new state revenues; and
    - (ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.
  - (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).
  - (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:
    - (i) issue a tax credit certificate to the motion picture company or digital media company; and
    - (ii) provide a digital record of the tax credit certificate to the State Tax Commission.
  - (k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).
  - (l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.
  - (m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).
- (3)
- (a) Subject to this Subsection (3), the office may issue \$6,793,700 in tax credit certificates under this part in each fiscal year.
  - (b) For the fiscal year ending June 30, 2022, the office may issue \$8,393,700 in tax credit certificates under this part.
  - (c) For fiscal years 2023 and 2024, in addition to the amount of tax credit certificates authorized under Subsection (3)(a), the office may issue \$12,000,000 in tax credit certificates under this part only for rural productions.
  - (d) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under this Subsection (3), the office may carry over that amount for issuance in subsequent fiscal years.

Amended by Chapter 499, 2023 General Session

**63N-8-104 Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.**

- (1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:
  - (a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and
  - (b) criteria for determining the amount of the incentive.
- (2) The office shall ensure that those standards include the following:
  - (a) an incentive may only be issued for a state-approved production by a motion picture company or digital media company;
  - (b) financing has been obtained and is in place for the production; and
  - (c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.
- (3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.
- (4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.
- (5)
  - (a) The office, with advice from the GO Utah board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.
  - (b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:
    - (i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:
      - (A) employing a significant percentage of cast and crew from Utah;
      - (B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits;or
    - (C) other promotion opportunities as agreed upon by the office and the motion picture company; and
    - (ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.
  - (c) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.
- (6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):
  - (a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;
  - (b) specifies:



- (i) the nature of the incentive; and
- (ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;
- (c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;
- (d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and
- (e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Amended by Chapter 282, 2021 General Session

**63N-8-105 Annual report.**

The office shall include the following information in the annual written report described in Section 63N-1a-306:

- (1) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;
- (2) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; and
- (3) the economic impact on the state related to:
  - (a) dollars left in the state; and
  - (b) providing motion picture incentives under this part.

Amended by Chapter 282, 2021 General Session

**Chapter 13  
Procurement Programs**

**Part 1  
Procurement Assistance**

**63N-13-101 Title -- Projects to assist companies to secure new business with federal, state, and local governments.**

- (1) This chapter is known as "Procurement Programs."
- (2) The Legislature recognizes that:
  - (a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;
  - (b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;
  - (c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;

- (d) the office currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and
  - (e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.
- (3) The office, through its executive director:
- (a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;
  - (b) may require program accountability measures; and
  - (c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:
    - (i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;
    - (ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;
    - (iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the office's APEX accelerator program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and
    - (iv) may include the following components:
      - (A) recruitment, individualized consultation, and an introduction to government contracting;
      - (B) specialized contractor training for companies located in Utah;
      - (C) a Utah contractor matching program for government requirements;
      - (D) experienced proposal and bid support; and
      - (E) specialized support services.
- (4)
- (a) The office, through its executive director, shall make any distribution referred to in Subsection (3) on a semiannual basis.
  - (b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:
    - (i) consultive meetings with Utah companies;
    - (ii) seminars or training meetings held;
    - (iii) government contracts awarded to Utah companies;
    - (iv) increased revenues generated by Utah companies from new government contracts;
    - (v) jobs created;
    - (vi) salary ranges of new jobs; and
    - (vii) the value of contracts generated.

Amended by Chapter 499, 2023 General Session

**Part 3**  
**Facilitating Public-private Partnerships Act**

**63N-13-301 Title.**

This part is known as the "Facilitating Public-Private Partnerships Act."

Enacted by Chapter 446, 2020 General Session

**63N-13-302 Definitions.**

As used in this part:

- (1) "Bonding government entity" means the same as that term is defined in Section 63C-25-101.
- (2) "Concessionaire contract" means the same as that term is defined in Section 63C-25-101.
- (3) "Facilitator" means:
  - (a) the office, if the office chooses to perform itself the functions and responsibilities described in Section 63N-13-304; or
  - (b) a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304, if the office chooses to have those functions and responsibilities performed by a person other than the office.
- (4) "Government entity" means:
  - (a) the state or any department, division, agency, or other instrumentality of the state; or
  - (b) a political subdivision of the state.
- (5) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

Amended by Chapter 91, 2023 General Session

**63N-13-303 Contract with facilitator.**

- (1) If the office chooses to have the functions and responsibilities described in Section 63N-13-304 performed by a person other than the office, the office shall, within legislative appropriations, enter into a contract with a nonprofit entity or government entity, using a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, to act as facilitator.
- (2) Except as provided in Subsection 63H-1-202(9), the office shall ensure that a contract with a person performing the functions and responsibilities of the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

Amended by Chapter 240, 2022 General Session

**63N-13-304 Functions and responsibilities of facilitator.**

- (1) A facilitator shall:
  - (a) be a single point of contact and information on public-private partnerships in the state for:
    - (i) government entities exploring the possibility of filling a public need through a public-private partnership; and
    - (ii) private persons exploring investment opportunities in a public project in the state through a public-private partnership;
  - (b) work throughout the state to identify government entities that may have an interest in seeking to fill a public need through a public-private partnership;

- (c) work to identify private persons who may have an interest in investment opportunities in public projects in the state through a public-private partnership;
  - (d) facilitate the matching of government entities seeking to fill a public need through a public-private partnership with private persons seeking investment opportunities in public projects through a public-private partnership;
  - (e) facilitate and assist with the establishment of public-private partnerships for government entities who request the facilitator's assistance in establishing a public-private partnership;
  - (f) provide a website with information:
    - (i) about the process for pursuing, developing, and implementing a public-private partnership in the state; and
    - (ii) to help government entities and persons seeking investment opportunities through public-private partnerships in the state to understand available public-private partnership opportunities; and
  - (g) through promotional, informational, and other activities, work to help move the state to the forefront throughout the country in the area of private participation in public infrastructure development through public-private partnerships.
- (2) If the office chooses to have the functions and responsibilities described in Subsection (1) performed by a person other than the office, the office shall include in a contract with that person provisions requiring the person to perform the functions and responsibilities described in Subsection (1).
- (3) The office may make recommendations for the Legislature to consider relating to public-private partnerships:
- (a) to enhance the statutory framework for the establishment of public-private partnerships for public infrastructure projects; and
  - (b) with the goal of moving the state to the forefront throughout the country in the area of private participation in public infrastructure development through public-private partnerships.

Amended by Chapter 240, 2022 General Session

**63N-13-305 Office oversight over contract performance of facilitator -- Office reports to Legislature.**

- (1) The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.
- (2) Before November 15 of each year, the office shall provide an annual report to the Economic Development and Workforce Services Interim Committee of the facilitator's activities under this part.

Amended by Chapter 240, 2022 General Session

**63N-13-306 Limits on application of this part -- Concessionaire contract.**

- (1) Nothing in this part:
  - (a) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or
  - (b) limits the ability of a government entity to directly:
    - (i) solicit a public-private partnership; or
    - (ii) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

- (2) A facilitator shall inform a bonding government entity that is contemplating entering into a concessionaire contract that the bonding government entity may not enter into the concessionaire contract unless the bonding government entity first receives approval from the State Finance Review Commission in accordance with Section 63C-25-202.
- (3) A government entity anticipating the possibility of entering into a public-private partnership or a concessionaire contract is encouraged to consult with and take advantage of the expertise of the facilitator as the government entity determines:
  - (a) whether to enter into the public-private partnership or the concessionaire contract; and
  - (b) the best way to structure the public-private partnership or the concessionaire contract.

Amended by Chapter 91, 2023 General Session

## **Chapter 16**

### **Utah Office of Regulatory Relief**

#### **Part 1**

#### **General Provisions**

#### **63N-16-101 Title.**

This chapter is known as the "Utah Office of Regulatory Relief."

Enacted by Chapter 373, 2021 General Session

#### **63N-16-102 Definitions.**

As used in this chapter:

- (1) "Advisory committee" means the General Regulatory Sandbox Program Advisory Committee created in Section 63N-16-104.
- (2) "Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant.
- (3) "Applicant" means a person that applies to participate in the regulatory sandbox.
- (4) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.
- (5) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant.
- (6) "Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox program described in this chapter.
- (7) "Director" means the director of the Utah Office of Regulatory Relief created in Section 63N-16-103.
- (8) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
- (9) "Financial product or service" means:

- (a) a financial product or financial service that requires state licensure or registration; or
  - (b) a financial product, financial service, or banking business that includes a business model, delivery mechanism, offering of deposit accounts, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related provisions.
- (10) "Innovation" means the use or incorporation of a new or existing idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, production method, or service.
- (11) "Insurance product or service" means an insurance product or insurance service that requires state licensure, registration, or other authorization as regulated by Title 31A, Insurance Code, including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do an insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by Title 31A, Insurance Code.
- (12)
- (a) "Offering" means a product, production method, or service, including a financial product or service or an insurance product or service, that includes an innovation.
  - (b) "Offering" does not include a product, production method, or service that is governed by Title 61, Chapter 1, Utah Uniform Securities Act.
- (13) "Product" means a commercially distributed good that is:
- (a) tangible personal property;
  - (b) the result of a production process; and
  - (c) passed through the distribution channel before consumption.
- (14) "Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.
- (15) "Regulatory relief office" means the Utah Office of Regulatory Relief created in Section 63N-16-103.
- (16) "Regulatory sandbox" means the General Regulatory Sandbox Program created in Section 63N-16-201, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.
- (17) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.
- (18) "Service" means any commercial activity, duty, or labor performed for another person.

Amended by Chapter 332, 2022 General Session

**63N-16-103 Creation of regulatory relief office and appointment of director --  
Responsibilities of regulatory relief office.**

- (1) There is created within the Governor's Office of Economic Opportunity the Utah Office of Regulatory Relief.
- (2)
- (a) The regulatory relief office shall be administered by a director.
  - (b) The director shall report to the executive director and may appoint staff subject to the approval of the executive director.
- (3) The regulatory relief office shall:
- (a) administer the provisions of this chapter;
  - (b) administer the regulatory sandbox program; and

- (c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program.
- (4) The regulatory relief office may:
  - (a) review state laws and regulations that may unnecessarily inhibit the creation and success of new companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;
  - (b) create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;
  - (c) propose potential reciprocity agreements between states that use or are proposing to use similar regulatory sandbox programs as described in this chapter; and
  - (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:
    - (i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and
    - (ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Amended by Chapter 332, 2022 General Session

**63N-16-104 Creation and duties of advisory committee.**

- (1) There is created the General Regulatory Sandbox Program Advisory Committee.
- (2) The advisory committee shall have 11 members as follows:
  - (a) six members appointed by the director who represent businesses interests and are selected from a variety of industry clusters;
  - (b) three members appointed by the director who represent state agencies that regulate businesses;
  - (c) one member of the Senate, appointed by the president of the Senate; and
  - (d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.
- (3)
  - (a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four-year term.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.
- (4) The director shall select a chair of the advisory committee on an annual basis.
- (5) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.
- (6) The advisory committee shall advise and make recommendations to the regulatory relief office as described in this chapter.
- (7) The regulatory relief office shall provide administrative staff support for the advisory committee.
- (8)
  - (a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:

- (i) Sections 63A-3-106 and 63A-3-107; and
- (ii) rules made by the Division of Finance pursuant 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.

Amended by Chapter 332, 2022 General Session

**63N-16-105 Annual Report.**

- (1) The executive director shall include in the annual report described in Section 63N-1a-306 a written report from the director on the activities of the regulatory relief office, which report shall include:
  - (a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;
  - (b) recommendations regarding any laws or regulations that should be permanently modified;
  - (c) information regarding outcomes for consumers; and
  - (d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office.
- (2) By October 1 of each year, the executive director shall provide the written report from the director on the activities of the regulatory relief office described in Subsection (1) to the Business and Labor Interim Committee.

Enacted by Chapter 373, 2021 General Session

**Part 2**  
**General Regulatory Sandbox Program**

**63N-16-201 General Regulatory Sandbox Program -- Application requirements.**

- (1) There is created in the regulatory relief office the General Regulatory Sandbox Program.
- (2) In administering the regulatory sandbox, the regulatory relief office:
  - (a) shall consult with each applicable agency;
  - (b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an offering without obtaining a license or other authorization that might otherwise be required;
  - (c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and
  - (d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.
- (3)
  - (a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.
  - (b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program.
  - (c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.



- (4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:
  - (a) confirms the applicant is subject to the jurisdiction of the state;
  - (b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an offering will be developed and performed and where all required records, documents, and data will be maintained;
  - (c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;
  - (d) discloses criminal convictions of the applicant or other participating personnel, if any;
  - (e) contains a description of the offering to be demonstrated, including statements regarding:
    - (i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;
    - (ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;
    - (iii) how the offering would benefit consumers;
    - (iv) how the offering is different from other offerings available in the state;
    - (v) what risks might exist for consumers who use or purchase the offering;
    - (vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;
    - (vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;
    - (viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and
    - (ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;
  - (f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and
  - (g) provides any other required information as determined by the regulatory relief office.
- (5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.
- (6) An applicant shall file a separate application for each offering that the applicant wishes to demonstrate.
- (7) After an application is filed, the regulatory relief office shall:
  - (a) classify, as a protected record, any part of the application that the office determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant in accordance with Subsection 63G-2-305(83);
  - (b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and
  - (c) seek additional information from the applicant that the regulatory relief office determines is necessary.
- (8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:
  - (a) review the application and refer the application to each applicable government agency that regulates the applicant's business;
  - (b) provide to the applicant:
    - (i) an acknowledgment of receipt of the application; and

- (ii) the identity and contact information of each regulatory agency to which the application has been referred for review; and
  - (c) provide public notice, on the office's website and through other appropriate means, of each law or regulation that the office is considering to suspend or waive under the application.
- (9)
- (a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.
  - (b) The report shall:
    - (i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and
    - (ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.
  - (c)
    - (i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.
    - (ii) The applicable agency may only request one extension per application.
  - (d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.
  - (e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.
  - (f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.
  - (g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:
    - (i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:
      - (A) required by federal law or regulation; or
      - (B) previously approved for use by a federal agency; or
    - (ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:
      - (A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and
      - (B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.
  - (h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10)

- (a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.
- (b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.
- (c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.
- (d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11)

- (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.
- (b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:
  - (i) the applicable agency has previously issued a license or other authorization to the applicant; and
  - (ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

- (a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;
- (b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and
- (c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14)

- (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.
- (b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15)

- (a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

- (b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.
- (c) The denial of an application submitted under this section is not subject to:
  - (i) agency or judicial review; or
  - (ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
- (16) The director shall deny an application for participation in the regulatory sandbox described by this section if the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.
- (17)
  - (a) When an applicant is approved for participation in the regulatory sandbox, the director shall provide public notice of the approval on the office's website and through other appropriate means.
  - (b) The public notice described in Subsection (17)(a) shall state:
    - (i) the name of the sandbox participant;
    - (ii) the industries the sandbox participant represents; and
    - (iii) each law or regulation that is suspended or waived for the sandbox participant as allowed by the regulatory sandbox.
- (18) In addition to the information described in Subsection (17), the office shall make the following information available on the office's website and through other appropriate means:
  - (a) documentation regarding the office's determination and grounds for approving each sandbox participant; and
  - (b) public notice regarding any sandbox participant's revocation to participate in the regulatory sandbox.

Amended by Chapter 332, 2022 General Session

**63N-16-202 Scope of the regulatory sandbox.**

- (1) If the regulatory relief office approves an application under this part, the sandbox participant has 12 months after the day on which the application was approved to demonstrate the offering described in the sandbox participant's application.
- (2) An offering that is demonstrated within the regulatory sandbox is subject to the following:
  - (a) each consumer shall be a resident of the state; and
  - (b) no law or regulation may be waived or suspended if waiving or suspending the law or regulation would prevent a consumer from seeking restitution in the event that the consumer is harmed.
- (3) This part does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.
- (4) A sandbox participant is deemed to possess an appropriate license or other authorization under the laws of the state for the purposes of any provision of federal law requiring licensure or other authorization by the state.
- (5) Subject to Subsection (6):
  - (a) during the demonstration period, a sandbox participant is not subject to the enforcement of state laws or regulations identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14);

- (b) a prosecutor may not file or pursue charges pertaining to a law or regulation identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14) that occurs during the demonstration period; and
- (c) a state agency may not file or pursue any punitive action against a sandbox participant, including a fine or license suspension or revocation, for the violation of a law or regulation that:
  - (i) is identified as being waived or suspended in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14); and
  - (ii) occurs during the demonstration period.
- (6) Notwithstanding any other provision of this part:
  - (a) a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox; and
  - (b) a sandbox participant that provides an offering that is a financial product or service shall comply with all applicable federal laws and regulations governing consumer protection.
- (7) By written notice, the regulatory relief office may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the director determines that a sandbox participant is not operating in good faith to bring an offering to market.
- (8) The regulatory relief office and the regulatory relief office's employees are not liable for any business losses or the recouping of application expenses or other expenses related to the regulatory sandbox, including for:
  - (a) denying an applicant's application to participate in the regulatory sandbox for any reason; or
  - (b) ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.

Amended by Chapter 332, 2022 General Session

**63N-16-203 Consumer protection for regulatory sandbox.**

- (1) Before demonstrating an offering to a consumer, a sandbox participant shall disclose the following to the consumer:
  - (a) the name and contact information of the sandbox participant;
  - (b) that the offering is authorized pursuant to the regulatory sandbox and, if applicable, that the sandbox participant does not have a license or other authorization to provide an offering under state laws that regulate offerings outside of the regulatory sandbox;
  - (c) that the offering is undergoing testing and may not function as intended and may expose the consumer to certain risks as identified by the applicable agency's written report;
  - (d) that the provider of the offering is not immune from civil liability for any losses or damages caused by the offering;
  - (e) that the provider of the offering is not immune from criminal prosecution for violations of state law or regulations that are not suspended or waived as allowed by the regulatory sandbox;
  - (f) that the offering is a temporary demonstration that may be discontinued at the end of the demonstration period;
  - (g) the expected end date of the demonstration period; and
  - (h) that a consumer may contact the regulatory relief office and file a complaint regarding the offering being demonstrated and provide the regulatory relief office's telephone number and website address where a complaint may be filed.
- (2) The disclosures required by Subsection (1) shall be provided to a consumer in a clear and conspicuous form and, for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure before any transaction may be completed.

- (3) The regulatory relief office may require that a sandbox participant make additional disclosures to a consumer.

Enacted by Chapter 373, 2021 General Session

**63N-16-204 Requirements for exiting regulatory sandbox.**

- (1) At least 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant shall:
  - (a) notify the regulatory relief office that the sandbox participant will exit the regulatory sandbox and discontinue the sandbox participant's demonstration after the day on which the 12-month demonstration period ends; or
  - (b) seek an extension in accordance with Section 63N-16-205.
- (2) Subject to Subsection (3), if the regulatory relief office does not receive notification as required by Subsection (1), the regulatory sandbox demonstration period ends at the end of the 12-month testing period.
- (3) If a demonstration includes an offering that requires ongoing duties, the sandbox participant may continue to do so but will be subject to enforcement of the laws or regulations that were waived or suspended as part of the regulatory sandbox.

Enacted by Chapter 373, 2021 General Session

**63N-16-205 Extensions.**

- (1) Not later than 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant may request an extension of the regulatory sandbox demonstration period.
- (2) The regulatory relief office shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 12-month regulatory sandbox testing period.
- (3) The regulatory relief office may grant an extension in accordance with this section for not more than 12 months after the end of the regulatory sandbox demonstration period.

Enacted by Chapter 373, 2021 General Session

**63N-16-206 Record keeping and reporting requirements.**

- (1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an offering demonstrated in the regulatory sandbox.
- (2) If a sandbox participant ceases to provide an offering before the end of a demonstration period, the sandbox participant shall notify the regulatory relief office and each applicable agency and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result.
- (3) The regulatory relief office shall establish quarterly reporting requirements for a sandbox participant, including information about any consumer complaints.
- (4) The regulatory relief office may request records, documents, and data from a sandbox participant and, upon the regulatory relief office's request, the sandbox participant shall make such records, documents, and data available for inspection by the regulatory relief office.
- (5)
  - (a) The sandbox participant shall notify the regulatory relief office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

- (b) If a sandbox participant fails to notify the regulatory relief office and each applicable agency of any incidents as described in Subsection (5)(a), or the regulatory relief office or an applicable agency has evidence that significant harm to a consumer has occurred, the regulatory relief office may immediately remove the sandbox participant from the regulatory sandbox.
- (6)
  - (a) No later than 30 days after the day on which a sandbox participant exits the regulatory sandbox, the sandbox participant shall submit a written report to the regulatory relief office and each applicable agency describing an overview of the sandbox participant's demonstration, including any:
    - (i) incidents of harm to consumers;
    - (ii) legal action filed against the participant as a result of the participant's demonstration; and
    - (iii) complaints filed with an applicable agency as a result of the participant's demonstration.
  - (b) No later than 30 days after the day on which an applicable agency receives the quarterly reporting described in Subsection (3) or a written report from a sandbox participant as described in Subsection (6)(a), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.
- (7) The regulatory relief office may remove a sandbox participant from the regulatory sandbox at any time if the regulatory relief office determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a law or regulation for which suspension or waiver has not been granted.

Amended by Chapter 332, 2022 General Session

### **Part 3 Regulatory Relief Web Page**

#### **63N-16-301 Regulatory relief web page.**

- (1) The regulatory relief office shall create and maintain on the GO Utah office's website a web page that invites residents and businesses in the state to make suggestions regarding laws and regulations that could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state.
- (2) On at least a quarterly basis, the regulatory relief office shall compile the results of suggestions from the web page and provide a written report to the governor, the Business and Labor Interim Committee, and the Economic Development and Workforce Services Interim Committee that describes the most common suggestions.
- (3) In creating the report described in Subsection (2), the regulatory relief office and the advisory committee:
  - (a) shall ensure that private information of residents and businesses that make suggestions on the web page is not made public; and
  - (b) may evaluate the suggestions and provide analysis and suggestions regarding which state laws and regulations could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state while still protecting consumers.

Enacted by Chapter 373, 2021 General Session

## **Part 4**

### **Noncustodial Blockchain Registry**

#### **63N-16-401 Definitions.**

- (1) "Blockchain company" means an entity that uses blockchain technology to facilitate financial transactions between users.
- (2) "Noncustodial blockchain company" means a blockchain company that does not have possession or control of a user's private key.
- (3) "Private key" means the same as that term is defined in Section 13-62-101.
- (4) "Registry" means the Noncustodial Blockchain Registry described in Section 63N-16-402.
- (5) "User" means a person who engages in a financial transaction through a blockchain company.

Enacted by Chapter 77, 2023 General Session

#### **63N-16-402 Noncustodial Blockchain Registry -- Contents -- Rulemaking.**

- (1) The regulatory relief office shall maintain a Noncustodial Blockchain Registry that lists noncustodial blockchain companies conducting business in the state.
- (2) For each registered noncustodial blockchain company, the regulatory relief office shall include on the registry:
  - (a) the name of the noncustodial blockchain company; and
  - (b) the noncustodial blockchain company's authorized agents in the state, if any.
- (3) The regulatory relief office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the registry.

Enacted by Chapter 77, 2023 General Session

#### **63N-16-403 Registry application -- Certificate -- Renewal -- Removal -- Notice.**

- (1)
  - (a) Subject to Subsection (1)(b), an applicant for placement on the registry shall provide to the regulatory relief office:
    - (i) an application in a form prescribed by the regulatory relief office; and
    - (ii) a fee established by the regulatory relief office in accordance with Section 63J-1-504.
  - (b) The application shall include:
    - (i) a place for the name of the applicant, including any trade name used by the applicant in the conduct of the applicant's business;
    - (ii) a place for a description of the activities conducted by the applicant in the state;
    - (iii) a place for the applicant to list the applicant's:
      - (A) authorized agents in the state, if any; and
      - (B) website URL;
    - (iv) a description of general noncustodial blockchain company activities;
    - (v) a place for the applicant to acknowledge that the applicant is a noncustodial blockchain company; and
    - (vi) a statement notifying the applicant that the applicant may be removed from the registry if the applicant:
      - (A) ceases to operate as a noncustodial blockchain company; or



- (B) engages in unlawful activity.
- (2)
  - (a) Upon receipt of the application and fee described in Subsection (1), the regulatory relief office shall:
    - (i) place the applicant on the registry; and
    - (ii) issue a certificate of registration to the applicant.
  - (b) A noncustodial blockchain company's registration expires one year after the day on which the noncustodial blockchain company is placed on the registry.
  - (c) A noncustodial blockchain company may renew the noncustodial blockchain company's registration by providing to the regulatory relief office:
    - (i) a renewal application in a form prescribed by the regulatory relief office; and
    - (ii) a renewal fee established by the regulatory relief office in accordance with Section 63J-1-504.
- (3) A registered noncustodial blockchain company:
  - (a) shall immediately provide written notice to the regulatory relief office upon ceasing to operate as a noncustodial blockchain company; and
  - (b) may request removal from the registry in writing.
- (4) The regulatory relief office shall remove a registered noncustodial blockchain company from the registry if:
  - (a) the noncustodial blockchain company's registration expires without renewal;
  - (b) the noncustodial blockchain company provides the notice or request described in Subsection (3); or
  - (c) the regulatory relief office knows or has reason to know the noncustodial blockchain company is engaging in unlawful activity.

Enacted by Chapter 77, 2023 General Session

## **Chapter 17**

### **Utah Broadband Center and Access Act**

#### **Part 1**

#### **General Provisions**

#### **63N-17-101 Title.**

This chapter is known as the "Utah Broadband Center and Access Act."

Enacted by Chapter 282, 2021 General Session

#### **63N-17-102 Definitions.**

As used in this chapter:

- (1) "Broadband center" means the Utah Broadband Center created in Section 63N-17-201.
- (2) "Eligible applicant" means:
  - (a) a telecommunications provider or an Internet service provider;

- (b) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or
- (c) a tribal government.
- (3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.
- (4) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.
- (5) "Unserved area" means an area of the state that is rural and unserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

Enacted by Chapter 282, 2021 General Session

## **Part 2 Utah Broadband Center**

### **63N-17-201 Utah Broadband Center -- Creation -- Director -- Duties.**

- (1) There is created within the office the Utah Broadband Center.
- (2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.
- (3) The broadband center shall:
  - (a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;
  - (b) develop the statewide digital connectivity plan described in Section 63N-17-203;
  - (c) carry out the duties described in Section 63N-17-202; and
  - (d) administer the Broadband Access Grant Program in accordance with Part 3, Broadband Access Grant Program.
  - (e) The broadband center shall ensure efficiency with respect to:
    - (i) expenditure of funds; and
    - (ii) avoiding duplication of efforts.
  - (f) The broadband center shall consider administering broadband infrastructure funds in a manner that:
    - (i) efficiently maximizes the leverage of federal funding;
    - (ii) avoids the use of public funds for broadband facilities that duplicate existing broadband facilities that already meet or exceed federal standards; and
    - (iii) accounts for the benefits and costs to the state of existing facilities, equipment, and services of public and private broadband providers.

Amended by Chapter 458, 2022 General Session

### **63N-17-202 Infrastructure and broadband coordination.**

- (1) The broadband center shall partner with the Utah Geospatial Resource Center created in Section 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:
  - (a) voluntarily submitted broadband availability, speeds, and other broadband data;
  - (b) voluntarily submitted public utility data;
  - (c) workforce data, including information regarding:
    - (i) enterprise zones designated under Section 63N-2-206;
    - (ii) public institutions of higher education; and
    - (iii) APEX accelerators;
  - (d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;
  - (e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and
  - (f) other relevant economic development data as determined by the office, including data provided by partner organizations.
- (2) The broadband center may:
  - (a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;
  - (b) facilitate coordination between broadband providers and public and private entities;
  - (c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;
  - (d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;
  - (e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and
  - (f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:
    - (i) apply for federal grants;
    - (ii) participate in federal programs; and
    - (iii) administer federally funded broadband-related programs.

Amended by Chapter 499, 2023 General Session

**63N-17-203 Statewide digital connectivity plan.**

- (1) As used in this section:
  - (a) "Commission" means the Utah Broadband Center Advisory Commission created in Section 36-29-109.
  - (b) "Strategic plan" means the statewide digital connectivity plan created in Subsection (2).
- (2) The center shall develop the statewide digital connectivity plan.
- (3) The strategic plan shall include strategies to:
  - (a) implement broadband connectivity statewide;
  - (b) promote digital equity;
  - (c) apply for federal infrastructure funds; and

- (d) apply for additional funds.
- (4) In developing the strategic plan, the center shall work with the commission.
- (5) The center shall provide the commission with status updates regarding:
  - (a) implementation of the commission's recommendations;
  - (b) recommendations the center has received from the Transportation Commission, created in Section 72-1-301;
  - (c) strategic plan development;
  - (d) strategic plan implementation;
  - (e) grants received;
  - (f) projects funded; and
  - (g) recommendations for legislation.
- (6) The center shall submit the strategic plan to the commission for the commission's recommendation before finalizing the strategic plan.
- (7) On or before November 30 of each year, the center shall report to the commission and the Public Utilities, Energy, and Technology Interim Committee regarding the status updates described in Subsection (5).

Enacted by Chapter 458, 2022 General Session

### **Part 3**

## **Broadband Access Grant Program**

#### **63N-17-301 Creation of Broadband Access Grant Program.**

- (1) There is established a grant program known as the Broadband Access Grant Program that is administered by the broadband center in accordance with this part.
- (2)
  - (a) The broadband center may award a grant under this part to an eligible applicant who submits to the broadband center an application that includes a proposed project to extend broadband service to individuals and businesses in an unserved area or an underserved area by providing last-mile connections to end users.
  - (b) Subsection (2)(a) does not prohibit the broadband center from awarding a grant for a proposed project that also includes middle-mile elements that are necessary for the last-mile connections.
- (3) In awarding grants under this part, the broadband center shall:
  - (a) based on the following criteria and in the order provided, prioritize proposed projects:
    - (i) located in unserved areas;
    - (ii) located in underserved areas;
    - (iii)
      - (A) that the eligible applicant developed after meaningful engagement with the impacted community to identify the community's needs and innovative means of providing a public benefit that addresses the community's needs; and
      - (B) that include, as a component of the proposed project, a long-term public benefit to the impacted community developed in response to the eligible applicant's engagement with the community;
    - (iv) located in an economically distressed area of the state, as measured by indices of unemployment, poverty, or population loss;

- (v) that make the greatest investment in last-mile connections;
  - (vi) that provide higher speed broadband access to end users; and
  - (vii) for which the eligible applicant provides at least 25% of the money needed for the proposed project, with higher priority to proposed projects for which the eligible applicant provides a greater percentage of the money needed for the proposed project; and
- (b) consider the impact of available funding for the proposed project from other sources, including money from matching federal grant programs.
- (4) The broadband center may not award a grant under this part that exceeds \$7,500,000.
- (5) For a project that the eligible applicant cannot complete in a single fiscal year, the broadband center may distribute grant proceeds for the project over the course of the project's construction.
- (6) In awarding grants under this part, the broadband center shall ensure that grant funds are not used in a manner that causes competition among projects that are substantially supported by state funds, as determined in accordance with rule made by the broadband center.
- (7) As provided in and subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, a record submitted to the broadband center that contains a trade secret or confidential commercial information described in Subsection 63G-2-305(2) is a protected record.

Enacted by Chapter 282, 2021 General Session

**63N-17-302 Duties of the broadband center.**

- (1) The broadband center shall:
- (a) establish an application process by which an eligible applicant may apply for a grant under this part, which application shall include:
    - (i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and
    - (ii) an acknowledgment that the eligible applicant is subject to audit;
  - (b) establish a method for the broadband center to determine which eligible applicants qualify to receive a grant;
  - (c) establish a formula to award grant funds; and
  - (d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.
- (2) Subject to appropriation, the broadband center shall:
- (a) collect applications for grant funds from eligible applicants;
  - (b) determine which applicants qualify for receiving a grant; and
  - (c) award the grant funds in accordance with the process established under Subsection (1) and in accordance with Section 63N-17-301.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the broadband center may make rules to administer the grant program.

Enacted by Chapter 282, 2021 General Session

**Chapter 18**  
**Utah Center for Immigration and Integration**

## **Part 1 General Provisions**

### **63N-18-102 Definitions.**

As used in this chapter:

- (1) "Center" means the Utah Center for Immigration and Integration created in Section 63N-18-201.
- (2) "Foreign labor" means one or more individuals from a nation other than the United States who are eligible to participate in visa programs established by the federal government to work in the state.
- (3) "Foreign labor program" means a program established by the United States Department of Labor to bring eligible foreign individuals to the United States for employment opportunities.
- (4) "Immigrant integration" means a dynamic two-way process in which immigrant communities and host communities work together to build a cohesive and vibrant society that has respect for unique cultural differences.

Amended by Chapter 499, 2023 General Session

## **Part 2 Utah Center for Immigration and Integration**

### **63N-18-201 Creation of the Utah Center for Immigration and Integration -- Responsibilities of the center.**

- (1) There is created within the Governor's Office of Economic Opportunity the Utah Center for Immigration and Integration.
- (2) The center shall:
  - (a) assist individuals and businesses in the state with identifying pathways for recruiting and retaining foreign labor;
  - (b) coordinate with state agencies in developing and administering policies and programs related to immigrant integration;
  - (c) develop and implement a statewide strategy for immigrant integration that promotes economic opportunities for immigrant communities in the state;
  - (d) create and convene a task force to review and make recommendations regarding the state's policies on immigrant integration;
  - (e) develop sustainable partnerships with local officials, the business sector, and community organizations serving immigrant communities in the state; and
  - (f) advise and make recommendations to the governor, state agencies, and the Legislature regarding immigrant integration and foreign labor issues.
- (3) The center may not encourage a business to bypass state residents for the business's workforce needs.
- (4) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out the center's responsibilities under this chapter.

Renumbered and Amended by Chapter 499, 2023 General Session

**63N-18-202 Annual report.**

The office shall include in the annual written report described in Section 63N-1a-306, a report of the center's operations, including:

- (1) a description of the center's activities regarding immigrant integration;
- (2) the number of businesses that received assistance in utilizing foreign labor programs;
- (3) the number of employment-based immigration visas issued for individuals to secure employment opportunities in the state, including the primary employers associated with the visas; and
- (4) recommendations regarding:
  - (a) changes that would improve the center; and
  - (b) the task force described in Subsection 63N-18-201(2)(d).

Renumbered and Amended by Chapter 499, 2023 General Session

**Chapter 19**  
**Center for International Business and Diplomacy**

**63N-19-101 Definitions.**

As used in this chapter, "center" means the Center for International Business and Diplomacy created in Section 63N-19-103.

Enacted by Chapter 362, 2022 General Session

**63N-19-102 Purpose.**

The Legislature finds and declares that fostering and developing international economic and diplomatic opportunities is a state public purpose necessary to assure the welfare of Utah's citizens, the growth of Utah's economy, and adequate employment for Utah's citizens.

Enacted by Chapter 362, 2022 General Session

**63N-19-103 Creation of Center for International Business and Diplomacy -- Duties -- Rulemaking.**

- (1) There is created within the office the Center for International Business and Diplomacy.
- (2) The center shall:
  - (a) foster and support efforts to enhance international economic and diplomatic opportunities in the state;
  - (b) provide outreach and information to businesses that could benefit from international partnerships and business opportunities;
  - (c) coordinate with the Legislature to accommodate diplomatic visits to the state; and
  - (d) enter into agreements with appropriate public and private sector entities, individuals, and institutions to support the center's diplomacy efforts.
- (3) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the center's responsibilities under this chapter.

Enacted by Chapter 362, 2022 General Session

**63N-19-104 Annual report.**

The center shall include in the annual written report described in Section 63N-1a-306, a report of the center's operations, including:

- (1) the number of businesses that received assistance in utilizing international services;
- (2) a description of diplomatic visits to the state; and
- (3) recommendations regarding changes that would improve the center.

Enacted by Chapter 362, 2022 General Session

**Chapter 20  
Upstart**

**63N-20-101 Definitions.**

As used in this part:

- (1) "Contractor" means the educational technology provider that the Governor's Office of Economic Opportunity selects under Section 63N-20-102.
- (2) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- (3) "Preschool child" means a child who is:
  - (a) four or five years old; and
  - (b) not eligible for enrollment under Subsection 53G-4-402(8).
- (4)
  - (a) "Private preschool provider" means a child care program that:
    - (i)
      - (A) is licensed under Title 26B, Chapter 2, Part 4, Child Care Licensing or, except as provided in Subsection (4)(b), is exempt from licensure under Section 26B-2-405; and
      - (B) meets other criteria as established by the office, consistent with Utah Constitution, Article X, Section 1; or
    - (ii) is a residential certificate provider described in Section 26B-2-404.
  - (b) "Private preschool provider" does not include a program exempt from licensure under Subsection 26B-2-405(2)(c).
- (5) "Public preschool" means a preschool program that is provided by a school district, a charter school, or the Head Start program.
- (6) "State board" means the State Board of Education.
- (7) "UPSTART" means the statewide program created in Section 63N-20-102 that uses a home-based educational technology program and parent engagement to develop school readiness skills of preschool children.

Amended by Chapter 252, 2023 General Session

Amended by Chapter 328, 2023 General Session

Renumbered and Amended by Chapter 380, 2023 General Session

**63N-20-102 UPSTART program to develop school readiness skills of preschool children.**



- (1) UPSTART, a statewide program that uses a home-based educational technology program and parent engagement to develop school readiness skills of preschool children, is established within the public education system.
- (2) UPSTART is created to:
  - (a) provide preschool children across the state access to a home-based educational technology program with strong parental involvement;
  - (b) develop the school readiness of preschool children across the state; and
  - (c) deliver curriculum in reading, math, and science to preschool children across the state.
- (3)
  - (a) The office shall contract with an educational technology provider, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).
  - (b) The office shall assume the rights and duties of the state board in any contract into which the state board entered with a contractor that exists on May 3, 2023:
    - (i) to ensure continuity of the UPSTART program; and
    - (ii) until the office secures a contract with a contractor in accordance with Subsection (3)(a).
  - (c) Every five years, the office may issue a new competitive procurement to meet the requirements described in this section.
- (4) The office shall ensure that a home-based educational technology program for preschool children meets the following standards:
  - (a) the contractor shall have:
    - (i) at least three years of experience in implementing a home-based educational technology program for preschool children; and
    - (ii) a randomized controlled trial and other external evaluations that support the efficacy of the home-based educational technology program for preschool children;
  - (b) the contractor shall provide individualized software instruction for preschool children in the home;
  - (c) the contractor shall:
    - (i) provide technical support to families for the installation and operation of the instructional software; and
    - (ii) provide for the installation of a computer, a tablet, or other electronic or peripheral equipment, and Internet access:
      - (A) in homes of participants who are eligible to receive free or reduced lunch; and
      - (B) for participating private preschool providers, including residential certificate providers, based upon need;
  - (d) the contractor shall have the capability of doing the following through the Internet:
    - (i) communicating with parents;
    - (ii) updating the instructional software;
    - (iii) validating user access;
    - (iv) collecting usage data;
    - (v) storing research data; and
    - (vi) producing reports for parents, schools, and the Legislature;
  - (e) the program shall include the following components:
    - (i) individualized software instruction in reading, mathematics, and science that:
      - (A) aligns with the Utah core standards for preschool that the state board adopts;
      - (B) aligns with Head Start Early Learning Outcomes Framework implemented in accordance with the Head Start Act, 42 U.S.C. Sec. 9801 et seq.;
      - (C) the Council of Administrators of Special Education endorses; and

- (D) meets the United States Department of Education benchmarks for evidence-based programs;
- (ii) a multisensory reading tutoring program; and
- (iii) a validated adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;
- (f) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product; and
- (g) the contractor shall work in cooperation with public preschool or private preschool provider personnel who will provide administrative and technical support of the program as provided in Section 63N-20-103;
- (h) the contractor shall implement the program throughout the state in both urban and rural areas as provided in Section 63N-20-104;
- (i) in implementing the home-based educational technology program, the contractor shall seek the advice and expertise from early childhood education professionals and stakeholders, including the Utah System of Higher Education, the state board, public and private preschool providers, local school board members, teachers, and parents on issues such as:
  - (i) soliciting families to participate in the program as provided in Section 63N-20-104;
  - (ii) providing training to families; and
  - (iii) motivating families to regularly use the instructional software.
- (5) The contract shall provide funding for a home-based educational technology program for preschool children, subject to the appropriation of money by the Legislature for UPSTART.
- (6) The office shall evaluate a proposal based only upon the following criteria:
  - (a) whether the home-based educational technology program meets the standards specified in Subsection (4) and Section 63N-20-104;
  - (b) audit and evaluation results under Section 63N-20-106, if:
    - (i) the office has previously awarded a contract to the home-based educational technology program provider under this part; or
    - (ii) the state board has previously awarded a contract to the home-based educational technology program provider for UPSTART;
  - (c) the results of an independent evaluation of the home-based educational technology program;
  - (d) the per pupil cost of the home-based educational technology program;
  - (e) any of the following specifically related to a criterion described in Subsections (6)(a) through (d):
    - (i) the experience of the home-based educational technology provider;
    - (ii) the demonstrated abilities of the home-based educational technology provider;
    - (iii) the general functionality of the home-based educational technology provider;
    - (iv) the implementation of the home-based educational technology provider; and
    - (v) the applicant's interview; and
- (7) In evaluating a competitive procurement under Subsection (6), the office may not subdivide a standard or criteria described in Subsection (4) or (6), including an item related to cost, to require information not required under this chapter.

Renumbered and Amended by Chapter 380, 2023 General Session

**63N-20-103 School district participation in UPSTART.**

- (1) A school district shall ensure that UPSTART is available to all schools within the school district.

- (2) A public or a private preschool provider may participate in UPSTART if the public or private preschool provider agrees to work in cooperation with the contractor to provide administrative and technical support for UPSTART.
- (3) Each local school board or public or private provider participating in UPSTART may enter into an agreement with a contractor to:
  - (a) dictate targets for program usage and terms for failure to meet those targets;
  - (b) determine data sharing terms; and
  - (c) agree to other reasonable terms required for successful implementation.

Renumbered and Amended by Chapter 380, 2023 General Session

**63N-20-104 Family participation in UPSTART -- Priority enrollment.**

- (1) The contractor shall, in partnership with the office,
  - solicit families to participate in UPSTART through a public information campaign, outreach programs, and referrals from local school districts, and participating preschool providers.
- (2) For purposes of Subsection (1), to the extent allowed by federal and state privacy laws, the Department of Workforce Services shall:
  - (a) identify preschool children and families across the state who may benefit from UPSTART; and
  - (b) provide information regarding UPSTART participation to the identified families.
- (3)
  - (a) In a contract entered into with an educational technology provider as described in Section 63N-20-102, the office shall require the provider to prioritize enrollment of participants based on a first come, first served basis.
  - (b) The contractor shall annually provide participant information to the office as part of the verification process.
  - (c) A participant may obtain a computer, a tablet, or other electronic or peripheral equipment on loan and receive free Internet service for the duration of the participant's participation in UPSTART if the participant:
    - (i) is eligible to receive free or reduced lunch; and
    - (ii) the participant participates in UPSTART at home.
- (4) In a contract with an educational technology provider as described in Section 63N-20-102, the office shall determine the cost of UPSTART based on the following:
  - (a) a defined recruitment plan to solicit families to participate in UPSTART, including through a public information campaign and referrals that prioritize participants who:
    - (i) are eligible for child care subsidies under the Child Care and Development Block Grant program, 42 U.S.C. Secs. 9857-9858r;
    - (ii) are eligible for a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or
    - (iii) meet other criteria based on state need as the office establishes;
  - (b) adaptive software;
  - (c) parent engagement and resources;
  - (d) validated assessment;
  - (e) educational technology, including a computer, a tablet, or other electronic or peripheral equipment, and Internet for eligible participants; and
  - (f) reporting for stakeholders, including parents, schools, and the Legislature.
- (5) A preschool child may only participate in UPSTART through legislative funding once.

Renumbered and Amended by Chapter 380, 2023 General Session

**63N-20-106 Audit and evaluation.**

- (1) The state auditor shall every three years:
  - (a) conduct an audit of the contractor's use of funds for UPSTART; or
  - (b) contract with an independent certified public accountant to conduct an audit.
- (2) The office shall:
  - (a) require the contractor to open the contractor's books and records relating to the contractor's expenditure of funds to the state auditor or the state auditor's designee;
  - (b) reimburse the state auditor for the actual and necessary costs of the audit; and
  - (c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program.
- (3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section 53G-7-203 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section 63N-20-102.
- (4) Of the money appropriated by the Legislature for UPSTART, no more than 7.5% of the appropriation not to exceed \$600,000 may be used for the evaluation and administration of the program.

Renumbered and Amended by Chapter 380, 2023 General Session

**63N-20-107 Annual report.**

- (1) The office shall make a report on UPSTART in accordance with Section 53E-1-201.
- (2) The report shall:
  - (a) address the extent to which UPSTART is accomplishing the program's purposes as described in Section 63N-20-102; and
  - (b) include the following information:
    - (i) the number of families:
      - (A) participating in the program;
      - (B) who receive computers, tablets, or other electronic or peripheral equipment, and Internet service; and
    - (ii) the number of private preschool providers and public preschool providers participating in the program;
    - (iii) the frequency of use of the instructional software;
    - (iv) obstacles encountered with software usage, hardware, or providing technical assistance to families;
    - (v) student performance on entry and exit kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and
    - (vi) as available, the evaluation of the program conducted pursuant to Section 63N-20-106.

Renumbered and Amended by Chapter 380, 2023 General Session

**Chapter 21**  
**Utah Innovation Lab Act**

## Part 1 General Provisions

### **63N-21-101 Definitions.**

As used in this chapter:

- (1) "Board" means the board of directors of the innovation lab, as described in Section 63N-21-202.
- (2) "Innovation lab" means the Utah Innovation Lab created in Section 63N-21-201.
- (3) "Qualified business" means a business entity that:
  - (a) is established to commercialize a technology, product, or service developed through a technology commercialization program at a public or private institution of higher education in the state; and
  - (b) maintains the business's principal business operations in the state.
- (4) "Qualified investment" means any distribution or payment of funds to a qualified business from the Utah innovation fund, including:
  - (a) a direct investment of capital in a qualified business for the purchase of shares of stock;
  - (b) a secured loan or revolving line of credit to a qualified business; or
  - (c) a financial grant to a qualified business.
- (5) "Utah innovation fund" means a limited liability company organized under Section 63N-21-301.

Enacted by Chapter 38, 2023 General Session

## Part 2 Utah Innovation Lab

### **63N-21-201 Creation of Utah Innovation Lab -- Status and applicability of other law -- Powers and purposes -- Dissolution.**

- (1) There is created the Utah Innovation Lab.
- (2) The innovation lab is:
  - (a) an independent, nonprofit, quasi-public corporation as defined in Section 63E-1-102; and
  - (b) subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.
- (3) The innovation lab shall organize and administer the Utah innovation fund.
- (4) The innovation lab may:
  - (a) engage consultants and legal counsel;
  - (b) invest and expend funds;
  - (c) enter into contracts;
  - (d) insure against loss;
  - (e) receive private donations to be used by the Utah innovation fund for qualified investments;
  - (f) hire employees;
  - (g) charge a fee on assets under management in the Utah innovation fund to pay for reasonable and necessary costs of the innovation lab, including the costs of the annual audit required under Section 63N-21-402; and
  - (h) perform any other act necessary to carry out the purposes of the innovation lab.

- (5) The innovation lab may not:
  - (a) issue debt or borrow funds;
  - (b) exercise governmental functions;
  - (c) have members; or
  - (d) pledge the credit or taxing power of the state or any political subdivision of the state.
- (6) The innovation lab shall be liquidated and dissolved upon the dissolution of the Utah innovation fund.

Enacted by Chapter 38, 2023 General Session

**63N-21-202 Board of directors -- Membership -- Limitations.**

- (1) The innovation lab shall be governed by a board of directors which shall manage and conduct the business and affairs of the innovation lab.
- (2) The board shall consist of seven voting members as follows:
  - (a) one individual who represents technology commercialization initiatives within the Utah system of higher education, appointed by the commissioner of higher education, or the individual's designee;
  - (b) one individual who leads technology commercialization efforts at the University of Utah, appointed by the president of the University of Utah, or the individual's designee;
  - (c) one individual who leads technology commercialization efforts at Utah State University, appointed by the president of Utah State University, or the individual's designee;
  - (d) the chief executive officer of World Trade Center Utah, or the chief executive officer's designee; and
  - (e) three representatives of private industry, appointed by the members described in Subsections (2)(a) through (d).
- (3)
  - (a) A member described in Subsection (2)(e):
    - (i) shall serve a term of two years; and
    - (ii) may serve more than one term.
  - (b) If a vacancy occurs for a member described in Subsection (2)(e), the members described in Subsections (2)(a) through (d) shall appoint a replacement to serve the remainder of the member's term.
- (4)
  - (a) The board may appoint up to two additional nonvoting members to provide industry and technical expertise.
  - (b) A member of the board appointed under Subsection (4)(a) serves at the pleasure of the board and may be removed and replaced at any time, with or without cause.
- (5) The board shall elect a chair from the board's members, who shall serve a two-year term.
- (6)
  - (a) A majority of the members of the board constitutes a quorum of the board.
  - (b) The action by a majority of the members of a quorum constitutes the action of the board.
- (7) A member of the board:
  - (a) is subject to any restrictions on conflicts of interest specified in the organizational documents of the innovation lab;
  - (b) shall annually disclose any private equity interests to the innovation lab;
  - (c) may not participate in a vote by the board related to a qualified investment by the Utah innovation fund, if the member has an interest in the qualified investment; and
  - (d) may not receive compensation or benefits for the member's service.

Enacted by Chapter 38, 2023 General Session

**63N-21-203 Board duties and powers.**

- (1) The board shall:
  - (a) manage and conduct the business and affairs of the innovation lab and determine all questions of innovation lab policy;
  - (b) consistent with this chapter, establish policies, procedures, and strategies for the administration of the Utah innovation fund, including eligibility criteria, application requirements, performance metrics, and reporting requirements for a qualified business to receive a qualified investment from the Utah innovation fund; and
  - (c) approve any decision of the Utah innovation fund to make a qualified investment.
- (2) The board may establish independent committees for the purpose of assisting the board in an advisory role.

Enacted by Chapter 38, 2023 General Session

**Part 3  
Utah Innovation Fund**

**63N-21-301 Organization of Utah innovation fund -- Powers and purposes -- Use of investment proceeds.**

- (1)
  - (a) The innovation lab shall organize, and be the sole member and manager of, the Utah innovation fund.
  - (b) The Utah innovation fund shall be organized as a limited liability company.
  - (c) The Utah innovation fund may:
    - (i) engage consultants and legal counsel;
    - (ii) invest and expend funds;
    - (iii) enter into contracts;
    - (iv) insure against loss;
    - (v) hire employees; and
    - (vi) perform any other act necessary to carry out the purposes of the Utah innovation fund.
- (2) The Utah innovation fund shall, subject to board approval, make qualified investments in a manner and for the following purposes:
  - (a) to advance innovative technologies developed in Utah;
  - (b) to strengthen Utah's economy and facilitate job creation;
  - (c) to help qualified businesses gain access to capital;
  - (d) to attract entrepreneurs and innovation to Utah;
  - (e) to facilitate the commercialization of technologies discovered, advanced, or developed at state institutions of higher education;
  - (f) to advance the competitiveness of Utah businesses in the global economy;
  - (g) to ensure that the Utah innovation fund remains financially self-sustaining; and
  - (h) to encourage other investors to invest in qualified businesses alongside the Utah innovation fund.

- (3) The Utah innovation fund shall hold and manage qualified investments made by the Utah innovation fund and the proceeds of those qualified investments.

Enacted by Chapter 38, 2023 General Session

## **Part 4**

### **Reporting and Audit Requirements**

#### **63N-21-401 Annual report.**

- (1) On or before September 1 of each year, the innovation lab shall publish an annual report of the activities conducted by the Utah innovation fund and submit, in accordance with Section 68-3-14, the written report to:
- (a) the governor;
  - (b) the Business, Economic Development, and Labor Appropriations Subcommittee;
  - (c) the Economic Development and Workforce Services Interim Committee; and
  - (d) the Retirement and Independent Entities Interim Committee.
- (2) The annual report shall:
- (a) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;
  - (b) include a copy of the annual audit required under Section 63N-21-402;
  - (c) describe the policies adopted by the board under Subsection 63N-21-203(1)(b);
  - (d) include detailed information regarding:
    - (i) the name and location of each qualified business that received capital from the Utah innovation fund;
    - (ii) the amount of each qualified investment made by the Utah innovation fund;
    - (iii) the aggregate amount of capital provided to qualified businesses;
    - (iv) realized gains from qualified investments and any realized losses; and
    - (v) unrealized gains and any unrealized losses based on the net present value of ongoing qualified investments;
  - (e) include detailed information regarding the innovation lab's yearly expenditures, including:
    - (i) administrative, operating, and financing expenses; and
    - (ii) aggregate compensation information for full-time and part-time employees, including benefit and travel expenses;
  - (f) include detailed information regarding all funding sources for administrative, operating, and financing expenses, including any fees charged by the innovation lab to the Utah innovation fund under Subsection 63N-21-201(4)(g); and
  - (g) include an explanation of the Utah innovation fund's progress in achieving the purposes described in Subsection 63N-21-301(2).

Enacted by Chapter 38, 2023 General Session

#### **63N-21-402 Annual audit.**

- (1) Each calendar year, an audit of the activities of the Utah innovation fund shall be conducted by:
- (a) the state auditor; or
  - (b) an independent auditor engaged by the state auditor.



- (2) An independent auditor described in Subsection (1)(b) may not have a business, contractual, or other connection to the innovation lab or the Utah innovation fund.
- (3) The annual audit shall:
  - (a) include a valuation of the assets owned by the Utah innovation fund as of the end of the reporting year, using market-standard techniques for assets typically held by early stage private investment and venture capital funds;
  - (b) include an opinion regarding the accuracy of the information provided in the annual report described in Section 63N-21-401; and
  - (c) on or before September 1, be delivered to:
    - (i) the innovation lab; and
    - (ii) the state treasurer.
- (4) The innovation lab shall pay the costs associated with the annual audit.

Enacted by Chapter 38, 2023 General Session