

Effective 5/12/2015

**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