

COMMUNITY AND ECONOMIC DEVELOPMENT

RESTRUCTURING

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig W. Buttars

Senate Sponsor: L. Alma Mansell

LONG TITLE

General Description:

This bill restructures the Department of Community and Economic Development by transferring the responsibility for economic development and tourism at the state level to a new entity within the governor's office, the Governor's Office of Economic Development.

Highlighted Provisions:

This bill:

▶ restructures the Department of Community and Economic Development by transferring the responsibilities of the Division of Business and Economic Development and the Division of Travel Development to a newly created Governor's Office of Economic Development;

▶ transfers from the current Department of Community and Economic Development to the Governor's Office of Economic Development the duty and responsibility to administer the following established programs:

- the Enterprise Zone Act;
- Targeted Business Income Tax Credits within an Enterprise Zone;
- Centers of Excellence;
- Shared Foreign Sales Corporations;
- the Industrial Assistance Fund;
- the Recycling Market Development Zone Act;
- the Utah Venture Capital Enhancement Act;

- Aerospace and Aviation Development Zones;
 - the Tourism Performance Marketing Fund;
 - the Waste Tire Recycling Industry Assistance Loan Program;
 - the Utah Pioneers Communities Program; and
 - the Rural Development Act;
- ▶ provides for management and administration of the Governor's Office of Economic Development by a director appointed by the governor with compensation being set by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, and provides the director with authority similar to that of the executive director of the current Department of Community and Economic Development in matters related to economic development and tourism, including establishing the office in any fashion considered appropriate by the director;
- ▶ renames the Department of Community and Economic Development as the Department of Community and Culture, and provides the department with responsibility for community and cultural development within the state and the coordination of state and local programs related to community and cultural development;
- ▶ changes the Board of Business and Economic Development to an advisory board while renaming the Board of Travel Development to the Board of Tourism Development and keeping it an advisory board;
- ▶ removes the rulemaking authority of entities absorbed into the Governor's Office of Economic Development;
- ▶ repeals the position of the Director of the Division of Business and Economic Development, the Fusion/Energy Technology Act, and the Community Economic Development Project Fund and distribution process for fund moneys;
- ▶ eliminates the Tourism Marketing Performance Fund Committee and the Utah Tourism Industry Coalition which nominated members to the Tourism Marketing Performance Fund Committee;

- ▶ transfers to the Governor's Office of Economic Development all the powers and limitations of a municipality;
- ▶ transfers to the Governor's Office of Economic Development oversight over special service district guaranteed bonds;
- ▶ transfers to the director of the Governor's Office of Economic Development membership on the Hazardous Waste Facilities Authority and the State Council on Workforce Services;
- ▶ provides a representative from the Governor's Office of Economic Development to serve on the Resource Development Coordinating Committee;
- ▶ transfers to the director in the Governor's Office of Economic Development authority to appear before the Public Service Commission regarding the economic impact of any matter;
- ▶ transfers to the Governor's Office of Economic Development oversight over the Economic Incentive Restricted Account;
- ▶ transfers to the Governor's Office of Economic Development the responsibility to provide staff to the Utah Technology Industry Council and its steering committee;
- ▶ provides that employees of the Department of Community and Culture and the Governor's Office of Economic Development whose positions are designated as schedule AM are not considered "state employees" for the purpose of overtime policies by the Department of Human Resource Management and are exempt from classified service and career service provisions;
- ▶ transfers to the Governor's Office of Economic Development responsibility for input on road-building programs in scenic centers of the state;
- ▶ transfers to the Governor's Office of Economic Development membership on the Utah State Scenic Byway Committee;
- ▶ provides that the Department of Transportation may consult with the Governor's Office of Economic Development in erecting, administering, and maintaining informational signs on the interstate or primary road system;

- ▶ makes employing unit names available to the Governor's Office of Economic Development;
- ▶ transfers to the Governor's Office of Economic Development authority to give input to the Transportation Commission in selecting license plate slogans for the state;
- ▶ transfers to the Governor's Office of Economic Development the responsibility to serve as managing partner for the website known as Business.utah.gov;
- ▶ provides that the executive director of the Department of Community and Culture shall designate three qualified interim successors in case of emergency;
- ▶ makes conforming changes to boards and programs throughout the Utah Code which refer to the Department of Community and Economic Development or its executive director by replacing those references with the new titles and designations of entities and positions created in this bill; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

This bill provides coordination clauses.

Utah Code Sections Affected:**AMENDS:**

9-1-102, as enacted by Chapter 241, Laws of Utah 1992

9-1-201, as last amended by Chapter 231, Laws of Utah 2002

9-4-304, as last amended by Chapter 176, Laws of Utah 2002

9-4-801, as last amended by Chapter 22, Laws of Utah 2004

9-4-904, as last amended by Chapter 176, Laws of Utah 2002

9-9-104.6, as enacted by Chapter 55, Laws of Utah 2003

10-9-307, as last amended by Chapter 202, Laws of Utah 2004

11-17-1.5, as last amended by Chapter 73, Laws of Utah 2001

11-17-18, as enacted by Chapter 206, Laws of Utah 1986
17-27-307, as last amended by Chapter 202, Laws of Utah 2004
17A-2-1318, as renumbered and amended by Chapter 186, Laws of Utah 1990
19-3-301, as last amended by Chapter 107, Laws of Utah 2001
19-6-807, as last amended by Chapter 256, Laws of Utah 2002
19-6-824, as last amended by Chapter 256, Laws of Utah 2002
19-9-104, as renumbered and amended by Chapter 184, Laws of Utah 2003
35A-1-206, as last amended by Chapter 1, Laws of Utah 1998
35A-3-103, as last amended by Chapter 18, Laws of Utah 2004
35A-3-203, as last amended by Chapter 13, Laws of Utah 2003
35A-3-205, as last amended by Chapter 13, Laws of Utah 2003
35A-3-309, as last amended by Chapters 18 and 29, Laws of Utah 2004
35A-4-312, as last amended by Chapter 135, Laws of Utah 2003
41-1a-405, as renumbered and amended by Chapter 1, Laws of Utah 1992
46-4-503, as last amended by Chapters 90 and 120, Laws of Utah 2004
53B-18-1002, as enacted by Chapter 23, Laws of Utah 2004
59-7-610, as last amended by Chapter 198, Laws of Utah 2003
59-10-108.7, as last amended by Chapter 198, Laws of Utah 2003
59-21-2, as last amended by Chapter 24, Laws of Utah 2003
63-5b-102, as last amended by Chapters 14 and 159, Laws of Utah 2002
63-38d-502, as last amended by Chapter 18, Laws of Utah 2004
63-49a-1, as enacted by Chapter 255, Laws of Utah 1994
63-49a-2, as enacted by Chapter 255, Laws of Utah 1994
63-49a-3, as last amended by Chapter 31, Laws of Utah 1995
63-51-10, as enacted by Chapter 242, Laws of Utah 1981
63A-9-801, as last amended by Chapter 209, Laws of Utah 2003
63B-5-201, as last amended by Chapter 73, Laws of Utah 2001
63D-1a-203, as enacted by Chapter 209, Laws of Utah 2003

67-19-6.7, as last amended by Chapters 82 and 375, Laws of Utah 1997

67-19-12, as last amended by Chapter 16, Laws of Utah 2003

67-19-15, as last amended by Chapter 213, Laws of Utah 1997

67-19c-101, as last amended by Chapters 82 and 375, Laws of Utah 1997

67-22-2, as last amended by Chapters 156 and 306, Laws of Utah 2004

72-1-209, as renumbered and amended by Chapter 270, Laws of Utah 1998

72-4-302, as enacted by Chapter 172, Laws of Utah 2004

72-7-504, as last amended by Chapter 166, Laws of Utah 2003

73-10c-3, as last amended by Chapter 243, Laws of Utah 1996

ENACTS:

63-38f-201, Utah Code Annotated 1953

63-38f-703, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63-38f-101, (Renumbered from 9-2-201, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-102, (Renumbered from 9-2-102, as enacted by Chapter 241, Laws of Utah 1992)

63-38f-202, (Renumbered from 9-1-204, as last amended by Chapter 176, Laws of Utah 2002)

63-38f-203, (Renumbered from 9-1-205, as last amended by Chapter 352, Laws of Utah 2004)

63-38f-204, (Renumbered from 9-1-206, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-205, (Renumbered from 9-1-207, as enacted by Chapter 29, Laws of Utah 1993)

63-38f-301, (Renumbered from 9-2-202, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-302, (Renumbered from 9-2-203, as last amended by Chapter 176, Laws of Utah 2002)

63-38f-303, (Renumbered from 9-2-204, as last amended by Chapter 50, Laws of Utah

2000)

63-38f-304, (Renumbered from 9-2-205, as last amended by Chapter 50, Laws of Utah

2000)

63-38f-401, (Renumbered from 9-2-401, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-402, (Renumbered from 9-2-402, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-403, (Renumbered from 9-2-403, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-404, (Renumbered from 9-2-404, as last amended by Chapter 302, Laws of Utah 2004)

63-38f-405, (Renumbered from 9-2-405, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-406, (Renumbered from 9-2-406, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-407, (Renumbered from 9-2-407, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-408, (Renumbered from 9-2-408, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-409, (Renumbered from 9-2-409, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-410, (Renumbered from 9-2-410, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-411, (Renumbered from 9-2-411, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-412, (Renumbered from 9-2-412, as last amended by Chapter 170, Laws of Utah 1999)

63-38f-413, (Renumbered from 9-2-413, as last amended by Chapter 155, Laws of Utah

2001)

63-38f-414, (Renumbered from 9-2-414, as last amended by Chapter 292, Laws of Utah 1996)

63-38f-415, (Renumbered from 9-2-415, as enacted by Chapter 275, Laws of Utah 1998)

63-38f-416, (Renumbered from 9-2-416, as enacted by Chapter 302, Laws of Utah 2004)

63-38f-501, (Renumbered from 9-2-1801, as enacted by Chapter 155, Laws of Utah 2001)

63-38f-502, (Renumbered from 9-2-1802, as enacted by Chapter 155, Laws of Utah

2001)

63-38f-503, (Renumbered from 9-2-1803, as last amended by Chapter 198, Laws of Utah 2003)

63-38f-601, (Renumbered from 9-2-501, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-602, (Renumbered from 9-2-502, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-603, (Renumbered from 9-2-503, as last amended by Chapter 16, Laws of Utah 2003)

63-38f-604, (Renumbered from 9-2-504, as last amended by Chapter 82, Laws of Utah 1997)

63-38f-605, (Renumbered from 9-2-505, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-606, (Renumbered from 9-2-506, as last amended by Chapter 16, Laws of Utah 2003)

63-38f-607, (Renumbered from 9-2-507, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-701, (Renumbered from 9-2-601, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-702, (Renumbered from 9-2-602, as renumbered and amended by Chapter 241,

Laws of Utah 1992)

63-38f-704, (Renumbered from 9-2-603, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-801, (Renumbered from 9-2-901, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-802, (Renumbered from 9-2-902, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-901, (Renumbered from 9-2-1201, as renumbered and amended by Chapter 241, Laws of Utah 1992)

63-38f-902, (Renumbered from 9-2-1202, as last amended by Chapter 182, Laws of Utah 2004)

63-38f-903, (Renumbered from 9-2-1203, as last amended by Chapter 182, Laws of Utah 2004)

63-38f-904, (Renumbered from 9-2-1204, as last amended by Chapter 182, Laws of Utah 2004)

63-38f-905, (Renumbered from 9-2-1205, as last amended by Chapter 182, Laws of Utah 2004)

63-38f-906, (Renumbered from 9-2-1205.1, as enacted by Chapter 14, Laws of Utah 2003)

63-38f-907, (Renumbered from 9-2-1205.5, as last amended by Chapter 182, Laws of Utah 2004)

63-38f-908, (Renumbered from 9-2-1205.8, as enacted by Chapter 182, Laws of Utah 2004)

63-38f-909, (Renumbered from 9-2-1207, as last amended by Chapter 14, Laws of Utah 2003)

63-38f-1001, (Renumbered from 9-2-1401, as enacted by Chapter 153, Laws of Utah 1992)

63-38f-1002, (Renumbered from 9-2-1402, as enacted by Chapter 153, Laws of Utah

1992)

63-38f-1003, (Renumbered from 9-2-1403, as enacted by Chapter 153, Laws of Utah

1992)

63-38f-1101, (Renumbered from 9-2-1601, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1102, (Renumbered from 9-2-1602, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1103, (Renumbered from 9-2-1603, as last amended by Chapter 65, Laws of Utah

2002)

63-38f-1104, (Renumbered from 9-2-1604, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1105, (Renumbered from 9-2-1605, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1106, (Renumbered from 9-2-1606, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1107, (Renumbered from 9-2-1607, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1108, (Renumbered from 9-2-1608, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1109, (Renumbered from 9-2-1609, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1110, (Renumbered from 9-2-1610, as last amended by Chapter 1, Laws of Utah

2000)

63-38f-1111, (Renumbered from 9-2-1611, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1112, (Renumbered from 9-2-1612, as enacted by Chapter 236, Laws of Utah

1996)

63-38f-1201, (Renumbered from 9-2-1901, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1202, (Renumbered from 9-2-1902, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1203, (Renumbered from 9-2-1903, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1204, (Renumbered from 9-2-1904, as enacted by Chapter 291, Laws of Utah 2003)

63-38f-1205, (Renumbered from 9-2-1905, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1206, (Renumbered from 9-2-1906, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1207, (Renumbered from 9-2-1907, as enacted by Chapter 291, Laws of Utah 2003)

63-38f-1208, (Renumbered from 9-2-1908, as enacted by Chapter 291, Laws of Utah 2003)

63-38f-1209, (Renumbered from 9-2-1909, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1210, (Renumbered from 9-2-1910, as enacted by Chapter 291, Laws of Utah 2003)

63-38f-1211, (Renumbered from 9-2-1911, as enacted by Chapter 291, Laws of Utah 2003)

63-38f-1212, (Renumbered from 9-2-1912, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1213, (Renumbered from 9-2-1913, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1214, (Renumbered from 9-2-1914, as last amended by Chapter 4, Laws of Utah 2003, Second Special Session)

63-38f-1215, (Renumbered from 9-2-1915, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1216, (Renumbered from 9-2-1916, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1217, (Renumbered from 9-2-1917, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1218, (Renumbered from 9-2-1918, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1219, (Renumbered from 9-2-1919, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1220, (Renumbered from 9-2-1920, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1221, (Renumbered from 9-2-1921, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1222, (Renumbered from 9-2-1922, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1223, (Renumbered from 9-2-1923, as last amended by Chapter 92, Laws of Utah

2004)

63-38f-1224, (Renumbered from 9-2-1924, as enacted by Chapter 291, Laws of Utah

2003)

63-38f-1301, (Renumbered from 9-2-2001, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1302, (Renumbered from 9-2-2002, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1303, (Renumbered from 9-2-2003, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1304, (Renumbered from 9-2-2004, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1305, (Renumbered from 9-2-2005, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1306, (Renumbered from 9-2-2006, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1307, (Renumbered from 9-2-2007, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1308, (Renumbered from 9-2-2008, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1309, (Renumbered from 9-2-2009, as enacted by Chapter 247, Laws of Utah

2003)

63-38f-1401, (Renumbered from 9-2-1701, as enacted by Chapter 301, Laws of Utah

1997)

63-38f-1402, (Renumbered from 9-2-1702, as last amended by Chapter 159, Laws of Utah 2001)

63-38f-1403, (Renumbered from 9-2-1703, as last amended by Chapter 159, Laws of Utah 2001)

63-38f-1404, (Renumbered from 9-2-1703.5, as last amended by Chapters 16 and 83, Laws of Utah 2003)

63-38f-1405, (Renumbered from 9-2-1704, as last amended by Chapter 159, Laws of Utah 2001)

63-38f-1406, (Renumbered from 9-3-201, as last amended by Chapter 109, Laws of Utah 1994)

63-38f-1407, (Renumbered from 9-3-202, as last amended by Chapter 176, Laws of Utah 2002)

63-38f-1408, (Renumbered from 9-3-203, as last amended by Chapter 109, Laws of Utah 1994)

63-38f-1409, (Renumbered from 9-3-204, as last amended by Chapter 207, Laws of Utah 2002)

63-38f-1410, (Renumbered from 9-3-206, as last amended by Chapter 109, Laws of Utah

1994)

63-38f-1501, (Renumbered from 9-8-901, as last amended by Chapter 92, Laws of Utah

1996)

63-38f-1502, (Renumbered from 9-8-902, as last amended by Chapter 92, Laws of Utah

1996)

63-38f-1503, (Renumbered from 9-8-903, as last amended by Chapters 92 and 243, Laws of Utah 1996)

63-38f-1504, (Renumbered from 9-8-904, as last amended by Chapter 92, Laws of Utah 1996)

63-38f-1505, (Renumbered from 9-8-905, as last amended by Chapter 92, Laws of Utah 1996)

63-38f-1601, (Renumbered from 9-16-101, as enacted by Chapter 73, Laws of Utah 2004)

63-38f-1602, (Renumbered from 9-16-102, as enacted by Chapter 73, Laws of Utah 2004)

63-38f-1603, (Renumbered from 9-16-103, as enacted by Chapter 73, Laws of Utah 2004)

63-38f-1604, (Renumbered from 9-16-104, as enacted by Chapter 73, Laws of Utah 2004)

63-38f-1605, (Renumbered from 9-16-105, as enacted by Chapter 73, Laws of Utah 2004)

63-38f-1606, (Renumbered from 9-16-106, as enacted by Chapter 73, Laws of Utah 2004)

REPEALS:

9-2-206, as renumbered and amended by Chapter 241, Laws of Utah 1992

9-2-801, as renumbered and amended by Chapter 241, Laws of Utah 1992

9-2-809, as last amended by Chapter 10, Laws of Utah 1994

9-2-1501, as last amended by Chapter 95, Laws of Utah 2000

- 9-2-1502, as last amended by Chapter 95, Laws of Utah 2000
- 9-2-1503, as enacted by Chapter 301, Laws of Utah 1996
- 9-2-1504, as last amended by Chapter 95, Laws of Utah 2000
- 9-2-1505, as last amended by Chapter 95, Laws of Utah 2000
- 9-2-1506, as last amended by Chapter 95, Laws of Utah 2000
- 9-2-1507, as enacted by Chapter 301, Laws of Utah 1996
- 9-2-1705, as last amended by Chapter 159, Laws of Utah 2001
- 9-2-1706, as enacted by Chapter 159, Laws of Utah 2001
- 9-3-205, as last amended by Chapter 109, Laws of Utah 1994
- 9-3-208, as renumbered and amended by Chapter 241, Laws of Utah 1992

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section **9-1-102** is amended to read:

9-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Community and [~~Economic Development~~]
Culture.

(2) "Executive director" means the executive director of the Department of Community
and [~~Economic Development~~] Culture.

Section 2. Section **9-1-201** is amended to read:

Part 2. Department of Community and Culture

9-1-201. Department of Community and Culture -- Creation -- Powers and duties.

(1) There is created the Department of Community and [~~Economic Development~~]
Culture.

(2) The department shall:

(a) be responsible for community and [~~economic~~] cultural development within the state;

- (b) perform [~~economic~~] community and cultural development planning for the state;
 - (c) coordinate the program plans of the various divisions within the department;
 - (d) administer and coordinate all state or federal grant programs which are, or become, available for community and [~~economic~~] cultural development;
 - (e) administer any other programs over which the department is given administrative supervision by the governor;
 - (f) annually submit a report to the governor and the Legislature; and
 - (g) perform any other duties as provided by the Legislature.
- (3) The department may solicit and accept contributions of moneys, services, and facilities from any other sources, public or private, but may not use these funds for publicizing the exclusive interest of the donor.
- (4) Moneys received pursuant to Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

Section 3. Section **9-4-304** is amended to read:

9-4-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.

- (1) There is created within the Department of Community and [~~Economic Development~~] Culture the Permanent Community Impact Fund Board composed of 11 members as follows:
- (a) the chair of the Board of Water Resources or the chair's designee;
 - (b) the chair of the Water Quality Board or the chair's designee;
 - (c) the director of the department or the director's designee;
 - (d) the chair of the State Board of Education or the chair's designee;
 - (e) the chair of the State Board of Regents or the chair's designee;
 - (f) the state treasurer;
 - (g) the chair of the Transportation Commission or the chair's designee;
 - (h) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;
 - (i) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

(j) a locally elected official who resides in Duchesne, Daggett, or Uintah County; and

(k) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County.

(2) (a) The members specified under Subsections (1)(h) through ~~(1)(k)~~ shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Governments, Central Utah Association of Governments, Uintah Basin Association of Governments, and Southwestern Association of Governments, respectively; and

(ii) appointed by the governor with the consent of the Senate.

(iii) Except as required by Subsection (2)(a)(iv), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(iv) Notwithstanding the requirements of Subsection (2)(a)(iii), 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.

(b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members of the impact board specified under Subsections (1)(a) through ~~(1)(g)~~ shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

(4) The executive director of the department, or the executive director's designee, shall be the chair of the impact board.

(5) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred

in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Higher education members may decline to receive per diem and expenses for their service.

(d) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 4. Section **9-4-801** is amended to read:

9-4-801. Creation.

(1) There is created the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the state planning coordinator, the state superintendent of public instruction, the chair of the board of trustees of the Utah Housing Corporation, and the executive directors of the Department of Human Services, the Department of Corrections, the Department of Community and ~~[Economic Development]~~ Culture, the Department of Workforce Services, and the Department of Health, or their designees.

(b) The governor shall appoint the chair from among these members.

(3) The governor may also appoint as members of the committee representatives of local governments, local housing authorities, local law enforcement agencies, and of federal and private agencies and organizations concerned with the homeless, mentally ill, elderly,

single-parent families, substance abusers, and persons with a disability.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A person appointed under this Subsection (4) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 5. Section **9-4-904** is amended to read:

9-4-904. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with any contract entered into when that was the corporation's legal name.

(c) Any other entity may not use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation shall be governed by a board of trustees composed of the following nine trustees:

(a) three ex officio trustees who shall be:

(i) the executive director of the Department of Community and [~~Economic Development~~]

Culture;

(ii) the commissioner of the Department of Financial Institutions or his designee; and

(iii) the state treasurer or his designee; and

(b) six public trustees, being private citizens of the state, as follows:

(i) two people representing the mortgage lending industry;

(ii) two people representing the home building and real estate industry; and

(iii) two people representing the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the consent of the Senate; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of Utah; and

(ii) not more than three of the public trustees belong to the same political party.

(4) (a) Except as required by Subsection (4)(b), the six public trustees shall be appointed to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) Any of the six public trustees of the corporation may be removed from office for cause either by the governor or by an affirmative vote of any six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) Each public trustee shall hold office for the term of his appointment and until his successor has been appointed and qualified.

(d) Any public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business. An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(b) A vacancy in the board of trustees may not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) (a) (i) Trustees who are not government employees may not receive compensation or benefits for their services, but may receive a reasonable per diem and reimbursement expenses incurred in the performance of the trustee's official duties at the rates established by the board of trustees.

(ii) Trustees may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee trustees who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the corporation at the rates established by the

Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee trustees may decline to receive per diem and expenses for their service.

Section 6. Section **9-9-104.6** is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) a representative appointed by the chief administrative officer of the following:

(i) the Department of Health;

(ii) the Department of Human Services;

(iii) the Department of Workforce Services;

(iv) the State Office of Education; and

(v) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate [~~by no later than July 1, 2003~~] the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection

(3)(a)(i).

(b) This Subsection (3) applies to the:

(i) Department of Agriculture and Food;

- (ii) Department of Community and [~~Economic Development~~] Culture;
- (iii) Department of Corrections;
- (iv) Department of Environmental Quality;
- (v) Department of Natural Resources;
- (vi) Department of Public Safety;
- (vii) Department of Transportation;
- (viii) Office of the Attorney General; and
- (ix) State Tax Commission.

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) Salaries and expenses of a legislator participating in accordance with this section in a meeting described in Subsection (1) shall be paid in accordance with Section 36-2-2 and Joint Rule 15.03.

(b) A state government officer or employee may receive per diem and expenses at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 for participating in a meeting described in Subsection (1) if the officer or employee:

- (i) participates in the meeting in accordance with this section; and
- (ii) does not receive salary, per diem, or expenses from the officer's or employee's agency for participating in the meeting.

(c) A state government officer or employee that participates in a meeting described in Subsection (1) may decline to receive per diem and expenses for participating in the meeting.

Section 7. Section **10-9-307** is amended to read:

10-9-307. Plans for moderate income housing.

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

- (a) cities should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and
- (b) moderate income housing should be encouraged to allow persons with moderate

incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income 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 for households of the same size in the county in which the city is located.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a city legislative body that includes:

(i) an estimate of the existing supply of moderate income housing located within the city;

(ii) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;

(iii) a survey of total residential zoning;

(iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and

(v) a description of the city's program to encourage an adequate supply of moderate income housing.

(3) The legislative body of each city shall, as part of its general plan, adopt a plan for moderate income housing within that city.

(4) A plan may provide moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs. The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. [~~Such~~] The techniques may include:

(a) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

(b) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

(c) rehabilitation of existing uninhabitable housing stock;

(d) consideration of waiving construction related fees generally imposed by the city;

(e) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

(f) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

(g) utilization of affordable housing programs administered by the Department of Community and [~~Economic Development~~] Culture.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each city shall biennially:

(i) review the plan and its implementation; and

(ii) prepare a report setting forth the findings of the review.

(b) Each report under Subsection (5)(a)(ii) shall include a description of:

(i) efforts made by the city to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;

(ii) actions taken by the city to encourage preservation of existing moderate income housing and development of new moderate income housing;

(iii) progress made within the city to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and

(iv) efforts made by the city to coordinate moderate income housing plans and actions with neighboring municipalities.

(c) The legislative body of each city shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and [~~Economic Development~~] Culture and the association of governments in which the city is located.

(6) In a civil action seeking enforcement or claiming a violation of this section, a plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

Section 8. Section **11-17-1.5** is amended to read:

11-17-1.5. Purpose of chapter.

(1) (a) The purposes of this chapter are to stimulate the economic growth of the state, to promote employment and achieve greater industrial development in the state, to maintain or

enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and promote the health, welfare, and safety of the citizens of the state and to improve local health and the general welfare by inducing corporations, persons, or entities engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities, to locate, relocate, modernize, or expand in this state and to assist in the formation of investment capital with respect thereto.

(b) The Legislature [~~hereby finds and~~] declares that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and Development Act and the issuance of bonds under it constitutes a proper public purpose.

(2) (a) It is declared that the policy of the state is to encourage the development of free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities and economic development.

(b) It is [~~found and~~] declared that there exists in the state an inadequate amount of locally managed, pooled venture capital in the private sector available to invest in early stage businesses having high growth potential and that can provide jobs for Utah citizens.

(c) It is found that venture capital is required for healthy economic development of sectors of the economy having high growth and employment potential.

(d) It is further found that the public economic development purposes of the state and its counties and municipalities can be fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally managed, pooled new venture and economic development funds in accordance with the provisions of this [~~act~~] chapter.

(e) It is [~~found and~~] declared that in order to assure adequate investment of private capital for these uses, cooperation between private enterprise and state and local government is necessary and in the public interest and that the facilitation of capital accumulation is the appropriate activity of the counties and municipalities of this state and also of the [~~Utah Division of Business and Economic Development, a division of the Utah Department of Community and~~

~~Economic Development]~~ Governor's Office of Economic Development.

(f) It is found that venture capital funds historically, because of the more intensive nature of their relationship with companies in which they invest, tend to concentrate their investments within a relatively close geographical area to their headquarters location.

(g) It is found and declared that investors in economic development or new venture investment funds require for the overall security of their investments reasonable diversification of investment portfolios and that, in the course of this diversification, investments are often syndicated or jointly made among several financial institutions or funds. It is expressly found and declared that an economic development or new venture investment fund must from time to time for its optimal profitability and efficiency (which are important for the security and profit of bond purchasers providing funds therefor) cooperate with others who may be located outside [the state] of Utah or the county or municipality where the fund is headquartered in the making of investments and that the fund must be free in the interests of reciprocal relationships with other financial institutions and diversification of risks to invest from time to time in enterprises that are located outside of Utah or the counties or municipalities. It is specifically found that such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds sold under this chapter, is within the public purposes of the state and any county or municipality offering the bonds, provided that the fund locates within [the state of] Utah or the county or municipality its headquarters where its actual investment decisions and management functions occur and limits the aggregate amount of its investments in companies located outside of Utah to an amount that in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside of Utah in Utah companies, that the locally managed fund has sponsored or in which it has invested and that it has brought to the attention of investors outside of Utah.

Section 9. Section **11-17-18** is amended to read:

11-17-18. Powers of Governor's Office of Economic Development.

For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation Act, the [~~Division of Business and Economic Development, a division of the Department of~~

~~Community and Economic Development,] Governor's Office of Economic Development has all the powers set out in this chapter of, and is subject to the same limitations as, a municipality as though the ~~[division]~~ office were defined as a municipality for purposes of this chapter, but it shall have such powers with respect to economic development or new venture investment fund projects only. It is not authorized to exercise such powers in any manner which will create general obligations of the state ~~[of Utah]~~ or any agency, department, division, or political subdivision thereof. ~~[For purposes of this chapter, its governing body is deemed to be the Board of Business and Economic Development of the Division of Business and Economic Development.]~~~~

Section 10. Section **17-27-307** is amended to read:

17-27-307. Plans for moderate income housing.

(1) The availability of moderate income housing is an issue of statewide concern. To this end:

(a) counties should afford a reasonable opportunity for a variety of housing, including moderate income housing, to meet the needs of people desiring to live there; and

(b) moderate income housing should be located in all areas of a community to allow persons with moderate incomes to benefit from and to fully participate in all aspects of neighborhood and community life.

(2) As used in this section:

(a) "Moderate income 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 county statistical area for households of the same size.

(b) "Plan for moderate income housing" or "plan" means a written document adopted by a county legislative body that includes, but is not limited to:

(i) an estimate of the existing supply of moderate income housing located within the county;

(ii) an estimate of the need for moderate income housing in that county for the next five years as revised biennially;

- (iii) a survey of total residential zoning;
- (iv) an evaluation of how existing zoning densities affect opportunities for moderate income housing; and
- (v) a description of the county's program to encourage an adequate supply of moderate income housing.

(3) [~~Before December 31, 1998, each~~] Each county legislative body shall, as part of its general plan, adopt a plan for moderate income housing within the unincorporated areas of that county.

(4) (a) A plan may provide for moderate income housing by any means or combination of techniques which provide a realistic opportunity to meet estimated needs.

(b) The plan may include an analysis of why the means or techniques selected provide a realistic opportunity to meet the objectives of this section. [~~Such~~]

(c) The techniques may include:

~~[(a)]~~ (i) rezoning for densities necessary to assure the economic viability of inclusionary developments, either through mandatory set asides or density bonuses;

~~[(b)]~~ (ii) infrastructure expansion and rehabilitation that will facilitate the construction of moderate income housing;

~~[(c)]~~ (iii) rehabilitation of existing uninhabitable housing stock;

~~[(d)]~~ (iv) consideration of waiving construction related fees generally imposed by the county;

~~[(e)]~~ (v) utilization of state or federal funds or tax incentives to promote the construction of moderate income housing;

~~[(f)]~~ (vi) utilization of programs offered by the Utah Housing Corporation within that agency's funding capacity; and

~~[(g)]~~ (vii) utilization of affordable housing programs administered by the Department of Community and [~~Economic Development~~] Culture.

(5) (a) After adoption of a plan for moderate income housing under Subsection (3), the legislative body of each county with a population over 25,000 shall biennially:

- (i) review the plan and its implementation; and
- (ii) prepare a report setting forth the findings of the review.
- (b) Each report under Subsection (5)(a)(ii) shall include a description of:
 - (i) efforts made by the county to reduce, mitigate, or eliminate local regulatory barriers to moderate income housing;
 - (ii) actions taken by the county to encourage preservation of existing moderate income housing and development of new moderate income housing;
 - (iii) progress made within the county to provide moderate income housing, as measured by permits issued for new units of moderate income housing; and
 - (iv) efforts made by the county to coordinate moderate income housing plans and actions with neighboring counties.
- (c) The legislative body of each county with a population over 25,000 shall send a copy of the report under Subsection (5)(a)(ii) to the Department of Community and ~~Economic Development~~ Culture and the association of governments in which the county is located.
- (6) In a civil action seeking enforcement or claiming a violation of this section, a plaintiff may not recover damages but may be awarded injunctive or other equitable relief only.

Section 11. Section **17A-2-1318** is amended to read:

17A-2-1318. Guaranteed bonds.

- (1) Guaranteed bonds may be issued in addition to and in excess of the 12% limitation provided for in Section 17A-2-1317, but only upon the conditions provided for in Subsections (2) and (3).
- (2) There shall have been filed with and approved by the ~~Department of Community and~~ Governor's Office of Economic Development the following:
 - (a) a report to the service district proposing to issue the guaranteed bonds from qualified registered architects or engineers or other persons qualified by experience as may be appropriate to the project involved, setting forth:
 - (i) the estimated or, if available, the actual cost of acquisition, construction, and equipment of the project financed or to be financed including a description of the project;

(ii) the principal amount of guaranteed bonds to be issued, the date and amount of each stated maturity of them and, set forth separately, the same information with respect to any guaranteed bonds of the service district as may be outstanding, including as to such outstanding guaranteed bonds the rates of interest they bear;

(iii) the amount and the estimated amount of the annual debt service for each year during the life of all guaranteed bonds issued and then intended to be issued to finance all or any part of the project; and

(iv) the date or estimated date of the completion of the project;

(b) a copy, certified by the recording officer of the governing authority of the service district of the proposed guarantee by one or more taxpayers owning property within the boundaries of the service district of debt service on the guaranteed bonds, together with an opinion of counsel to the effect that the guarantee, when executed, will be the legal and binding obligation of the taxpayer or taxpayers in accordance with its tenor and terms; and

(c) evidence satisfactory to the [~~Department of Community and~~] Governor's Office of Economic Development from the taxpayer or taxpayers guaranteeing the bonds as to the financial ability of the taxpayer or taxpayers to perform under the guarantee.

(3) If the [~~Department of Community and~~] Governor's Office of Economic Development [~~shall approve~~] approves the issuance of the guaranteed bonds, it shall indicate its approval upon a duplicate original of the proceedings and return the same to the service district. Upon the filing of this approval in the office of the county recorder in which the governing authority is located, the principal amount of guaranteed bonds may be issued, but only upon compliance with the election requirements of Section 17A-2-1322.

(4) If the principal amount of any guaranteed bonds which having once been issued, remain outstanding but by their terms no longer enjoy the benefit of the guarantee, shall be included in the determination of bonded indebtedness for the purpose of the 12% limitation contained in Section 17A-2-1317. The service district shall on July 1st of each year file with the department of community affairs a report certifying:

(a) the total amount of bonds and other debt then outstanding and subject to the 12%

limitation of Section 17A-2-1317;

(b) the total amount of guaranteed bonds then outstanding and not subject to such 12% limitation; and

(c) the total amount of bonds which, during the preceding 12 months, were deemed by their terms to no longer enjoy the benefit of the guarantee.

Section 12. Section **19-3-301** is amended to read:

19-3-301. Restrictions on nuclear waste placement in state.

(1) The placement, including transfer, storage, decay in storage, treatment, or disposal, within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste is prohibited.

(2) Notwithstanding Subsection (1) the governor, after consultation with the county executive and county legislative body of the affected county and with concurrence of the Legislature, may specifically approve the placement as provided in this part, but only if:

(a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A. 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear waste or greater than class C radioactive waste; and

(ii) the authority of the federal Nuclear Regulatory Commission to grant a license under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent jurisdiction; or

(b) an agency of the federal government is transporting the waste, and all state and federal requirements to proceed with the transportation have been met.

(3) The requirement for the approval of a final court of competent jurisdiction shall be met in all of the following categories, in order for a state license proceeding regarding waste to begin:

(a) transfer or transportation, by rail, truck, or other mechanisms;

(b) storage, including any temporary storage at a site away from the generating reactor;

(c) decay in storage;

(d) treatment; and

(e) disposal.

(4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the governor, with the concurrence of the attorney general, shall certify in writing to the executive director of the Department of Environmental Quality that all of the requirements have been met, and that any necessary state licensing processes may begin.

(b) Separate certification under this Subsection (4) shall be given for each category in Subsection (3).

(5) (a) The department shall make, by rule, a determination of the dollar amount of the health and economic costs expected to result from a reasonably foreseeable accidental release of waste involving a transfer facility or storage facility, or during transportation of waste, within the exterior boundaries of the state. The department may initiate rulemaking under this Subsection (5)(a) on or after March 15, 2001.

(b) (i) The department shall also determine the dollar amount currently available to cover the costs as determined in Subsection (5)(a):

- (A) under nuclear industry self-insurance;
- (B) under federal insurance requirements; and
- (C) in federal monies.

(ii) The department may not include any calculations of federal monies that may be appropriated in the future in determining the amount under Subsection (5)(b)(i).

(c) The department shall use the information compiled under Subsections (5)(a) and (b) to determine the amount of unfunded potential liability in the event of a release of waste from a storage or transfer facility, or a release during the transportation of waste.

(6) (a) State agencies may not, for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste, enter into any contracts or any other agreements prior to:

- (i) the satisfaction of the conditions in Subsection (4); and
- (ii) the executive director of the department having certified that the requirements of

Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application proceeding for a storage facility or transfer facility.

(b) Political subdivisions of the state may not enter into any contracts or any other agreements for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility, or to any organization engaged in the transportation of waste.

(c) This Subsection (6) does not prohibit a state agency from exercising the regulatory authority granted to it by law.

(7) (a) Notwithstanding any other provision of law, any political subdivision may not be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to the satisfaction of the conditions in Subsection (4). These political subdivisions include:

- (i) a cooperative;
- (ii) a special district authorized by Title 17A, Special Districts;
- (iii) a limited purpose local governmental entities authorized by Title 17, Counties;
- (iv) any joint power agreement authorized by Title 11, Cities, Counties, and Local Taxing Units; and
- (v) the formation of a municipality, or any authority of a municipality authorized by Title 10, Utah Municipal Code.

(b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision authorized and formed under the laws of the state on or after March 15, 2001 which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility is formed in violation of Subsection (7)(a).

(ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political subdivision are considered to have knowingly violated a provision of this part, and the penalties of Section 19-3-312 apply.

(8) (a) An organization may not be formed for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

- (i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(b) A foreign organization may not be registered to do business in the state for the purpose of providing any goods, services, or municipal-type services to a storage facility or transfer facility prior to:

(i) the satisfaction of the conditions in Subsection (4); and

(ii) the executive director of the department having certified that the requirements of Sections 19-3-304 through 19-3-308 have been met.

(c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

(i) the formation of a new organization or registration of a foreign organization within the state, any of whose purposes are to provide goods, services, or municipal-type services to a storage facility or transfer facility may not be licensed or registered in the state, and the local or foreign organization is void and does not have authority to operate within the state;

(ii) any organization which is formed or registered on or after March 15, 2001, and which subsequently contracts to, or in any manner agrees to provide, or does provide goods, services, or municipal-type services to a storage facility or transfer facility has been formed or registered in violation of Subsection (8)(a) or (b) respectively; and

(iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the organization or the principals of the foreign organization, are considered to have knowingly violated a provision of this part, and are subject to the penalties in Section 19-3-312.

(9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type services to any organization engaging in, or attempting to engage in the placement of high-level nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility within the state are declared to be against the greater public interest, health, and welfare of the state, by promoting an activity which has the great potential to cause extreme public harm.

(ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or informal, are declared to be void from inception, agreement, or execution as against public policy.

(b) (i) Any contract or other agreement to provide goods, services, or municipal-type services to storage or transfer facilities may not be executed within the state.

(ii) Any contract or other agreement, existing or executed on or after March 15, 2001, is considered void from the time of agreement or execution.

(10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual transaction fee of 75% of the gross value of the contract to the party providing the goods, services, or municipal-type services to the storage facility or transfer facility or transportation entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or before the last day of each month in accordance with rules established under Subsection (10)(d), and as follows:

(i) 25% of the gross value of the contract to the department; and

(ii) 50% of the gross value of the contract to the Department of Community and ~~[Economic Development]~~ Culture, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

(b) Contracts and agreements subject to the fee under Subsection (10)(a) are those contracts and agreements to provide goods, services, or municipal-type services to a storage or transfer facility, or to any organization engaged in the transportation of high-level nuclear waste or greater than class C radioactive waste to a transfer facility or storage facility, and which:

(i) are in existence on March 15, 2001; or

(ii) become effective notwithstanding Subsection (9)(a).

(c) Any governmental agency which regulates the charges to consumers for services provided by utilities or other organizations shall require the regulated utility or organization to include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods, services, or municipal-type services affected by Subsection (10)(b).

(d) (i) The department, in consultation with the State Tax Commission, shall establish rules for the valuation of the contracts and assessment and collection of the fees, and other rules as necessary to determine the amount of and collection of the fee under Subsection (10)(a). The department may initiate rulemaking under this Subsection ~~(10)~~(d)(i) on or after March 15, 2001.

(ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and remit that amount to the department on or before July 31, 2001.

(11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to the Department of Community and [~~Economic Development~~] Culture for use by the Utah Division of Indian Affairs shall be used for establishment of a statewide community and economic development program for the tribes of Native American people within the exterior boundaries of the state who have by tribal procedure established a position rejecting siting of any nuclear waste facility on their reservation lands.

(b) The program under Subsection (11)(a) shall include:

- (i) educational services and facilities;
- (ii) health care services and facilities;
- (iii) programs of economic development;
- (iv) utilities;
- (v) sewer;
- (vi) street lighting;
- (vii) roads and other infrastructure; and
- (viii) oversight and staff support for the program.

(12) It is the intent of the Legislature that this part does not prohibit or interfere with a person's exercise of the rights under the First Amendment to the Constitution of the United States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a storage facility or transfer facility within the borders of the state for the placement of high-level nuclear waste or greater than class C radioactive waste.

Section 13. Section **19-6-807** is amended to read:

19-6-807. Special revenue fund -- Creation -- Deposits.

(1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling Fund."

(2) The fund shall consist of:

- (a) the proceeds of the fee imposed under Section 19-6-805;
 - (b) penalties collected under this part; and
 - (c) assets transferred to and loan repayments deposited in the fund pursuant to Section 19-6-824.
- (3) Money in the fund shall be used for:
- (a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part;
 - (b) payment of administrative costs of local health departments as provided in Section 19-6-817;
 - (c) payment of costs incurred by the Division of Finance in accounting for and tracking outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program; and
 - (d) payment of costs incurred by the ~~Department of Community and~~ Governor's Office of Economic Development in collecting outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.
- (4) The Legislature may appropriate money from the fund to pay for costs of the Department of Environmental Quality in administering and enforcing this part.

Section 14. Section **19-6-824** is amended to read:

19-6-824. Transfer of assets and liabilities from Waste Tire Recycling Industrial Assistance Loan Fund to restricted special revenue fund -- Administration of outstanding loans.

- (1) The assets and liabilities of the Waste Tire Recycling Industrial Assistance Loan Fund shall be transferred to the restricted special revenue fund.
- (2) The Division of Finance shall account for and track any outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.
- (3) (a) The ~~Department of Community and~~ Governor's Office of Economic Development shall administer the collection of any outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program.
- (b) Any loan repayments shall be deposited in the fund.

Section 15. Section **19-9-104** is amended to read:

19-9-104. Creation of authority -- Members.

(1) (a) The authority comprises ten members. If the requirements of Section 19-9-103 are met, the governor shall, with the consent of the Senate, appoint six members of the authority from the public-at-large.

(b) The remaining four members of the authority are:

(i) the executive director of the Department of Environmental Quality;

(ii) the ~~[executive director]~~ director of the ~~[Department of Community and]~~ Governor's Office of Economic Development ~~or the director's designee;~~

(iii) the executive director of the Department of Natural Resources; and

(iv) the executive director of the Department of Transportation.

(2) Public-at-large members, no more than three of whom shall be from the same political party, shall be appointed to six-year terms of office, subject to removal by the governor with or without cause.

(3) The governor shall name one public-at-large member as chairman of the authority responsible for the call and conduct of authority meetings.

(4) The authority may elect other officers as necessary.

(5) Five members of the authority present at a properly noticed meeting constitute a quorum for the transaction of official authority business.

(6) Public-at-large members are entitled to per diem and expenses for each day devoted to authority business at the rates established by the director of the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 16. Section **35A-1-206** is amended to read:

35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.

(1) There is created a State Council on Workforce Services that shall:

(a) perform the activities described in Subsection (8);

(b) advise on issues requested by the department and the Legislature; and

- (c) make recommendations to the department regarding:
 - (i) the implementation of Chapters 2, 3, and 5; and
 - (ii) the coordination of apprenticeship training.
- (2) (a) The council shall consist of the following voting members:
 - (i) each chair of a regional workforce services council appointed under Section 35A-2-103;
 - (ii) the superintendent of public instruction or the superintendent's designee;
 - (iii) the commissioner of higher education or the commissioner's designee; and
 - (iv) the following members appointed by the governor in consultation with the executive director:
 - (A) four representatives of small employers as defined by rule by the department;
 - (B) four representatives of large employers as defined by rule by the department;
 - (C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;
 - (D) two representatives of the clients served under this title including community-based organizations;
 - (E) a representative of veterans in the state; and
 - (F) the executive director of the Utah State Office of Rehabilitation.
 - (b) The following shall serve as nonvoting ex officio members of the council:
 - (i) the executive director or the executive director's designee;
 - (ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;
 - (iii) the executive director of the Department of Human Services;
 - (iv) the ~~[executive director]~~ director of the ~~[Department of Community and]~~ Governor's Office of Economic Development or the director's designee; and
 - (v) the executive director of the Department of Health.
- (3) (a) The governor shall appoint one nongovernmental member from the council to be the chair.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (a) (i) A public member may not receive compensation for the member's services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A public member may decline to receive per diem and expenses for the member's service.

(b) (i) A state government member who does not receive salary, per diem, or expenses from the state for the member's service may receive per diem and expenses incurred in the performance of the member's official duties as a member at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A state government member who is a member because of the member's state government position may not receive per diem or expenses for the member's service.

(iii) A state government member may decline to receive per diem and expenses for the member's service.

(c) A legislator on the council shall receive compensation and expenses as provided by law and legislative rule.

(d) A higher education member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A local government member may decline to receive per diem and expenses for the member's service.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review regional workforce services plans to certify consistency with state policy guidelines;

(c) work cooperatively with regional councils on workforce services to oversee regional workforce services area operations and to ensure that services are being delivered in accordance with regional workforce services plans;

(d) oversee the department's provision of technical assistance to the regional workforce services areas;

(e) evaluate program performance, customer satisfaction, and other indicators to identify program strengths and weaknesses;

(f) based on the evaluation conducted under Subsection (8)(e) develop plans to improve program outcomes;

(g) improve the understanding and visibility of state workforce services efforts through

external and internal marketing strategies;

(h) make an annual report of accomplishments to the governor and the Legislature related to the activities of the department;

(i) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(h);

(j) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(k) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 17. Section **35A-3-103** is amended to read:

35A-3-103. Division responsibilities.

The division shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility in accordance with the requirements of this chapter for public assistance programs assigned to it by the Legislature or the governor;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer the Utah state employment service in accordance with Section 35A-3-115;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for more effective and efficient operation of all programs under the administration of the division;

(9) provide refugee resettlement services;

(10) provide child care assistance for children; and

(11) provide services and support that enable clients to qualify for affordable housing in cooperation with:

- (a) the Utah Housing Corporation;
- (b) the Division of Housing and Community Development within the Department of Community and [~~Economic Development~~] Culture; and
- (c) local housing authorities.

Section 18. Section **35A-3-203** is amended to read:

35A-3-203. Functions and duties of office -- Annual report.

The office shall:

- (1) assess critical child care needs throughout the state on an ongoing basis and focus its activities on helping to meet the most critical needs;
- (2) provide child care subsidy services for income-eligible children through age 12 and for income-eligible children with disabilities through age 18;
- (3) provide information:
 - (a) to employers for the development of options for child care in the work place; and
 - (b) for educating the public in obtaining quality child care;
- (4) coordinate services for quality child care training and child care resource and referral core services;
- (5) apply for, accept, or expend gifts or donations from public or private sources;
- (6) provide administrative support services to the committee;
- (7) work collaboratively with the following for the delivery of quality child care and early childhood programs, and school age programs throughout the state:
 - (a) the State Board of Education;
 - (b) the Department of Community and [~~Economic Development~~] Culture; and
 - (c) the Department of Health;
- (8) research child care programs and public policy that will improve quality and accessibility and that will further the purposes of the office and child care, early childhood programs, and school age programs;

(9) provide planning and technical assistance for the development and implementation of programs in communities that lack child care, early childhood programs, and school age programs;

(10) provide organizational support for the establishment of nonprofit organizations approved by the Child Care Advisory Committee, created in Section 35A-3-205; and

(11) provide a written report on the status of child care in Utah to the Legislature by November 1 of each year through the Workforce Services and Community and Economic Development Interim Committee.

Section 19. Section **35A-3-205** is amended to read:

35A-3-205. Creation of committee.

(1) There is created a Child Care Advisory Committee.

(2) The committee shall counsel and advise the office in fulfilling its statutory obligations to include:

(a) a review of and recommendations on the office's annual budget;

(b) recommendations on how the office might best respond to child care needs throughout the state; and

(c) recommendations on the use of new monies that come into the office, including those for the Child Care Fund.

(3) The committee is composed of the following members, with special attention given to insure diversity and representation from both urban and rural groups:

(a) one expert in early childhood development;

(b) one child care provider who operates a center;

(c) one child care provider who operates a family child care business;

(d) one parent who receives a child care subsidy from the office and is representative of single-parent households with children through age 12;

(e) one representative of two-parent households with children through age 12 using child care;

(f) one representative from the public at-large;

- (g) one representative of the State Office of Education;
- (h) one representative of the Department of Health;
- (i) one representative of the Department of Human Services;
- (j) one representative of the Department of Community and ~~[Economic Development]~~

Culture;

- (k) two representatives from the corporate community, one who is a recent "Family Friendly" award winner and who received the award because of efforts in the child care arena;
- (l) two representatives from the small business community;
- (m) one representative from child care advocacy groups;
- (n) one representative of children with disabilities;
- (o) one representative from the state Head Start Association appointed by the association;
- (p) one representative from each child care provider association; and
- (q) one representative of a child care resource and referral center appointed by the organization representing child care resource and referral agencies.

(4) (a) The executive director shall appoint the members designated in Subsections (3)(a) through (f) and (k) through (n).

(b) The head of the respective departments shall appoint the members referred to in Subsections (3)(g) through (j).

(c) Each child care provider association shall appoint its respective member referred to in Subsection (3)(p).

(5) (a) Except as required by Subsection (5)(b), as terms of current committee members expire, the appointing authority shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, including missing three

consecutive meetings where the member has not been excused by the chair prior to or during the meeting, the replacement shall be appointed for the unexpired term.

(7) A majority of the members constitutes a quorum for the transaction of business.

(8) (a) The executive director shall select a chair from the committee membership.

(b) A chair may serve no more than two one-year terms as chair.

(9) (a) Members who are not government employees may not receive compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(c) Members identified in Subsections (9)(a) and (b) may decline to receive per diem and expenses for their service.

Section 20. Section **35A-3-309** is amended to read:

35A-3-309. Information regarding home ownership.

(1) The division shall provide information and service coordination to assist a client to obtain affordable housing.

(2) The information and services may include:

(a) information from the Utah Housing Corporation and the Division of Housing and Community Development within the Department of Community and ~~Economic Development~~ Culture regarding special housing programs, including programs for first-time home buyers and persons with low and moderate incomes and the eligibility requirements for those programs;

(b) referrals to programs operated by volunteers from the real estate industry that assist clients in obtaining affordable housing, including information on home ownership, down payments, closing costs, and credit requirements; and

(c) referrals to housing programs operated by municipalities, counties, local housing

authorities, and nonprofit housing organizations that assist individuals to obtain affordable housing, including first-time home ownership.

Section 21. Section **35A-4-312** is amended to read:

35A-4-312. Records.

(1) (a) Each employing unit shall keep true and accurate work records containing any information the department may prescribe by rule.

(b) The records shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as may be necessary.

(c) The employing unit shall make the records available in the state for three years after the calendar year in which the services were rendered.

(2) The division may require from an employing unit any sworn or unsworn reports with respect to persons employed by it that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in any manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) in an action or proceeding by the Labor Commission to enforce the provisions of Title 34, Chapter 23, Employment of Minors, Chapter 28, Payment of Wages, Chapter 40, Utah Minimum Wage Act, or Title 34A, Utah Labor Code, [or Chapters 23, 28, and 40 of Title 34, Labor in General], provided the Labor Commission enters into a written agreement with the division under Subsection (6)(b); or

(iii) under the terms of a court order obtained under Subsection 63-2-202(7) and Section 63-2-207 of the Government Records Access and Management Act.

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of

the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for any information concerning claims for benefits with respect to the employer's former employees.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the governor's office and other state governmental agencies administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(d) an employee of other governmental agencies that are specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(e) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in the detection or avoidance of duplicate, inconsistent, or fraudulent claims against a workers' compensation program, public assistance funds, or the recovery of overpayments of workers' compensation or public assistance funds;

(f) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(g) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of audit verification or simplification, state or federal tax compliance, verification of Standard Industry Codes, and statistics;

(h) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Investment Act of 1998 for the purpose of coordinating services with the department, evaluating the effectiveness of those activities, and measuring performance;

(i) an employee of the [~~Department of Community and~~ Governor's Office of Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, Standard Industrial Code, and type of ownership of Utah employers;

(j) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure; or

(k) an individual whose wage data has been submitted to the department by an employer, so long as no information other than the individual's wage data and the identity of the party who submitted the information is provided to the individual.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a) and (f), shall be made only if:

(a) the division determines that the disclosure will not have a negative effect on the willingness of employers to report wage and employment information or on the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7) (a) The employees of a division of the department other than the Division of Workforce Information and Payment Services or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person, or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

Section 22. Section **41-1a-405** is amended to read:

41-1a-405. License plate slogan -- Purpose -- Selection.

(1) The slogan required by Section 41-1a-402 shall be a brief slogan designed to promote the recreational, scenic, historic, or tourist attractions of the state.

(2) (a) The slogan shall be selected by the commission pursuant to its procedures.

(b) The commission in selecting the slogan shall consult with all interested state agencies including:

(i) the Utah Highway Patrol;

~~[(ii) the Division of Travel Development;]~~

~~[(iii)]~~ (ii) the ~~[Department of Community and]~~ Governor's Office of Economic Development; and

~~[(iv)]~~ (iii) the Division of Parks and Recreation.

Section 23. Section **46-4-503** is amended to read:

46-4-503. Government products and services provided electronically.

(1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

(a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

(b) the renewal of a drivers license;

(c) an application for a hunting or fishing license;

(d) the filing of:

(i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use Tax Act;

(ii) a court document, as defined by the Judicial Council; or

(iii) a document under Title 70A, Uniform Commercial Code;

(e) a registration for:

(i) a product; or

(ii) a brand;

(f) a renewal of a registration of a motor vehicle;

(g) a registration under:

(i) Title 16, Corporations;

(ii) Title 42, Names; or

- (iii) Title 48, Partnership; or
- (h) submission of an application for benefits:
 - (i) under Title 35A, Chapter 3, Employment Support Act;
 - (ii) under Title 35A, Chapter 4, Employment Security Act; or
 - (iii) related to accident and health insurance.

(2) The state system of public education, in coordination with the Utah Education Network, shall make reasonable progress toward making the following services available electronically:

- (a) secure access by parents and students to student grades and progress reports;
- (b) e-mail communications with:
 - (i) teachers;
 - (ii) parent-teacher associations; and
 - (iii) school administrators;
- (c) access to school calendars and schedules; and
- (d) teaching resources that may include:
 - (i) teaching plans;
 - (ii) curriculum guides; and
 - (iii) media resources.

(3) A state governmental agency shall:

(a) in carrying out the requirements of this section, take reasonable steps to ensure the security and privacy of records that are private or controlled as defined by Title 63, Chapter 2, Government Records Access and Management Act;

(b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services that may be made available to the public through electronic means; and

(c) as part of the agency's information technology plan required by Section 63D-1a-303, report on the progress of compliance with Subsections (1) through (3).

(4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this part to conduct a transaction electronically if:

- (a) conducting the transaction electronically is not required by federal law; and
- (b) conducting the transaction electronically is:
 - (i) impractical;
 - (ii) unreasonable; or
 - (iii) not permitted by laws pertaining to privacy or security.

(5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.

(b) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov. The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

(c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.

(d) The following state [~~agencies~~] entities shall comply with the provisions of this Subsection (5):

- (i) [~~Department of Community and~~] Governor's Office of Economic Development, which shall serve as the managing partner for the website;
- (ii) Department of Workforce Services;
- (iii) Department of Commerce;
- (iv) Tax Commission;
- (v) Department of Administrative Services - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;
- (vi) Department of Agriculture;
- (vii) Department of Natural Resources; and
- (viii) other state agencies that provide services or offer direct assistance to the business sector.

- (e) The business services available on the business web portal may include:
 - (i) business life cycle information;
 - (ii) business searches;
 - (iii) employment needs and opportunities;
 - (iv) motor vehicle registration;
 - (v) permit applications and renewal;
 - (vi) tax information;
 - (vii) government procurement bid notifications;
 - (viii) general business information;
 - (ix) business directories; and
 - (x) business news.

Section 24. Section **53B-18-1002** is amended to read:

53B-18-1002. Establishment of the center -- Purpose -- Duties and responsibilities.

(1) There is established the Mormon Pioneer Heritage Center in connection with Utah State University.

(2) The purpose of the center is to coordinate interdepartmental research and extension efforts in recreation, heritage tourism, and agricultural extension service and to enter into cooperative contracts with the United States Departments of Agriculture and Interior, state, county, and city officers, public and private organizations, and individuals to enhance Mormon pioneer heritage.

(3) The center has the following duties and responsibilities:

(a) to support U.S. Congressional findings that the landscape, architecture, traditions, products, and events in the counties convey the heritage of pioneer settlements and their role in agricultural development;

(b) to coordinate with extension agents in the counties to assist in the enhancement of heritage businesses and the creation of heritage products;

(c) to foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities;

(d) to support U.S. Congressional findings that the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(e) to encourage research and studies relative to the variety of heritage resources along the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the All American Road, to the extent those resources demonstrate:

- (i) the colonization of the western United States; and
 - (ii) the expansion of the United States as a major world power;
- (f) to demonstrate that the great relocation to the western United States was facilitated

by:

- (i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers; and
- (ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California; and

(g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers:

- (i) interacted with Native Americans; and
- (ii) established towns and cities in a harsh, yet spectacular, natural environment.

(4) The center, in collaboration with the U.S. Department of Interior, the National Park Service, the U.S. Department of Agriculture, the U.S. Forest Service, the Utah Department of Community and ~~[Economic Development]~~ Culture, the Utah Division of State History, and the alliance and its intergovernmental local partners, shall:

(a) assist in empowering communities in the counties to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;

(b) help conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the counties; and

(c) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the counties.

(5) The center, in collaboration with the U.S. Department of the Interior, the National Park Service, and with funding from the alliance, shall develop a heritage management plan.

Section 25. Section **59-7-610** is amended to read:

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

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section [~~9-2-1602~~] 63-38f-1102 may claim a tax credit as provided in this section.

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

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

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

(II) reduce or reuse postconsumer waste material.

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

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

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

(iii) The [~~Department of Community and~~] Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

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

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

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

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

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

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

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [~~9-2-413~~] 63-38f-413.

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

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

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

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [~~9-2-413~~] 63-38f-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section [~~9-2-1803~~] 63-38f-503.

Section 26. Section **59-10-108.7** is amended to read:

59-10-108.7. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, an individual in a recycling market development zone as defined in Section [~~9-2-1602~~] 63-38f-1102 may claim a tax credit as provided in this section.

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

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

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

(II) reduce or reuse postconsumer waste material.

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

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

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

(iii) The [~~Department of Community and~~] Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

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

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

(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of

purchase prior to claiming the tax credit authorized by this section.

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

(b) Tax credits not claimed by an individual on the individual's state income tax return within three years are forfeited.

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

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section ~~[9-2-413]~~ 63-38f-413.

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

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

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

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section ~~[9-2-413]~~ 63-38f-413.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section ~~[9-2-1803]~~ 63-38f-503.

Section 27. Section **59-21-2** is amended to read:

59-21-2. Definitions -- Mineral Bonus Account created -- Contents -- Use of

Mineral Bonus Account money -- Mineral Lease Account created -- Contents --

Appropriation of monies from Mineral Lease Account.

- (1) As used in this section:
 - (a) "Acquired lands" is as defined in Section 53C-3-201.
 - (b) "Acquired mineral interests" is as defined in Section 53C-3-201.
- (2) (a) The Mineral Bonus Account is created within the General Fund.
- (b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).
- (c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.
- (d) The state treasurer shall:
 - (i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.
- (3) (a) The Mineral Lease Account is created within the General Fund.
- (b) The Mineral Lease Account consists of:
 - (i) federal mineral lease money deposited pursuant to Subsection 59-21-1(1); and
 - (ii) rentals and royalties from the lease of the following deposited pursuant to Section 53C-3-202:
 - (A) minerals on acquired lands; or
 - (B) acquired mineral interests.
- (c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (3).
- (d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 9-4-303.
- (e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and

experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Department of Transportation 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (3)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection (3)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Community and [~~Economic Development~~] Culture to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Community and [~~Economic Development~~] Culture may distribute the amounts described in Subsection (3)(i)(i) only to special service districts established under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease moneys within the state are generated; and

(C) that are significantly socially or economically impacted as provided in Subsection

(3)(i)(iii) by the development of:

(I) minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.;

(II) minerals on acquired lands; or

(III) acquired mineral interests.

(iii) The significant social or economic impact required under Subsection (3)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (3)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (3)(i) to special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, the Department of Community and [~~Economic Development~~] Culture shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (3)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (3)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (3)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (3)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, as determined by the executive director of the Department of Community and [~~Economic Development~~] Culture after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (3)(i)(ii) and (iii).

(v) The executive director of the Department of Community and [~~Economic Development~~] Culture:

(A) shall determine whether a county meets the requirements of Subsections (3)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (3)(i)(i) to special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, that meet the requirements of Subsections (3)(i)(ii) and (iii); and

(C) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (3)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (3)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (3)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (3)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) \$1,000; and

(II) the number of residences described in Subsection (3)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (3)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17A, Chapter 2, Part 13, Utah Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (3)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (3)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (3)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (3)(d) through (j).

(4) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (4)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Economic Development and Human Resources Appropriation Subcommittee as part of its normal budgetary process under Title 63, Chapter 38, Budgetary Procedures Act.

Section 28. Section **63-5b-102** is amended to read:

63-5b-102. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Attack" means a nuclear, conventional, biological, or chemical warfare action against the United States of America or this state.

(3) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of Commerce, the Department of Community and [~~Economic Development~~] Culture, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the State Board of Regents, the Utah Housing Corporation, the Utah Technology Finance Corporation, the Workers' Compensation Fund, the State Retirement Board, and each institution of higher education within the system of higher education.

(4) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomenon, or technological hazard.

(5) "Division" means the Division of Emergency Services and Homeland Security established in Title 53, Chapter 2, Part 1, Emergency Services and Homeland Security Act.

(6) "Emergency interim successor" means a person designated by this chapter to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(7) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

(9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

(10) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(11) "Place of governance" means the physical location where the powers of an office are being exercised.

(12) "Political subdivision" includes counties, cities, towns, townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(13) "Political subdivision officer" means a person holding an office in a political subdivision.

(14) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(15) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

(16) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 29. Section **63-38d-502** is amended to read:

63-38d-502. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee shall consist of the following 25 members:

- (a) the state science advisor;
- (b) a representative from the Department of Agriculture and Food appointed by the executive director;
- (c) a representative from the Department of Community and ~~[Economic Development]~~ Culture appointed by the executive director;
- (d) a representative from the Department of Environmental Quality appointed by the executive director;
- (e) a representative from the Department of Natural Resources appointed by the executive director;
- (f) a representative from the Department of Transportation appointed by the executive director;
- (g) a representative from the ~~[Division of Business and]~~ Governor's Office of Economic Development appointed by the director;
- (h) a representative from the Division of Housing and Community Development appointed by the director;
- (i) a representative from the Division of State History appointed by the director;
- (j) a representative from the Division of Air Quality appointed by the director;
- (k) a representative from the Division of Drinking Water appointed by the director;
- (l) a representative from the Division of Environmental Response and Remediation appointed by the director;
- (m) a representative from the Division of Radiation appointed by the director;
- (n) a representative from the Division of Solid and Hazardous Waste appointed by the director;

- (o) a representative from the Division of Water Quality appointed by the director;
- (p) a representative from the Division of Oil, Gas, and Mining appointed by the director;
- (q) a representative from the Division of Parks and Recreation appointed by the director;
- (r) a representative from the Division of Forestry, Fire and State Lands appointed by the director;
- (s) a representative from the Utah Geological Survey appointed by the director;
- (t) a representative from the Division of Water Resources appointed by the director;
- (u) a representative from the Division of Water Rights appointed by the director;
- (v) a representative from the Division of Wildlife Resources appointed by the director;
- (w) a representative from the School and Institutional Trust Lands Administration appointed by the director;
- (x) a representative from the Division of Facilities Construction and Management appointed by the director; and
- (y) a representative from the Division of Emergency Services and Homeland Security appointed by the director.

(2) (a) As particular issues require, the committee may, by majority vote of the members present, and with the concurrence of the state planning coordinator, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a majority vote of committee members with the concurrence of the state planning coordinator.

(4) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per

diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

Section 30. Section **63-38f-101**, which is renumbered from Section 9-2-201 is renumbered and amended to read:

CHAPTER 38f. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

Part 1. General Provisions

[9-2-201]. 63-38f-101. Title.

This [part] chapter is known as the "[~~Business and~~] Governor's Office of Economic Development [Act]."

Section 31. Section **63-38f-102**, which is renumbered from Section 9-2-102 is renumbered and amended to read:

[9-2-102]. 63-38f-102. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Business and Economic Development.
- (2) "Director" means the director of the [~~division~~] office.
- (3) [~~"Division"~~] "Office" means the [~~Division of Business and~~] Governor's Office of Economic Development.

Section 32. Section **63-38f-201** is enacted to read:

63-38f-201. Creation of office.

- (1) There is created the Governor's Office of Economic Development.
- (2) The office shall:
 - (a) be responsible for economic development within the state;
 - (b) perform economic development planning for the state;
 - (c) administer and coordinate all state or federal grant programs which are, or become available, for economic development;

(d) administer any other programs over which the office is given administrative supervision by the governor;

(e) annually submit a report to the Legislature by October 1; and

(f) perform any other duties as provided by the Legislature.

(3) The office may solicit and accept contributions of moneys, services, and facilities from any other source, public or private, but may not use the moneys for publicizing the exclusive interest of the donor.

(4) Moneys received under Subsection (3) shall be deposited in the General Fund as dedicated credits of the office.

Section 33. Section **63-38f-202**, which is renumbered from Section 9-1-204 is renumbered and amended to read:

[9-1-204]. 63-38f-202. Director of office -- Appointment -- Removal -- Compensation.

(1) The [~~department~~] office shall be administered, directed, controlled, organized, and managed by [~~an executive~~] a director appointed by the governor [~~with the consent of the Senate~~].

(2) The [~~executive~~] director [~~shall serve~~] serves at the pleasure of the governor [~~and is subject to removal by the governor with or without cause~~].

(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.

Section 34. Section **63-38f-203**, which is renumbered from Section 9-1-205 is renumbered and amended to read:

[9-1-205]. 63-38f-203. Powers and duties of director.

(1) The [~~executive~~] director, with the approval of the governor, may:

(a) by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal programs;

(b) enter into lawful contracts or agreements with other states, any chamber of commerce organization, and any service club; and

(c) annually prepare and submit to the governor a budget of the [~~department's~~] office's

financial requirements.

(2) If any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, the ~~[executive]~~ director shall expend whatever funds are necessary out of the money provided by the Legislature for the use of the ~~[department]~~ office.

Section 35. Section ~~63-38f-204~~, which is renumbered from Section 9-1-206 is renumbered and amended to read:

~~[9-1-206]~~. **63-38f-204. Organization of office -- Jurisdiction of director.**

~~[(1) The chief administrative officer of each division within the department shall be a director appointed by the executive director.]~~

~~[(a) Each division director shall serve at the pleasure of the executive director and may be removed by the executive director after consultation with the respective board.]~~

~~[(b) Each director shall receive compensation as provided in Title 67, Chapter 19, Utah State Personnel Management Act.]~~

~~[(2)]~~ (1) Unless otherwise expressly provided by statute, the ~~[executive]~~ director may organize the ~~[department]~~ office in any fashion ~~[he considers]~~ considered appropriate, including the appointment of deputy directors of the ~~[department to act as division directors or as supervisors over two or more divisions]~~ office.

~~[(3) The executive director shall have administrative jurisdiction over each division director for the purpose of implementing the policy promulgated by the policy-making board of each division.]~~

(2) The ~~[executive]~~ director may make consolidations of personnel and service functions ~~[in the respective divisions]~~ to effectuate efficiency and economy within the ~~[department]~~ office.

Section 36. Section ~~63-38f-205~~, which is renumbered from Section 9-1-207 is renumbered and amended to read:

~~[9-1-207]~~. **63-38f-205. Interface with Public Service Commission.**

(1) The ~~[executive]~~ director or ~~[his]~~ the 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 before the Public Service Commission.

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

Section 37. Section **63-38f-301**, which is renumbered from Section 9-2-202 is renumbered and amended to read:

[9-2-202]. 63-38f-301. Board of Business and Economic Development.

~~[(1)]~~ There is created within the ~~[department]~~ office the Board of Business and Economic Development which shall advise the ~~[division]~~ office.

~~[(2) The board shall assume all of the functions, powers, duties, rights, and responsibilities of the Utah State Industrial Promotion Commission together with all functions, powers, duties, rights, and responsibilities granted to the board by this part, except for those that are administrative in nature which the division shall assume.]~~

Section 38. Section **63-38f-302**, which is renumbered from Section 9-2-203 is renumbered and amended to read:

[9-2-203]. 63-38f-302. Members -- Meetings -- Expenses.

(1) (a) The board shall consist of 15 members appointed by the governor to four-year terms of office with the consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(2) Not more than eight members of the board may be from one political party.

(3) The members shall be representative of all areas of the state.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) Eight members of the board constitute a quorum for conducting board business and exercising board power.

(6) The governor shall select one of the board members as its chair.

(7) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

Section 39. Section ~~63-38f-303~~, which is renumbered from Section 9-2-204 is renumbered and amended to read:

~~[9-2-204]~~. **63-38f-303. Board duties and powers.**

(1) The board shall:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(b) do all lawful acts for the development, attraction, and retention of businesses, industries, and commerce within the state;

(c) promote and encourage the expansion and retention of businesses, industries, and commerce located in the state;

(d) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce located in the state;

(e) do other acts not specifically enumerated in this ~~[part]~~ chapter, if the acts are for the betterment of the economy of the state;

(f) work in conjunction with companies and individuals located or doing business within the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:

(i) railroad;

(ii) motor carrier; or

(iii) other common carriers;

(g) recommend policies, priorities, and objectives to the ~~[division]~~ office regarding the assistance, retention, or recruitment of business, industries, and commerce in the state; and

(h) ~~[ensure that]~~ recommend how any money or program administered by the ~~[department]~~ office or its divisions for the assistance, retention, or recruitment of businesses, industries, and commerce in the state shall be administered, so that the money or program is equitably available to all areas of the state unless federal or state law requires or authorizes the geographic location of a recipient of the money or program to be considered in the distribution of the money or administration of the program.

(2) The board may~~[-(a)]~~, in furtherance of the authority granted under Subsection (1)(f), appear as a party litigant on behalf of individuals or companies located or doing business within the state in proceedings before regulatory commissions of the state, other states, or the federal government having jurisdiction over such matters~~[-and]~~.

~~[(b) make, amend, or revoke rules for the conduct of its business not inconsistent with this part and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

Section 40. Section **63-38f-304**, which is renumbered from Section 9-2-205 is renumbered and amended to read:

~~[9-2-205].~~ 63-38f-304. Governor's Office of Economic Development -- Powers and duties of office -- Consulting with board on funds or services provided by office.

(1) For the purposes of this section:

(a) "National recruitment" means the recruitment to the state of business, industry, or commerce if, at the time of the recruitment, the business, industry, or commerce is principally located in the United States.

(b) "Private entity" means a private person, corporation, company, or organization.

~~[(2) There is created within the department the Division of Business and Economic Development under the administration and general supervision of the executive director or a designee of the executive director.]~~

~~[(3)]~~ (2) (a) The ~~[division]~~ office shall obtain the advice ~~[and concurrence]~~ of the board prior to an imposition of or change to a policy, priority, or objective~~[-or rule]~~ under which the ~~[division]~~ office operates.

(b) Subsection ~~[(3)]~~ (2)(a) does not apply to the routine administration by the ~~[department or division of]~~ office of funds or services related to assistance, retention, or recruitment of business, industry, or commerce in this state.

~~[(4)]~~ (3) The ~~[division]~~ office shall:

- (a) be the industrial promotion authority of the state;
- (b) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;
- (c) do all lawful acts to create, develop, attract, and retain business, industry, and commerce within the state; and
- (d) do other acts that enhance the economy of the state.

~~[(5)]~~ (4) The ~~[division]~~ office may~~[-subject to Subsection (6) and the approval of the board]~~:

(a) enter into contracts or agreements with, or make grants to, public or private entities, including municipalities, in the furtherance of its duties where the contracts or agreements are not in violation of the Constitution or statutes of the state; and

(b) receive and expend funds available from any source, public or private, in any manner and for any lawful purpose in the best interest of the state in the discharge of their obligations under this part.

~~[(6) (a) Beginning on May 3, 1999, the department or division may enter into or renew a contract or agreement with or make a grant to a private entity under which the private entity engages in national recruitment only if the sole activity of the private entity is national recruitment.]~~

~~[(b) In determining whether a private entity engages in activity other than national recruitment, the department or division shall consider all activities of the private entity regardless of whether the activities are funded by the department or division.]~~

~~[(7)]~~ (5) The ~~[executive director and the]~~ director or the director's designee shall consult with the board at each meeting of the board regarding the administration by the ~~[department or the division]~~ office of funds or services related to assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 41. Section ~~63-38f-401~~, which is renumbered from Section 9-2-401 is renumbered and amended to read:

Part 4. Enterprise Zone Act

~~[9-2-401].~~ **63-38f-401. Title.**

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

Section 42. Section ~~63-38f-402~~, which is renumbered from Section 9-2-402 is renumbered and amended to read:

~~[9-2-402].~~ **63-38f-402. Definitions.**

As used in this part:

(1) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section ~~[9-2-404]~~ 63-38f-404.

(2) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section ~~[9-2-404]~~ 63-38f-404.

(3) "Tax incentives" or "tax benefits" means the tax credits available under Section ~~[9-2-413]~~ 63-38f-413.

Section 43. Section ~~63-38f-403~~, which is renumbered from Section 9-2-403 is renumbered and amended to read:

~~[9-2-403].~~ **63-38f-403. Powers of the office.**

The ~~[department]~~ 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 from a county applicant or a municipal applicant to be designated an enterprise zone 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 in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) prepare an annual evaluation based, in part, on data provided by the State Tax Commission:

(a) evaluating the effectiveness of the program and any suggestions for legislation; and

(b) that is available upon request to the governor and to the Revenue and Taxation Interim Committee of the Legislature [~~on or before~~] by November 1 of each year.

Section 44. Section ~~63-38f-404~~, which is renumbered from Section 9-2-404 is renumbered and amended to read:

~~[9-2-404].~~ **63-38f-404.** **Criteria for designation of enterprise zones --**

Application.

(1) A county applicant seeking designation as an enterprise zone shall file an application with the [~~department~~] office that, in addition to complying with other requirements of this part:

(a) verifies that the entire county is not located in a metropolitan statistical area that is entirely located within Utah, except that this requirement does not apply to a third, fourth, fifth, or sixth class county as classified under Section 17-50-501;

(b) verifies that the county has a population of 50,000 or less; and

(c) 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 [~~department~~] office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality is a city of the fifth class or a town;

(b) verifies that the municipality is within a county that has a population of 50,000 or less; 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 [~~department~~] 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 [~~9-2-405~~] 63-38f-405;
- (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 to be implemented within the zone once they have been implemented;
- (d) any additional information required by the [~~department~~] office; and
- (e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

Section 45. Section **63-38f-405**, which is renumbered from Section 9-2-405 is renumbered and amended to read:

[~~9-2-405~~]. 63-38f-405. 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.

Section 46. Section ~~63-38f-406~~, which is renumbered from Section 9-2-406 is renumbered and amended to read:

~~[9-2-406]~~. **63-38f-406. Eligibility review.**

(1) ~~(a)~~ The [department] office shall review and evaluate the applications submitted under Section ~~[9-2-404]~~ 63-38f-404 and shall determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.

~~(b)~~ In determining whether a county applicant or municipal applicant is eligible, if unemployment, income, population, or other necessary data are not available for the county applicant or municipal applicant from the federal departments of labor or commerce or a state agency, the [department] office may rely upon other data submitted by the applicant, if the [department] office determines that it is statistically reliable or accurate.

(2) ~~(a)~~ The [department] office shall designate enterprise zones.

~~(b)~~ The [department] office shall consider and evaluate an application using the following criteria:

~~(a)~~ ~~(i)~~ the pervasiveness of poverty, unemployment, and general distress in the proposed zone;

~~(b)~~ ~~(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;

~~[(e)]~~ (iii) the potential for new investment and economic development in the proposed zone;

~~[(d)]~~ (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;

~~[(e)]~~ (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;

~~[(f)]~~ (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

~~[(g)]~~ (vii) other relevant factors that the ~~[department]~~ office specifies in its recommendation.

Section 47. Section **63-38f-407**, which is renumbered from Section 9-2-407 is renumbered and amended to read:

~~[9-2-407].~~ **63-38f-407. Quarterly consideration.**

The ~~[department]~~ office shall consider designating enterprise zones quarterly.

Section 48. Section **63-38f-408**, which is renumbered from Section 9-2-408 is renumbered and amended to read:

~~[9-2-408].~~ **63-38f-408. Duration of designation.**

Each enterprise zone has a duration of five years, at the end of which the county may reapply for the designation.

Section 49. Section **63-38f-409**, which is renumbered from Section 9-2-409 is renumbered and amended to read:

~~[9-2-409].~~ **63-38f-409. Contingent designations.**

(1) The ~~[department]~~ 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.

Section 50. Section **63-38f-410**, which is renumbered from Section 9-2-410 is renumbered and amended to read:

[9-2-410]. 63-38f-410. Revocation of designations.

(1) The [~~department~~] office may revoke the designation of an enterprise zone, if no businesses utilize the tax incentives during any calendar year.

(2) Prior to that action, the [~~department~~] office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Section 51. Section **63-38f-411**, which is renumbered from Section 9-2-411 is renumbered and amended to read:

[9-2-411]. 63-38f-411. Disqualifying transfers.

Except in counties of the first or second class, tax incentives provided by this part are not available to companies that close or permanently curtail 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.

Section 52. Section **63-38f-412**, which is renumbered from Section 9-2-412 is renumbered and amended to read:

[9-2-412]. 63-38f-412. Businesses qualifying for tax incentives.

The tax incentives described in this part are available only to a business firm for which at least 51% of the employees employed at facilities of the firm located in the enterprise zone are individuals who, at the time of employment, reside in the county in which the enterprise zone is located.

Section 53. Section **63-38f-413**, which is renumbered from Section 9-2-413 is renumbered and amended to read:

[9-2-413]. 63-38f-413. State tax credits.

(1) Subject to the limitations of Subsections (2) through (4), the following state tax credits against individual income taxes or corporate franchise and income taxes are applicable in an enterprise zone:

(a) a tax credit of \$750 may be claimed by a business for each new full-time position filled for not less than six months during a given tax year;

(b) an additional \$500 tax credit may be claimed if the new position 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 credit of \$750 may be claimed if the new position is in a business that adds value to agricultural commodities through manufacturing or processing;

(d) an additional credit of \$200 may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for two consecutive years;

(e) a credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the board of directors of the Utah Rural Development Council;

(f) a 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; and

(g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business claiming a credit under Subsections (1)(a) through (d) may claim a credit for 30 full-time employee positions or less in each of its taxable years.

(b) A business that received a credit for its full-time employee positions under Subsections (1)(a) through (d) may claim an additional credit for a full-time employee position under Subsections (1)(a) through (d) if:

(i) the business creates a new full-time employee position;

(ii) the total number of full-time employee positions at the business is greater than the number of full-time employee positions previously claimed by the business under Subsections (1)(a) through (d); and

(iii) the total number of credits the business has claimed for its current taxable year, including the new full-time employee position for which the business is claiming a credit, is less than or equal to 30.

(c) A business existing in an enterprise zone on the date of its designation shall calculate the number of full-time positions based on the average number of employees reported to the Department of Workforce Services.

(d) Construction jobs are not eligible for the tax credit under Subsections (1)(a) through (d).

(3) 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 amount of the credit exceeding the liability may be carried forward for a period that does not exceed the next three taxable years.

(4) (a) If a business entity is located in a county that met the requirements of Subsections ~~[9-2-404(1)(b) and (c)]~~ 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January 1, 1998, because the county was located in a metropolitan statistical area in more than one state, the business entity:

(i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997, but beginning before December 31, 1997;

(ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning

on or after January 1, 1997, but beginning before December 31, 1997; and

(iii) may qualify for tax credits for any taxable year beginning on or after January 1, 1998, if the county is designated as an enterprise zone in accordance with this part.

(b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business entity:

(i) may claim the tax credit by filing for the taxable year beginning on or after January 1, 1997, but beginning before December 31, 1997:

- (A) an individual income tax return;
- (B) an amended individual income tax return;
- (C) a corporate franchise and income tax return; or
- (D) an amended corporate franchise and income tax return; and

(ii) may carry forward the tax credit to a taxable year beginning on or after January 1, 1998, in accordance with Subsection (3).

(5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a business engaged in retail trade or by a public utilities business.

(6) A business may not claim or carry forward a tax credit available under this part for a taxable year during which the business has claimed the targeted business income tax credit available under Section ~~[9-2-1803]~~ 63-38f-503.

Section 54. Section ~~63-38f-414~~, which is renumbered from Section 9-2-414 is renumbered and amended to read:

~~[9-2-414]~~. **63-38f-414**. **Annual report.**

(1) Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the ~~[department]~~ office regarding the economic activity that has occurred in the zone following the designation.

(2) This information shall include:

- (a) the number of jobs created in the zone[;];
- (b) the number of economically disadvantaged individuals receiving public job training assistance in the zone[;];
- (c) the average wage level of the jobs created[;];

(d) descriptions of any affirmative action programs undertaken by the county applicant or municipal applicant in connection with the enterprise zone[;];

(e) the amount of the county applicant's or municipal applicant's local contribution[;];
and

(f) the number of businesses qualifying for, or directly benefiting from, the local contribution.

Section 55. Section **63-38f-415**, which is renumbered from Section 9-2-415 is renumbered and amended to read:

~~[9-2-415].~~ 63-38f-415. Indian tribes -- Application.

(1) For purposes of this section:

(a) "Indian reservation" is as defined in Section 9-9-210.

(b) "Indian tribe" is as defined in Subsection 9-9-402(4).

(c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (3).

(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 ~~[9-2-404(2)(a) and (b)]~~ 63-38f-404(2)(a) and (b).

Section 56. Section **63-38f-416**, which is renumbered from Section 9-2-416 is renumbered and amended to read:

~~[9-2-416].~~ 63-38f-416. Technology-based service contracts within enterprise zones.

(1) For purposes of this section:

(a) "Smart site enterprise" means a technology-based entity located within an enterprise zone that is eligible to receive financial support under the ~~[department's]~~ office's smart site program.

(b) "Smart site program" means a program of the ~~[department]~~ office dedicated to the

development of technology-based industry in rural Utah in which services that might otherwise be performed by state agencies are outsourced to a smart site enterprise.

(c) "State agency" means the:

- (i) Department of Commerce;
- (ii) Department of Workforce Services;
- (iii) Department of Transportation;
- (iv) Department of Health;
- (v) Department of Administrative Services;
- (vi) Department of Public Safety;
- (vii) Utah State Tax Commission; and
- (viii) [~~Department of Community and~~] Governor's Office of Economic Development.

(d) "Technology-based contract" means a contract between a state agency and a smart site enterprise for the smart site enterprise to provide the following services:

- (i) software development and computer programming;
- (ii) website design;
- (iii) systems integration;
- (iv) AutoCad/GIS mapping;
- (v) help desk support, customer relationship management, and telephone or Internet surveys;
- (vi) computer graphics, animation, or illustration;
- (vii) medical billing, coding, transcription, and related medical informatics services;
- (viii) data entry, data conversion, and imaging;
- (ix) information technology training and e-learning;
- (x) network development, management, service, and support;
- (xi) telecommunications technologies;
- (xii) database development and applications;
- (xiii) multimedia and digital technologies, including DVD;
- (xiv) technical writing;

- (xv) insurance and benefits administration;
- (xvi) data warehousing and storage or web hosting;
- (xvii) billing services; and
- (xviii) information technology consulting.

(2) The [department] office has the following responsibilities for the smart site program authorized under this section:

(a) to provide market incentives identified in Subsection (4) to eligible state agencies and provide technical assistance as appropriate;

(b) to administer funding and initiate interagency transfers consistent with the provisions of this section;

(c) to provide state agencies with a listing of smart site enterprises; and

(d) to designate a smart site program director and notify state agencies of the designation[; ~~and~~].

~~[(e) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make rules necessary to administer this section.]~~

(3) A state agency has the following responsibilities if participating in the smart site program offered under this section:

(a) to enter into a memorandum of understanding with the [department] office indicating the steps the agency shall take to encourage smart site enterprises to submit bids for technology-based contracts; and

(b) to submit to the [department] office by no later than July 30, an accounting of all technology-based contracts awarded to smart site enterprises by the agency in the prior fiscal year.

(4) (a) A state agency is eligible for an interagency transfer from the [department] office for up to 10% of all technology-based contracts awarded to a smart site enterprise under the [department's] office's smart site program.

(b) The [department] office shall determine the amount of the interagency transfer as follows:

(i) if the total number of requests for interagency transfers under the program does not exceed the legislative appropriation for the fiscal year, each eligible agency shall receive a full 10% transfer; or

(ii) if the total number of requests for interagency transfers under the program exceeds the appropriation for the fiscal year, the ~~[department]~~ office shall prorate the amount of each transfer based on the respective percentage of all technology-based contracts submitted to the ~~[department]~~ office by all eligible state agencies.

(c) (i) After determining the amount of each agency's interagency transfer as required under Subsection (4)(b), the ~~[department]~~ office shall transfer the amount to each agency's budget.

(ii) The ~~[department]~~ office shall make the transfer no later than August 15 to supplement the agency's budget for the fiscal year beginning just prior to the interagency transfer.

(iii) An agency may use the interagency transfer it receives under this Subsection (4)(c) for any purpose related to the agency's mission or its duties and responsibilities, including the payment of incentives and award bonuses for participating in the smart site program.

(d) Funding for the interagency transfer under Subsection (4)(c) shall come from the prior fiscal year appropriation to the ~~[department]~~ office.

(e) The appropriation to fund this section is nonlapsing to provide for the distribution process outlined in this Subsection (4).

Section 57. Section **63-38f-501**, which is renumbered from Section 9-2-1801 is renumbered and amended to read:

Part 5. Targeted Business Income Tax Credits Within an Enterprise Zone

~~[9-2-1801]. 63-38f-501. Definitions.~~

~~[(+)]~~ As used in this part:

~~[(a)]~~ (1) "Allocated cap amount" means the total amount of the targeted business income tax credit that a business applicant is allowed to claim for a taxable year that represents a pro rata share of the total amount of \$300,000 for each fiscal year allowed under Subsection ~~[9-2-1803]~~ 63-38f-503(2).

~~[(b)]~~ (2) "Business applicant" means a business that meets the criteria established in Section ~~[9-2-1802]~~ 63-38f-502.

~~[(c)]~~ (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:

~~[(i)]~~ (a) substantial new employment;

~~[(ii)]~~ (b) new capital development; or

~~[(iii)]~~ (c) a combination of both Subsections ~~[(1)(c)(i) and (ii)]~~ (3)(a) and (b).

~~[(d)]~~ (4) "Community investment project period" means the total number of years that the ~~[department]~~ office determines a business applicant is eligible for a targeted business income tax credit for each community investment project.

~~[(e)]~~ (5) "Enterprise zone" means an area within a county or municipality that has been designated as an enterprise zone by the ~~[department]~~ office under Part 4, Enterprise ~~[Zones]~~ Zone Act.

~~[(f)]~~ (6) "Local zone administrator" means a person:

~~[(i)]~~ (a) designated by the governing authority of the county or municipal applicant as the local zone administrator in an enterprise zone application; and

~~[(ii)]~~ (b) approved by the ~~[department]~~ office as the local zone administrator.

~~[(g)]~~ (7) "Targeted business income tax credit " means an income tax credit available under Section ~~[9-2-1803]~~ 63-38f-503.

~~[(h)]~~ (8) "Targeted business income tax credit eligibility form" means a document provided annually to the business applicant by the ~~[department]~~ office that complies with the requirements of Subsection ~~[9-2-1803]~~ 63-38f-503(8).

~~[(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of Subsection (1), the department shall make rules:]~~

~~[(a) to define what constitutes:]~~

~~[(i) substantial new employment;]~~

~~[(ii) new capital development; and]~~

~~[(iii) a project; and]~~

~~[(b) to establish a formula for determining the allocated cap amount for each business applicant.]~~

Section 58. Section **63-38f-502**, which is renumbered from Section 9-2-1802 is renumbered and amended to read:

~~[9-2-1802].~~ **63-38f-502. Application for targeted business income tax credits.**

(1) (a) For taxable years beginning on or after January 1, 2002, a business applicant may elect to claim a targeted business income tax credit available under Section ~~[9-2-1803]~~ **63-38f-503** if the business applicant:

(i) is located in:

(A) an enterprise zone; and

(B) a county with:

(I) a population of less than 25,000; and

(II) an unemployment rate that for six months or more of each calendar year is at least one percentage point higher than the state average;

(ii) meets the requirements of Section ~~[9-2-412]~~ **63-38f-412**;

(iii) provides:

(A) a community investment project within the enterprise zone; and

(B) a portion of the community investment project during each taxable year for which the business applicant claims the targeted business tax incentive; and

(iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is not engaged in the following, as defined by the State Tax Commission by rule:

(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 ~~[9-2-413]~~ **63-38f-413**, 59-7-610, or 59-10-108.7.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under

this part shall file an application as provided in Subsection (2)(b) with the local zone administrator by no later than June 1 of the year in which the business applicant is seeking to claim a targeted business income tax credit.

(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the local zone administrator to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that outlines:

(A) if the community investment project includes substantial 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 new capital development, a description of the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit; and

(C) a description of how the business applicant's plan coordinates with:

(I) the goals of the enterprise zone in which the business applicant is providing a community investment project; and

(II) the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project; and

(iii) any additional information required by the local zone administrator.

(3) (a) The local zone administrator shall:

(i) evaluate an application filed under Subsection (2); and

(ii) determine whether the business applicant is eligible for a targeted business income tax credit.

(b) If the local zone administrator determines that the business applicant is eligible for a targeted business income tax credit, the local zone administrator shall:

(i) certify that the business applicant is eligible for the targeted business income tax credit;

(ii) structure the targeted business income tax credit for the business applicant in

accordance with Section ~~[9-2-1803]~~ 63-38f-503; and

(iii) monitor a business applicant to ensure compliance with this section.

(4) A local zone administrator shall report to the ~~[department]~~ office by no later than June 30 of each year:

(a) (i) any application approved by the local zone administrator during the last fiscal year; and

(ii) the information established in Subsections ~~[9-2-1803(4)(a) through (d)]~~ 63-38f-503(4)(a) through (d) for each new business applicant; and

(b) (i) the status of any existing business applicants that the local zone administrator monitors; and

(ii) any information required by the ~~[department]~~ office to determine the status of an existing business applicant.

(5) (a) By July 15 of each year, the department shall notify the local zone administrator of the allocated cap amount that each business applicant that the local zone administrator monitors is eligible to claim.

(b) By September 15 of each year, the local zone administrator shall notify, in writing, each business applicant that the local zone administrator monitors of the allocated cap amount determined by the ~~[department]~~ office under Subsection (5)(a) that the business applicant is eligible to claim for a taxable year.

Section 59. Section **63-38f-503**, which is renumbered from Section 9-2-1803 is renumbered and amended to read:

~~[9-2-1803]~~. **63-38f-503. Targeted business income tax credit structure -- Duties of the local zone administrator -- Duties of the State Tax Commission.**

(1) For taxable years beginning on or after January 1, 2002, a business applicant that is certified under Subsection ~~[9-2-1802]~~ 63-38f-502(3) and issued a targeted business tax credit eligibility form by the ~~[department]~~ office under Subsection (8) may claim a refundable income tax credit:

(a) against the business applicant's tax liability under:

- (i) Title 59, Chapter 10, Individual Income Tax Act; or
- (ii) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and
- (b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed \$300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

- (i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

- (ii) be carried forward or carried back;

- (iii) exceed \$100,000 in total amount for the community investment project period during which the business applicant is eligible to claim a targeted business income tax credit; or

- (iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

- (A) 50% of the maximum amount allowed by the local zone administrator; or

- (B) the allocated cap amount determined by the ~~[department]~~ office under Subsection ~~[9-2-1802]~~ 63-38f-502(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

- (a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

- (b) the maximum amount of the targeted business income tax credit the business

applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section [~~9-2-1802~~] 63-38f-502 that shall be included in the report.

(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the [~~department~~] office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section [~~9-2-1802~~] 63-38f-502.

(7) The [~~department~~] office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section [~~9-2-1802~~] 63-38f-502.

(8) The [~~department~~] office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the [~~department~~] office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit

because of failure to comply with a requirement of Subsection (3) or Section [9-2-1802] 63-38f-502;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the [department] office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section [9-2-1802] 63-38f-502.

Section 60. Section **63-38f-601**, which is renumbered from Section 9-2-501 is renumbered and amended to read:

Part 6. State Advisory Council on Science and Technology

[9-2-501]. 63-38f-601. Purpose.

The purpose of this part is to establish an advisory council on science and technology to assist in the development of programs, communication, and use of science and technology in governmental organizations in the state [~~of Utah~~].

Section 61. Section **63-38f-602**, which is renumbered from Section 9-2-502 is renumbered and amended to read:

[9-2-502]. 63-38f-602. Definition of terms.

As used in this part:

(1) "Adviser" means the state science adviser appointed under this part.

(2) "Council" means the State Advisory Council on Science and Technology created under this part.

(3) "Director" means the governor's director for economic development.

Section 62. Section **63-38f-603**, which is renumbered from Section 9-2-503 is renumbered and amended to read:

[9-2-503]. 63-38f-603. Creation.

There is created the State Advisory Council on Science and Technology within the [~~Division of Business and~~] Governor's Office of Economic Development, which shall perform the functions and duties provided in this part.

Section 63. Section **63-38f-604**, which is renumbered from Section 9-2-504 is renumbered and amended to read:

[9-2-504]. 63-38f-604. Members -- Appointment -- Terms -- Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive committee -- Quorum -- Expenses.

(1) The council comprises the following nonvoting members or their designees:

- (a) the adviser;
- (b) the executive director of the Department of Natural Resources;
- (c) the executive director of the Department of Community and Economic Development;
- (d) the executive director of the Department of Health;
- (e) the executive director of the Department of Environmental Quality;
- (f) the commissioner of agriculture and food;
- (g) the commissioner of higher education;
- (h) the state planning coordinator; and
- (i) the executive director of the Department of Transportation.

(2) The governor may appoint other voting members, not to exceed 12.

(3) (a) Except as required by Subsection (b), as terms of current council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) The governor shall consider all institutions of higher education in the state in the appointment of council members.

(5) The voting members of the council shall be experienced or knowledgeable in the

application of science and technology to business, industry, or public problems and have demonstrated their interest in and ability to contribute to the accomplishment of the purposes of this part.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) (a) Each year the council shall select from its membership a chair and a vice chair.

(b) The chair and vice chair shall hold office for one year or until a successor is appointed and qualified.

(8) The adviser [~~shall serve~~] serves as executive secretary of the council.

(9) An executive committee shall be established consisting of the chair, vice chair, and the adviser.

(10) (a) In order to conduct business matters of the council at regularly convened meetings, a quorum consisting of a simple majority of the total voting membership of the council is required.

(b) All matters of business affecting public policy require not less than a simple majority of affirmative votes of the total membership.

(11) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from

the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Higher education members may decline to receive per diem and expenses for their service.

Section 64. Section **63-38f-605**, which is renumbered from Section 9-2-505 is renumbered and amended to read:

[9-2-505]. 63-38f-605. Duties and powers.

(1) The council shall:

(a) encourage the use of science and technology in the administration of state and local government;

(b) develop programs whereby state agencies and the several public and private institutions of higher education and technical colleges within the state may assist business and industry in the utilization of science and technology;

(c) further communication between agencies of federal, state, and local government who wish to utilize science and technology;

(d) develop programs of cooperation on matters of science and technology between:

(i) state and local government agencies;

(ii) the several public and private institutions of higher education and technical colleges within the state; and

(iii) business and industry within the state; or

(iv) between any combination of these;

(e) provide a means whereby government, business, industry, and higher education may be represented in the formulation and implementation of state policies and programs on matters of science and technology;

(f) review, catalog, and compile the research and development uses by the state universities of the revenue derived from mineral lease funds on state and federal lands;

(g) provide to the Legislature an annual report on the expenditure and utilization of these

mineral lease funds;

(h) make recommendations to the Legislature on the further uses of these mineral lease funds in order to stimulate research and development directed toward the more effective utilization of the state's natural resources; and

(i) prepare and lodge an annual report with the governor and with the Legislature.

(2) The council may:

(a) in accordance with Title 63, Chapter 40, Federal Assistance Management Program, apply for, receive, and disburse funds, contributions, or grants from whatever source for the purposes set forth in this part;

(b) employ, compensate, and prescribe the duties and powers of those individuals, subject to the provisions of this part relating to the adviser, necessary to execute the duties and powers of the council; and

(c) enter into contracts for the purposes of this part.

Section 65. Section ~~63-38f-606~~, which is renumbered from Section 9-2-506 is renumbered and amended to read:

~~[9-2-506].~~ **63-38f-606. Adviser -- Duties and powers.**

(1) The adviser shall be appointed by the governor.

(2) The adviser shall be experienced or knowledgeable in the application of science and technology to business, industry, or public problems and shall have demonstrated ~~[his]~~ interest in or ability to contribute to the accomplishment of the purposes of this part.

(3) The adviser shall be compensated pursuant to the wage and salary classification plan for appointed officers of the state ~~[of Utah]~~ currently in effect.

(4) (a) The adviser shall have those duties and powers the council assigns.

(b) The adviser, ~~[subject to the supervision]~~ with the advice of the council, may enter into contracts and agreements and may incur expenses necessary to fulfill the purposes of this part.

(5) The ~~[council]~~ adviser shall be administratively responsible to the director of the ~~[Division of Business and Economic Development]~~ office.

Section 66. Section **63-38f-607**, which is renumbered from Section 9-2-507 is renumbered and amended to read:

[9-2-507]. 63-38f-607. Request for information.

All departments, divisions, boards, commissions, agencies, institutions, and all other instrumentalities of the state shall, upon request of the council, provide the council with any information that these instrumentalities have concerning research in science and technology.

Section 67. Section **63-38f-701**, which is renumbered from Section 9-2-601 is renumbered and amended to read:

Part 7. Centers of Excellence

[9-2-601]. 63-38f-701. Purpose.

(1) (a) The Legislature recognizes that the growth of new industry and expansion of existing industry requires a strong technology base, new ideas, concepts, innovations, and prototypes.

(b) These generally come from strong research colleges and universities.

(c) Technical research in Utah's colleges and universities should be enhanced and expanded, particularly in those areas targeted by the state for economic development.

(d) Most states are enhancing their research base by direct funding, usually on a matching basis.

(e) The purpose of this part is to catalyze and enhance the growth of these technologies by encouraging interdisciplinary research activities in targeted areas.

(f) The Legislature recognizes that one source of funding is in matching state funds with federal funds and industrial support to provide the needed new technologies.

(2) The Legislature recommends that the governor consider the allocation of economic development funds for Centers of Excellence to be matched by industry and federal grants on at least a two-for-one basis.

(3) (a) The Legislature recommends that [~~such~~] the funds be allocated on a competitive basis to the various colleges and universities in the state.

(b) The funds made available should be used to support interdisciplinary research in

specialized Centers of Excellence in technologies that are considered to have potential for economic development in this state.

Section 68. Section **63-38f-702**, which is renumbered from Section 9-2-602 is renumbered and amended to read:

[9-2-602]. 63-38f-702. Title.

[(1)] This part is known as the "Centers of Excellence Act."

[(2) ~~As used in this part, "Centers of Excellence" means university-based, industry-supported, cooperative research and development programs.~~]

Section 69. Section **63-38f-703** is enacted to read:

63-38f-703. Definitions.

As used in this part, "centers of excellence" means university-based, industry-supported, cooperative research and development programs.

Section 70. Section **63-38f-704**, which is renumbered from Section 9-2-603 is renumbered and amended to read:

[9-2-603]. 63-38f-704. Administration -- Grants.

(1) This part shall be administered by the [~~Division of Business and~~] Governor's Office of Economic Development.

(2) The [~~department~~] office may award grants to the various colleges and universities in the state for the purposes of this part.

(3) (a) [~~Recommendations for funding~~] Funding allocations shall be made by the [~~division~~] office with the advice of the State Advisory Council for Science and Technology[; ~~with the approval of~~] and the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the [~~division~~] office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more colleges and universities shall be encouraged.

(5) The State Advisory Council on Science and Technology shall review the activities and progress of individual centers on a regular basis and assist the ~~[division]~~ office in preparing an annual report on the accomplishments and direction of the Centers of Excellence Program.

Section 71. Section **63-38f-801**, which is renumbered from Section 9-2-901 is renumbered and amended to read:

Part 8. Shared Foreign Sales Corporations

~~[9-2-901].~~ 63-38f-801. Creation of shared foreign sales corporations.

The ~~[department]~~ office may create one or more shared foreign sales corporations, qualifying as such under Section 927(g), Internal Revenue Code of 1986, and may name directors or managers of these corporations at its discretion.

Section 72. Section **63-38f-802**, which is renumbered from Section 9-2-902 is renumbered and amended to read:

~~[9-2-902].~~ 63-38f-802. Management fees.

(1) All expenses incurred in establishing and maintaining shared foreign sales corporations shall be initially paid for by the ~~[department]~~ office but shall be reimbursed to the ~~[department]~~ office by the participants in each shared foreign sales corporation created under Section ~~[9-2-901]~~ 63-38f-801 on a pro rata basis determined by the ~~[department]~~ office.

(2) The ~~[department]~~ office may charge the participants management fees that are reasonable to maintain and manage each of the shared foreign sales corporations.

(3) All monies obtained by the ~~[department]~~ office in excess of ~~[department]~~ office expenditures in connection with the management of shared foreign sales corporations may be used at the discretion of the ~~[department]~~ office for the ~~[department's]~~ office's other activities in promoting exporting.

(4) The fees collected and the expenditures made shall be reported to the Legislature each year.

Section 73. Section **63-38f-901**, which is renumbered from Section 9-2-1201 is renumbered and amended to read:

Part 9. Industrial Assistance Fund

[9-2-1201]. 63-38f-901. Purpose statement.

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.

Section 74. Section **63-38f-902**, which is renumbered from Section 9-2-1202 is renumbered and amended to read:

[9-2-1202]. 63-38f-902. Definitions.

As used in this part:

(1) "Administrator" means the [~~executive~~] director [~~of the Department of Community and Economic Development~~] or the [~~executive~~] director's designee.

(2) "Board" means the Board of Business and Economic Development.

(3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

(a) odors;

(b) noise;

(c) pollution;

(d) health hazards; or

(e) other activities similar to those described in Subsections (3)(a) through (d).

(4) "Economic opportunities" means unique 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.

(5) "Economically disadvantaged rural area" means a geographic area designated by the board under Section [~~9-2-1207~~] 63-38f-909.

(6) "Fund" means the restricted account known as the Industrial Assistance Fund created in Section [~~9-2-1203~~] 63-38f-903.

(7) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

(8) "Targeted industry" means an industry or group of industries targeted by the board[;] under Section [~~9-2-1207~~] 63-38f-909, for economic development in the state.

Section 75. Section **63-38f-903**, which is renumbered from Section 9-2-1203 is renumbered and amended to read:

[~~9-2-1203~~]. 63-38f-903. Industrial Assistance Fund created.

(1) There is created within the General Fund a restricted account known as the Industrial Assistance Fund of which:

- (a) up to 50% shall be used in economically disadvantaged rural areas; and
- (b) up to 20% may be used to take timely advantage of economic opportunities as they arise.

(2) The fund shall be administered by the administrator under the policy direction of the board.

(3) The administrator may hire appropriate support staff.

(4) The cost of administering the fund shall be paid from monies in the fund.

(5) Interest accrued from investment of monies in the fund shall remain in the fund.

Section 76. Section **63-38f-904**, which is renumbered from Section 9-2-1204 is renumbered and amended to read:

[~~9-2-1204~~]. 63-38f-904. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section [~~9-2-1205~~] 63-38f-905 may receive loans, grants, or other financial assistance from the fund for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section [~~9-2-1205.5~~] 63-38f-907 may in accordance with this part receive loans, grants, or other financial assistance from the fund for the expenses of the company creating an economic impediment related to:

- (i) relocation to a rural area in Utah of the company creating an economic impediment;
- and

(ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section [~~9-2-1205.8~~] 63-38f-908 may:

(i) receive loans, grants, or other financial assistance from the fund for expenses related to the establishment, relocation, retention, or development of industry in the state; and

(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the fund.

(b) Loans made under Subsection (2)(a) 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 fund 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.

(3) (a) (i) Except as provided in Subsection (3)(b), 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 fund loan obligation.

(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:

(A) the number of Utah jobs created;

(B) the increased economic activity in Utah; or

(C) other events and activities that occur as a result of the fund assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a fund loan when loans are made to a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors

determined by the administrator, including:

- (A) the number of Utah jobs created;
- (B) the increased economic activity in Utah; or
- (C) other events and activities that occur as a result of the fund assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the fund.

(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 (3).

(5) (a) At the end of each fiscal year, after the transfer of surplus General Fund revenues has been made to the General Fund Budget Reserve Account as provided in Section 63-38-2.5, any additional unrestricted, undesignated General Fund balance shall be earmarked to the Industrial Assistance Fund in an amount equal to any credit that has accrued under this part.

(b) These credit amounts may not be used for purposes of the fund as provided in this part until appropriated by the Legislature.

Section 77. Section **63-38f-905**, which is renumbered from Section 9-2-1205 is renumbered and amended to read:

[9-2-1205]. 63-38f-905. Qualification for assistance.

(1) Except as provided in Section [~~9-2-1205.5~~] 63-38f-907 or Section [~~9-2-1205.8~~] 63-38f-908, the administrator shall determine which industries, companies, and individuals qualify to receive monies from the fund. Except as provided by Subsection (2), to qualify for financial assistance from the fund, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with monies provided from the fund at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator 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 fund; and

(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or ~~(1)(b)~~ if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) 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 its 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

(iv) the applicant is an entity offering an economic opportunity under Section ~~[9-2-1205.8]~~ 63-38f-908.

(b) The administrator may not exempt the applicant from the requirement under Subsection ~~[9-2-1204]~~ 63-38f-904(2)(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.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section [~~9-2-1205.1~~] 63-38f-906; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 78. Section **63-38f-906**, which is renumbered from Section 9-2-1205.1 is renumbered and amended to read:

[~~9-2-1205.1~~]. 63-38f-906. Agreements.

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

- (1) repayment schedules;
- (2) interest rates;
- (3) specific economic activity required to qualify for the loan or assistance or for repayment credits;
- (4) collateral or security, if any; and
- (5) other terms and conditions considered appropriate by the administrator.

Section 79. Section **63-38f-907**, which is renumbered from Section 9-2-1205.5 is renumbered and amended to read:

[~~9-2-1205.5~~]. 63-38f-907. Financial assistance to companies that create economic impediments.

(1) (a) The administrator may provide monies from the fund to a company creating an economic impediment if that company:

- (i) applies to the administrator;
- (ii) relocates to a rural area in Utah; and
- (iii) meets the qualifications of Subsection (1)(b).

(b) Except as provided by Subsection (2), to qualify for financial assistance from the fund, a company creating an economic impediment shall:

- (i) demonstrate to the satisfaction of the administrator that the company creating an economic impediment, its replacement company, or in the aggregate the company creating the

economic impediment and its replacement company:

(A) will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with monies provided from the fund at a minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved; and

(B) can sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the fund; and

(ii) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt a company creating an economic impediment from the requirements of Subsection (1)(b)(i)(A) if:

(i) the financial assistance is provided to a company creating an economic impediment for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area; or

(ii) its replacement company is part of a targeted industry.

(b) The administrator may not exempt a company creating an economic impediment from the requirement under Subsection [~~9-2-1204~~] 63-38f-904(2)(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.

(3) The administrator shall:

(a) make findings as to whether or not a company creating an economic impediment, its replacement company, or both, have satisfied each of the conditions set forth in Subsection (1);

(b) monitor the compliance by a company creating an economic impediment, its replacement company, or both, with:

(i) each of the conditions set forth in Subsection (1); and

(ii) any contract or agreement under Section [~~9-2-1205.1~~] 63-38f-906 entered into between:

(A) the company creating an economic impediment; and

(B) the state; and

(c) make funding decisions based upon appropriate findings and compliance.

Section 80. Section **63-38f-908**, which is renumbered from Section 9-2-1205.8 is renumbered and amended to read:

~~[9-2-1205.8]~~. **63-38f-908**. **Financial assistance to entities offering economic opportunities.**

(1) Subject to the duties and powers of the board under Section ~~[9-2-204]~~ 63-38f-303, the administrator may provide monies from the fund to an entity offering an economic opportunity if that entity:

- (a) applies to the administrator; and
- (b) meets the qualifications of Subsection (2).

(2) The applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of monies necessitated by the economic opportunity and the likelihood that the state's tax base will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

(d) satisfy other criteria the administrator considers appropriate; and

(e) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state; or

(ii) a company or individual that does not otherwise qualify under Section ~~[9-2-1205]~~ 63-38f-905.

(3) Subject to the duties and powers of the board under Section ~~[9-2-204]~~ 63-38f-303, the administrator shall:

(a) make findings as to whether an applicant has satisfied each of the conditions set forth in 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 ~~[9-2-1205.1]~~ 63-38f-906; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 81. Section **63-38f-909**, which is renumbered from Section 9-2-1207 is renumbered and amended to read:

~~[9-2-1207]~~. **63-38f-909. Annual policy considerations.**

(1) The board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section ~~[9-2-1202]~~ 63-38f-902.

(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.

(3) In evaluating the economic impact of applications for assistance, the board shall use an econometric cost-benefit model or models adopted by the Governor's Office of Planning and Budget.

(4) The 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 ~~[9-2-1205]~~ 63-38f-905(1)(a) or ~~[9-2-1205.5]~~ 63-38f-907(1)(b)(i)(A).

Section 82. Section **63-38f-1001**, which is renumbered from Section 9-2-1401 is renumbered and amended to read:

Part 10. Biotechnology Regulation

[9-2-1401]. 63-38f-1001. Definitions.

As used in this part, "biotechnology" is:

- (1) the modification of living organisms by recombinant DNA techniques; and
- (2) a means to accomplish, through genetic engineering, the same kinds of modifications accomplished through traditional genetic techniques such as crossbreeding.

Section 83. Section **63-38f-1002**, which is renumbered from Section 9-2-1402 is renumbered and amended to read:

[9-2-1402]. 63-38f-1002. Confidential information.

(1) A state agency having access under federal law to biotechnology trade secrets and related confidential information shall manage the trade secrets and related confidential records as protected records under Title 63, Chapter 2, Government Records Access and Management Act.

(2) The records described in this section may be disclosed under the balancing provisions of Title 63, Chapter 2, Government Records Access and Management Act, when a determination is made that disclosure is essential for the protection of the public's health or environment.

Section 84. Section **63-38f-1003**, which is renumbered from Section 9-2-1403 is renumbered and amended to read:

[9-2-1403]. 63-38f-1003. Preemption of local regulation.

(1) A county, city, town, or other political subdivision may not regulate the technological processes relating to the development and use of biotechnologically created materials and organisms.

(2) This preemption does not affect the powers of a county, city, town, or other political subdivision, including [~~but not limited to~~] the power to regulate land use, business, industry, construction, and public utilities, to protect the public health or environment, or to provide fire protection and other public safety services.

Section 85. Section **63-38f-1101**, which is renumbered from Section 9-2-1601 is renumbered and amended to read:

Part 11. Recycling Market Development Zone Act

[9-2-1601]. 63-38f-1101. Title.

This part is known as the "Recycling Market Development Zone Act."

Section 86. Section **63-38f-1102**, which is renumbered from Section 9-2-1602 is renumbered and amended to read:

[9-2-1602]. 63-38f-1102. Definitions.

As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the [department] office as meeting the requirements of this part.

(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly

returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) "State tax incentives," "tax incentives," or "tax benefits" means the tax credits available under Sections 59-7-608 and 59-10-108.7.

Section 87. Section **63-38f-1103**, which is renumbered from Section 9-2-1603 is renumbered and amended to read:

[9-2-1603]. 63-38f-1103. Duties of the office.

The [~~department~~] office shall:

(1) facilitate recycling development zones through state support of county incentives which encourage development of manufacturing enterprises that use recycling materials currently collected;

(2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;

(3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;

(4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;

(5) assist any qualified business in obtaining the benefits of any incentive or inducement program authorized by this part;

(6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone; and

(7) submit an annual written report evaluating the effectiveness of the program and providing recommendations for legislation to the Workforce Services and Economic Development Interim Committee and Natural Resources, Agriculture, and Environment Interim Committee not later than November 1 of each year.

Section 88. Section **63-38f-1104**, which is renumbered from Section 9-2-1604 is renumbered and amended to read:

[9-2-1604]. 63-38f-1104. Criteria for recycling market development zone --

Application process and fees.

- (1) An area may be designated as a recycling market development zone only if:
 - (a) the county or municipality agrees to make a qualifying local contribution under Section ~~[9-2-1605]~~ 63-38f-1105; and
 - (b) the county or municipality provides for postconsumer waste collection for recycling within the county or municipality.
- (2) The executive authority of any municipality or county desiring to be designated as a recycling market development zone shall:
 - (a) obtain the written approval of the municipality or county's legislative body; and
 - (b) file an application with the ~~[department]~~ office demonstrating the county or municipality meets the requirements of this part.
- (3) The application shall be in a form prescribed by the ~~[department]~~ office, and shall include:
 - (a) a plan developed by the county or municipality that identifies local contributions meeting the requirements of Section ~~[9-2-1605]~~ 63-38f-1105;
 - (b) a county or municipality development plan that outlines:
 - (i) the specific investment or development reasonably expected to take place;
 - (ii) any commitments obtained from businesses to participate, and in what capacities regarding recycling markets;
 - (iii) the county's or municipality's economic development plan and demonstration of coordination between the zone and the county or municipality in overall development goals;
 - (iv) zoning requirements demonstrating that sufficient portions of the proposed zone area are zoned as appropriate for the development of commercial, industrial, or manufacturing businesses;
 - (v) the county's or municipality's long-term waste management plan and evidence that the zone will be adequately served by the plan; and
 - (vi) the county or municipality postconsumer waste collection infrastructure;
 - (c) the county's or municipality's proposed means of assessing the effectiveness of the

development plan or other programs implemented within the zone;

(d) state whether within the zone either of the following will be established:

(i) commercial manufacturing or industrial processes that will produce end products that consist of not less than 50% recovered materials, of which not less than 25% is postconsumer waste material; or

(ii) commercial composting;

(e) any additional information required by the [department] office; and

(f) any additional information the county or municipality considers relevant to its designation as a recycling market development zone.

(4) A county or municipality applying for designation as a recycling market development zone shall pay to the [department] office an application fee determined under Section 63-38-3.2.

Section 89. Section **63-38f-1105**, which is renumbered from Section 9-2-1605 is renumbered and amended to read:

[9-2-1605]. 63-38f-1105. Qualifying local contributions.

Qualifying local contributions to the recycling market development zone may vary depending on available resources, and may include:

(1) simplified procedures for obtaining permits;

(2) dedication of available government grants;

(3) waiver of business license or permit fees;

(4) infrastructure improvements;

(5) private contributions;

(6) utility rate concessions;

(7) suspension or relaxation of locally originated zoning laws or general plans; and

(8) other proposed local contributions as the [department] office finds promote the purposes of this part.

Section 90. Section **63-38f-1106**, which is renumbered from Section 9-2-1606 is renumbered and amended to read:

[9-2-1606]. 63-38f-1106. Eligibility review.

(1) The [department] office shall:

(a) review and evaluate an application submitted under Section ~~[9-2-1604]~~ 63-38f-1104;

and

(b) determine whether the municipality or county is eligible for designation as a recycling market development zone.

(2) In designating recycling market development zones, the [department] office shall consider:

(a) whether the current waste management practices and conditions of the county or municipality are favorable to the development of postconsumer waste material markets;

(b) whether the creation of the zone is necessary to assist in attracting private sector recycling investments to the area; and

(c) the amount of available landfill capacity to serve the zone.

Section 91. Section **63-38f-1107**, which is renumbered from Section 9-2-1607 is renumbered and amended to read:

~~[9-2-1607].~~ 63-38f-1107. Quarterly consideration.

The [department] office shall take action quarterly on any application requesting designation as a recycling market development zone.

Section 92. Section **63-38f-1108**, which is renumbered from Section 9-2-1608 is renumbered and amended to read:

~~[9-2-1608].~~ 63-38f-1108. Duration of designation.

A recycling market development zone designation ends five years from the date the [department] office designates the area as a recycling market development zone, at the end of which the county or municipality may reapply for the designation.

Section 93. Section **63-38f-1109**, which is renumbered from Section 9-2-1609 is renumbered and amended to read:

~~[9-2-1609].~~ 63-38f-1109. Revocation of designations.

(1) The [department] office may revoke the designation of a recycling market development zone if no businesses utilize the tax incentives during any calendar year.

(2) Before revocation of the zone, the ~~[department]~~ office shall conduct a public hearing within a reasonable distance of the zone to determine reasons for inactivity and explore possible alternative actions.

Section 94. Section **63-38f-1110**, which is renumbered from Section 9-2-1610 is renumbered and amended to read:

[9-2-1610]. 63-38f-1110. Recycling market development zones credit.

For a taxpayer within a recycling market development zone, there are allowed the credits against tax as provided by Sections 59-7-610 and 59-10-108.7.

Section 95. Section **63-38f-1111**, which is renumbered from Section 9-2-1611 is renumbered and amended to read:

[9-2-1611]. 63-38f-1111. Annual report.

(1) A county or municipality designated as a recycling market development zone shall report by no later than July 31 of each year to the ~~[department]~~ office regarding the economic activity that has occurred in the zone following the designation.

(2) ~~[In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department may make rules providing for]~~ The office shall prescribe the form[;] and content[; and submittal] of the annual reports.

Section 96. Section **63-38f-1112**, which is renumbered from Section 9-2-1612 is renumbered and amended to read:

[9-2-1612]. 63-38f-1112. Centers of excellence.

In accordance with Part 6, the ~~[department]~~ office may award grants to the Centers of Excellence, as defined by Section ~~[9-2-602]~~ 63-38f-703, to fund development of new technology for recycling if the program funded is a cooperative effort between the Centers of Excellence and one or more recycling market development zones created under this part.

Section 97. Section **63-38f-1201**, which is renumbered from Section 9-2-1901 is renumbered and amended to read:

Part 12. Utah Venture Capital Enhancement Act

[9-2-1901]. 63-38f-1201. Title.

This part is known as the "Utah Venture Capital Enhancement Act."

Section 98. Section **63-38f-1202**, which is renumbered from Section 9-2-1902 is renumbered and amended to read:

[9-2-1902]. 63-38f-1202. Findings -- Purpose.

(1) The Legislature finds that:

(a) fundamental changes have occurred in national and international financial markets and in the state's financial markets;

(b) a critical shortage of seed and venture capital resources exists in the state, and that shortage is impairing the growth of commerce in the state;

(c) a need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology;

(d) increased venture equity capital investments in emerging, expanding, and restructuring enterprises in Utah will:

(i) create new jobs in the state; and

(ii) help to diversify the state's economic base; and

(e) a well-trained work force is critical for the maintenance and development of Utah's economy.

(2) This part is enacted to:

(a) mobilize private investment in a broad variety of venture capital partnerships in diversified industries and locales;

(b) retain the private-sector culture of focusing on rate of return in the investing process;

(c) secure the services of the best managers in the venture capital industry, regardless of location;

(d) facilitate the organization of the Utah fund of funds to seek private investments and to serve as a catalyst in those investments by offering state incentives for private persons to make investments in the Utah fund of funds;

(e) enhance the venture capital culture and infrastructure in the state so as to increase

venture capital investment within the state and to promote venture capital investing within the state; and

(f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner that would maximize the direct economic impact for the state.

Section 99. Section **63-38f-1203**, which is renumbered from Section 9-2-1903 is renumbered and amended to read:

~~[9-2-1903]~~. 63-38f-1203. Definitions.

As used in this part:

- (1) "Board" means the Utah Capital Investment Board.
- (2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.
- (3) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.
- (4) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, and Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection ~~[9-2-1920]~~ 63-38f-1220(3)(b).
- (5) "Corporation" means the Utah Capital Investment Corporation created under Section ~~[9-2-1907]~~ 63-38f-1207.
- (6) "Designated investor" means:
 - (a) a person who purchases an equity interest in the Utah fund of funds; or
 - (b) a transferee of a certificate or contingent tax credit.
- (7) "Designated purchaser" means:
 - (a) a person who enters into a written undertaking with the board to purchase a commitment; or

(b) a transferee who assumes the obligations to make the purchase described in the commitment.

(8) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.

(9) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(10) "Utah fund of funds" means a limited partnership or limited liability company established under Section [~~9-2-1913~~] 63-38f-1213 in which a designated investor purchases an equity interest.

Section 100. Section **63-38f-1204**, which is renumbered from Section 9-2-1904 is renumbered and amended to read:

[~~9-2-1904~~]. 63-38f-1204. Utah Capital Investment Board.

(1) There is created within the [~~department~~] office the Utah Capital Investment Board to exercise the powers conferred by this part.

(2) The purpose of the board is to mobilize venture equity capital for investment in a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.

(3) In the exercise of its powers and duties, the board is considered to be performing an essential public purpose.

Section 101. Section **63-38f-1205**, which is renumbered from Section 9-2-1905 is renumbered and amended to read:

[~~9-2-1905~~]. 63-38f-1205. Board members -- Meetings -- Expenses.

(1) (a) The board shall consist of five members.

(b) Of the five members:

(i) one shall be the state treasurer;

(ii) one shall be the director or the director's designee; and

(iii) three shall be appointed by the governor and confirmed by the Senate.

(c) The three members appointed by the governor shall serve four-year staggered terms

with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.

(2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:

- (a) filled in the same manner as the appointment of the original member; and
- (b) for the unexpired term of the board member being replaced.

(3) Appointed members of the board may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

(4) Three members of the board constitute a quorum for conducting business and exercising board power, provided that a minimum of three affirmative votes is required for board action and at least one of the affirmative votes is cast by either the director or the director's designee or the state treasurer.

(5) (a) Members of the board may not receive compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the members' official duties at rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members of the board may decline to receive per diem and expenses for their services.

(6) Members of the board shall be selected on the basis of demonstrated expertise and competence in:

- (a) the supervision of investment managers;
- (b) the fiduciary management of investment funds; or
- (c) the management and administration of tax credit allocation programs.

(7) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63, Chapter [~~30, Utah~~] 30d, Governmental Immunity Act of Utah.

(8) Meetings of the board, except to the extent necessary to protect confidential information with respect to investments in the Utah fund of funds, are subject to Title 52,

Chapter 4, Open and Public Meetings.

Section 102. Section **63-38f-1206**, which is renumbered from Section 9-2-1906 is renumbered and amended to read:

~~[9-2-1906].~~ 63-38f-1206. Board duties and powers.

(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns on venture capital investments of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors; and

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) enter into contracts;

- (iv) insure against loss; and
- (v) perform any other act necessary to carry out its purpose[; and].

~~[(g) (i) make, amend, and revoke rules for the conduct of its affairs, consistent with this part and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act;]~~

~~[(ii) all rules made by the board under Subsection (1)(g)(i) are subject to review by the Legislative Management Committee;]~~

~~[(A) whenever made, modified, or revoked; and]~~

~~[(B) in each even-numbered year; and]~~

~~[(iii) Subsection (1)(g)(ii) does not preclude the Legislature's Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or revoked by the board;]~~

(2) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:

(i) include the contingencies that must be met for a certificate and its related tax credits to be:

- (A) issued by the board;
- (B) transferred by a designated investor; and
- (C) redeemed by a designated investor in order to receive a contingent tax credit; and

(ii) tie the contingencies for redemption of certificates to the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds.

(b) The board may not issue contingent tax credits under this part prior to July 1, 2004.

(3) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

- (i) be charged only to pay for reasonable and necessary costs of the board; and
- (ii) not exceed .5% of the equity investment of the designated investor.

(4) The board's criteria and procedures for redeeming certificates:

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

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

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

(ii) by making demand on designated purchasers consistent with the requirements of Section [~~9-2-1921~~] 63-38f-1221.

(5) (a) The board shall, in consultation with the corporation, publish an annual report of the activities conducted by the Utah fund of funds, and present the report to the governor and the Executive Appropriations Committee of the Legislature.

(b) The annual report shall:

(i) include a copy of the audit of the Utah fund of funds and a valuation of the assets of the Utah fund of funds;

(ii) review the progress of the investment fund allocation manager in implementing its investment plan; and

(iii) describe any redemption or transfer of a certificate issued under this part.

(c) The annual report may not identify any specific designated investor who has redeemed or transferred a certificate.

(d) (i) Beginning July 1, [~~2005~~] 2006, and thereafter every two years, the board shall publish a progress report which shall evaluate the progress of the state in accomplishing the purposes stated in Section [~~9-2-1902~~] 63-38f-1202.

(ii) The board shall give a copy of the report to the Legislature.

Section 103. Section **63-38f-1207**, which is renumbered from Section 9-2-1907 is renumbered and amended to read:

[~~9-2-1907~~]. 63-38f-1207. Utah Capital Investment Corporation -- Powers and purposes.

(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) organize the Utah fund of funds;

(b) select a venture capital investment fund allocation manager to make venture capital fund investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the venture capital investment fund allocation manager;

(d) execute the contract with the selected venture capital investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for investment in the Utah fund of funds;

(f) receive investment returns from the Utah fund of funds; and

(g) establish the redemption reserve to be used by the corporation to redeem certificates.

(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 moneys except those 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) enter into contracts;
- (e) insure against loss;
- (f) hire employees; and
- (g) perform any other act necessary to carry out its purposes.

Section 104. Section **63-38f-1208**, which is renumbered from Section 9-2-1908 is renumbered and amended to read:

~~[9-2-1908]~~. 63-38f-1208. Incorporator -- Appointment committee.

(1) To facilitate the organization of the corporation, the director or the director's designee shall serve as the incorporator as provided in Section 16-6a-201.

(2) To assist in the organization of the corporation, the Utah Board of Business and Economic Development shall appoint three individuals to serve on an appointment committee.

- (3) The appointment committee shall:

- (a) elect the initial board of directors of the corporation;
- (b) exercise due care to assure that persons elected to the initial board of directors have

the requisite financial experience necessary in order to carry out the duties of the corporation as established in this part, including in areas related to:

- (i) venture capital investment;

- (ii) investment management; and
- (iii) supervision of investment managers and investment funds; and
- (c) terminate its existence upon the election of the initial board of directors of the corporation.

(4) The ~~[division]~~ office shall assist the incorporator and the appointment committee in any manner determined necessary and appropriate by the incorporator and appointment committee in order to administer this section.

Section 105. Section **63-38f-1209**, which is renumbered from Section 9-2-1909 is renumbered and amended to read:

~~[9-2-1909].~~ 63-38f-1209. Board of directors.

- (1) The initial board of directors of the corporation shall consist of five members.
- (2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:
 - (a) the selection and supervision of investment managers;
 - (b) fiduciary management of investment funds; and
 - (c) other areas of expertise as considered appropriate by the appointment committee.
- (3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.
- (4) (a) Board members shall serve four-year terms, except that of the five initial members:
 - (i) two shall serve four-year terms;
 - (ii) two shall serve three-year terms; and
 - (iii) one shall serve a two-year term.
- (b) Board members shall serve until their successors are elected and qualified and may serve successive terms.
- (c) A majority of the board members may remove a board member for cause.
- (d) (i) The board shall select a chair by majority vote.

- (ii) The chair's term is for one year.
- (5) Three members of the board are a quorum for the transaction of business.
- (6) 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 have no interest in any:
 - (i) venture capital investment fund allocation manager selected by the corporation under this part; or
 - (ii) investments made by the Utah fund of funds.
- (7) 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.

Section 106. Section **63-38f-1210**, which is renumbered from Section 9-2-1910 is renumbered and amended to read:

~~[9-2-1910]~~. 63-38f-1210. Investment manager.

- (1) After incorporation, the corporation shall conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Utah fund of funds in accordance with the requirements of this part.
- (2) Any proposed investment plan shall address the applicant's:
 - (a) level of:
 - (i) experience; and
 - (ii) quality of management;
 - (b) investment philosophy and process;
 - (c) probability of success in fund-raising;
 - (d) prior investment fund results; and
 - (e) plan for achieving the purposes of this part.
- (3) The selected venture capital investment fund allocation manager shall have

substantial, successful experience in the design, implementation, and management of seed and venture capital investment programs and in capital formation.

(4) The corporation shall only select a venture capital investment fund allocation manager:

(a) with demonstrated expertise in the management and fund allocation of investments in venture capital funds; and

(b) considered best qualified to:

(i) invest the capital of the Utah fund of funds; and

(ii) generate the amount of capital required by this part.

Section 107. Section **63-38f-1211**, which is renumbered from Section 9-2-1911 is renumbered and amended to read:

[9-2-1911]. 63-38f-1211. 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 fee shall:

(a) be in addition to any fee charged to the Utah fund of funds by the venture capital investment fund allocation manager selected by the corporation; and

(b) be charged only to pay for reasonable and necessary costs of the corporation.

(3) The corporation may apply for and, when qualified, receive financial assistance from the Industrial Assistance Fund under Title 9, Chapter 2, Part 12, Industrial Assistance Fund, [~~and under rules made by the Board of Business and Economic Development in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~] to help establish the program authorized under this part.

Section 108. Section **63-38f-1212**, which is renumbered from Section 9-2-1912 is renumbered and amended to read:

[9-2-1912]. 63-38f-1212. Dissolution.

(1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated and dissolved.

(2) Upon dissolution or privatization of the corporation, any assets owned by the corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be designated by the Legislature for the purposes listed in Section ~~[9-2-1902]~~ 63-38f-1202 as provided in Title 63E, Chapter 1, Independent Entities Act.

Section 109. Section **63-38f-1213**, which is renumbered from Section 9-2-1913 is renumbered and amended to read:

~~[9-2-1913].~~ **63-38f-1213. Organization of Utah fund of funds.**

- (1) The corporation shall organize the Utah fund of funds.
- (2) The Utah fund of funds shall make investments in private seed and venture capital partnerships or entities in a manner and for the following purposes:
 - (a) to encourage the availability of a wide variety of venture capital in the state;
 - (b) to strengthen the economy of the state;
 - (c) to help business in the state gain access to sources of capital;
 - (d) to help build a significant, permanent source of capital available to serve the needs of businesses in the state; and
 - (e) to accomplish all these benefits in a way that minimizes the use of contingent tax credits.
- (3) The Utah fund of funds shall be organized:
 - (a) as a limited partnership or limited liability company under Utah law having the corporation as the general partner or manager; and
 - (b) to provide for equity interests for designated investors which provide for a designated scheduled rate of return and a scheduled redemption in accordance with rules made by the board pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- (4) Public money may not be invested in the Utah fund of funds.

Section 110. Section **63-38f-1214**, which is renumbered from Section 9-2-1914 is renumbered and amended to read:

~~[9-2-1914].~~ **63-38f-1214. Compensation from the Utah fund of funds to the corporation -- Redemption reserve.**

(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 ~~[9-2-1911]~~ 63-38f-1211.

(2) (a) Any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and held by the corporation as a first priority reserve for the redemption of certificates.

(b) Any returns received by the corporation from investment of amounts held in the redemption reserve shall be added to the redemption reserve until it has reached a total of \$100,000,000.

(c) If at the end of any calendar year the redemption reserve exceeds the \$100,000,000 limitation referred to in Subsection (2)(b), the excess shall be reinvested in the Utah fund of funds.

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

Section 111. Section **63-38f-1215**, which is renumbered from Section 9-2-1915 is renumbered and amended to read:

~~[9-2-1915]~~. **63-38f-1215. Investments by Utah fund of funds.**

(1) The Utah fund of funds shall invest funds:

(a) principally in high-quality venture capital funds managed by investment managers who have:

- (i) made a commitment to equity investments in businesses located within the state; and
- (ii) have committed to maintain a physical presence within the state;

(b) in private venture capital funds and not in direct investments in individual businesses;

and

(c) in venture capital funds with experienced managers or management teams with demonstrated expertise and a successful history in the investment of venture capital funds.

(2) (a) The Utah fund of funds shall give priority to investments in private seed and venture capital partnerships and entities that have demonstrated a commitment to the state as evidenced by:

- (i) the investments they have made in Utah-based entities;
- (ii) the correspondent relationships they have established with Utah-based venture capital funds; or
- (iii) the commitment they have made to expand the reach of expertise within the state by adding additional investment areas of expertise.

(b) The manager of the Utah fund of funds may waive the priorities under Subsection (2)(a) only if necessary to achieve the targeted investment returns required to attract designated investors.

(3) The Utah fund of funds may invest funds in a newly created venture capital fund only if the managers or management team of the fund have the experience, expertise, and a successful history in the investment of venture capital funds as described in Subsection (1)(c).

(4) (a) An investment or investments by the fund of funds in any venture capital fund may comprise no more than 20% of the total committed capital in the venture capital fund.

(b) (i) No more than 50% of the funds invested by the fund of funds may be made with venture capital entities with offices in the state established prior to July 1, 2002.

(ii) The restriction under Subsection (4)(b)(i) shall remain in place until three additional venture capital entities open new offices in the state.

Section 112. Section **63-38f-1216**, which is renumbered from Section 9-2-1916 is renumbered and amended to read:

~~9-2-1916~~. 63-38f-1216. Powers of Utah fund of funds.

- (1) The Utah fund of funds may:
 - (a) engage consultants and legal counsel;
 - (b) expend funds;
 - (c) invest funds;
 - (d) enter into contracts;
 - (e) insure against loss;
 - (f) hire employees;
 - (g) issue equity interests to designated investors that have purchased certificates from the

board; and

(h) perform any other act necessary to carry out its purposes.

(2) (a) The Utah fund of funds shall engage a venture capital investment fund allocation manager.

(b) The compensation paid to the fund manager shall be in addition to the management fee paid to the corporation under Section [~~9-2-1911~~] 63-38f-1211.

(3) The Utah fund of funds may:

(a) issue debt and borrow the funds needed to accomplish its goals;

(b) not secure its debt with contingent tax credits issued by the board;

(c) open and manage bank and short-term investment accounts as considered necessary by the venture capital investment fund allocation manager; and

(d) expend moneys to secure investment ratings for investments by designated investors in the Utah fund of funds.

Section 113. Section **63-38f-1217**, which is renumbered from Section 9-2-1917 is renumbered and amended to read:

~~[9-2-1917]~~. **63-38f-1217**. **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 board; and
- (b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year.

Section 114. Section **63-38f-1218**, which is renumbered from Section 9-2-1918 is renumbered and amended to read:

~~[9-2-1918]~~. 63-38f-1218. Certificates and contingent tax credits.

(1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the form, issuance, and redemption of certificates.

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

- (a) the aggregate outstanding certificates may not exceed a total of \$100,000,000 of contingent tax credits;
- (b) the certificates shall be issued contemporaneously with an investment in the Utah fund of funds by a designated investor;
- (c) contingent tax credits shall be issued in a manner that not more than \$20,000,000 of contingent tax credits may be initially redeemable in any fiscal year; and
- (d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection ~~[9-2-1920]~~ 63-38f-1220(3)(b).

(3) In determining the \$100,000,000 maximum limit in Subsection (2)(a) and the \$20,000,000 limitation in Subsection (2)(c):

- (a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;
- (b) certificates and related contingent tax credits which have expired may not be included; and
- (c) certificates and related contingent tax credits which have been redeemed shall be

included only to the extent of tax credits actually allowed.

(4) Contingent tax credits are subject to the following:

(a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate;

(c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and

(e) any contingent tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability until the earlier of:

(i) the depletion of the contingent tax credit; or

(ii) a period not to exceed seven years.

(5) In calculating the amount of a contingent tax credit:

(a) a contingent tax credit shall be certified by the board only if the actual return to the designated investor is less than the return that was targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit may not exceed the difference between:

(i) the sum of:

(A) the initial equity investment of the designated investor in the Utah fund of funds; and

(B) the scheduled aggregate return to the designated investor at rates of return authorized by the board at the issuance of the certificate; and

(ii) the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment; and

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate.

(6) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital;
(b) the amount of the initial equity investment;
(c) the calculation formula for determining the scheduled aggregate return on the initial equity investment; and

(d) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(7) Once moneys are invested by a designated investor, the certificate:

- (a) shall be binding on the board; and
- (b) may not be modified, terminated, or rescinded.

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

(9) The State Tax Commission may, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 115. Section **63-38f-1219**, which is renumbered from Section 9-2-1919 is renumbered and amended to read:

~~[9-2-1919].~~ 63-38f-1219. Transfer and registration of certificates.

(1) A certificate and the related contingent tax credit may be transferred by the designated investor.

(2) The board, in conjunction with the State Tax Commission, shall develop:

(a) a system for registration of any certificate and related contingent tax credit issued or transferred under this part; and

(b) a system that permits verification that:

(i) any contingent tax credit claimed upon a tax return is valid; and
(ii) any transfers of the certificate and related contingent tax credit are made in accordance with the requirements of this part.

(3) A certificate or contingent tax credit issued or transferred under this part may not be considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

Section 116. Section **63-38f-1220**, which is renumbered from Section 9-2-1920 is renumbered and amended to read:

[9-2-1920]. 63-38f-1220. Redemption of certificates.

(1) If a designated investor elects to redeem a certificate, the certificate shall be presented to the board for redemption no later than June 30 of the calendar year maturity date stated on the certificate.

(2) Upon presentment to the board, it shall determine and certify the amount of the contingent tax credit that may be claimed by the designated investor based on:

(a) the limitations in Section [~~9-2-1918~~] 63-38f-1218; and

(b) rules made by the board in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the corporation to make a cash redemption of the certificate.

(b) If there are insufficient funds in the redemption reserve, the board may elect to redeem the certificate:

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

(ii) by making demand on designated purchasers to purchase certificates in accordance with Section [~~9-2-1921~~] 63-38f-1221.

(4) The board shall certify to the State Tax Commission the contingent tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

Section 117. Section **63-38f-1221**, which is renumbered from Section 9-2-1921 is renumbered and amended to read:

[9-2-1921]. 63-38f-1221. Use of commitments to redeem certificates.

(1) The board may elect to draw on a commitment to redeem a certificate from a designated investor.

(2) If the board makes an election under Subsection (1), it shall:

(a) inform the designated purchaser of the amount of the contingent tax credit that must be purchased from the board;

(b) specify the date on which the purchase must be consummated; and
(c) use the funds delivered to the board by the designated purchaser to redeem the certificate from the designated investor.

(3) The board has discretion in determining which commitment or commitments and what portion of those commitments to use to redeem certificates.

(4) The contingent tax credits acquired by a designated purchaser under this section are subject to Section [~~9-2-1918~~] 63-38f-1218.

Section 118. Section **63-38f-1222**, which is renumbered from Section 9-2-1922 is renumbered and amended to read:

[~~9-2-1922~~]. 63-38f-1222. Powers and effectiveness.

(1) This part 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 part are cumulative to those powers.

(2) This part 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.

(3) The provisions of any contract entered into by the board or the Utah fund of funds may not be compromised, diminished, invalidated, or affected by the:

(a) level, timing, or degree of success of the Utah fund of funds or the investment funds in which the Utah fund of funds invests; or

(b) extent to which the investment funds are:

(i) invested in Utah venture capital projects; or

(ii) successful in accomplishing any economic development objectives.

Section 119. Section **63-38f-1223**, which is renumbered from Section 9-2-1923 is renumbered and amended to read:

[~~9-2-1923~~]. 63-38f-1223. Permissible investments.

Investments by designated investors in the Utah fund of funds are permissible investments under applicable laws of the state for:

- (1) state-chartered banks;
- (2) state-chartered savings and loan associations;
- (3) state-chartered credit unions;
- (4) state-chartered industrial banks; and
- (5) domestic insurance companies.

Section 120. Section **63-38f-1224**, which is renumbered from Section 9-2-1924 is renumbered and amended to read:

[9-2-1924]. 63-38f-1224. 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 shall be subject to:
 - (a) Title 52, Chapter 4, Open and Public Meetings [~~Act~~]; and
 - (b) Title 63, Chapter 2, Government Records Access and Management Act.

Section 121. Section **63-38f-1301**, which is renumbered from Section 9-2-2001 is renumbered and amended to read:

Part 13. Aerospace and Aviation Zone

[9-2-2001]. 63-38f-1301. Purpose.

- (1) The Legislature finds that:
 - (a) 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; and
 - (b) Utah loses prospective high paying jobs, economic impacts, and corresponding incremental new state revenues to competing states due to a wide variety of competing economic development incentives offered by those states.
- (2) This part is enacted to address the loss of new economic growth in Utah and the corresponding loss of incremental new state revenues by providing tax increment financial incentives to attract new commercial projects in development zones located on or contiguous to airports in the state.

Section 122. Section **63-38f-1302**, which is renumbered from Section 9-2-2002 is renumbered and amended to read:

[9-2-2002]. 63-38f-1302. Definitions.

As used in this part:

~~[(2)]~~ (1) "Development zone" means the Aerospace and Aviation Development Zone created under Section ~~[9-2-2003]~~ 63-38f-1303.

~~[(3)]~~ (2) "Indirect state revenues" means the imputed use of a generally accepted indirect economic multiplier as defined by a fiscal impact model approved by the Governor's Office of Planning and Budget to quantify by estimate the indirect state tax revenues that are in addition to direct state tax revenues.

~~[(4)]~~ (3) "New state revenues" means incremental new state tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the state's portion of sales taxes, and company and employee income taxes derived from the projects, together with indirect state revenues generated by the projects, but not to include any portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax revenues.

~~[(1)]~~ (4) ~~["Department"]~~ "Office" means the ~~[Department of Community and]~~ Governor's Office of Economic Development acting through its ~~[executive]~~ director.

(5) "Partial rebates" means returning a portion of the new state revenues generated by new commercial projects to companies or individuals that have created new economic growth within a development zone.

Section 123. Section **63-38f-1303**, which is renumbered from Section 9-2-2003 is renumbered and amended to read:

[9-2-2003]. 63-38f-1303. Creation of development zones.

The ~~[department]~~ office, with ~~[approval by]~~ advice from the board, may create an Aerospace and Aviation Development Zone at or around any airport in the state that satisfies the following requirements:

- (1) the airport shall have an instrumental landing system;

- (2) the airport shall have a manned air traffic control tower;
- (3) the airport shall have land available for commercial development on, or contiguous to, the airport; and
- (4) Subsections (1) and (2) sunset on January 1, 2006, unless the Legislature determines otherwise.

Section 124. Section **63-38f-1304**, which is renumbered from Section 9-2-2004 is renumbered and amended to read:

[9-2-2004]. 63-38f-1304. Development incentives.

- (1) The [department] office, with [the approval of] advice from the board, may enter into agreements providing for partial rebates of new state revenues generated by new commercial projects to companies or individuals that create new economic growth within the development zone.
- (2) In no event may the partial rebates be in excess of 50% of the new state revenues in any given year.
- (3) (a) The partial rebates may not exceed 30% of the new state revenues generated over the life of a new commercial project.
- (b) For purposes of this part, the life of a new commercial project is limited to 20 years.
- ~~[(4) Partial rebates are subject to any other limitations adopted by board rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.]~~

Section 125. Section **63-38f-1305**, which is renumbered from Section 9-2-2005 is renumbered and amended to read:

[9-2-2005]. 63-38f-1305. Qualifications for credits and rebates.

The [board] office shall set standards to qualify for partial rebates under this part, subject to the following:

- (1) no partial rebates may be paid prior to verification, by the [department] office, of the new state revenues upon which the tax rebate is based;
- (2) partial rebates can only be paid on projects that are within the development zone;
- (3) partial rebates can only be paid on projects that bring new, incremental jobs to the

state;

(4) qualifying projects must involve direct investment within the geographic boundaries of the development zone;

(5) only aerospace and aviation industry projects~~[, as defined by board rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,]~~ are eligible for partial rebates; and

(6) in order to claim payments representing partial rebates of new state revenues, a person must:

(a) enter into [~~a board~~] an office-approved agreement with the [~~department~~] office and affirm by contractual agreement to keep supporting records for at least four years after final payment of partial rebates under this part;

(b) submit to audits for verification of the amounts claimed; and

(c) comply with other conditions as are required by the [~~department~~] office.

Section 126. Section ~~63-38f-1306~~, which is renumbered from Section 9-2-2006 is renumbered and amended to read:

~~[9-2-2006].~~ **63-38f-1306. Payment procedure.**

Any payment of partial rebates of new state revenues shall be made in accordance with procedures adopted by the [~~department and approved by~~] office with the advice of the board, to include the following:

(1) within 90 days of the end of each calendar year, any company or individual that has entered into an agreement with the [~~department~~] office under this part shall provide the [~~department~~] office with documentation of the new state revenues it claims to have generated during that calendar year, the documentation to include the types of taxes and corresponding amounts of taxes paid directly to the Utah State Tax Commission, and sales taxes paid to Utah vendors and suppliers that are indirectly paid to the Utah State Tax Commission;

(2) the [~~department~~] office shall audit or review the documentation, make a determination of the amount of partial rebates earned under the agreement, and forward [~~a board~~] an office-approved request for payment of that amount to the Division of Finance, together with

information regarding the name and address of the payee and any other information reasonably requested by the ~~[division]~~ office; and

(3) the Division of Finance shall pay a partial rebate from the Economic Incentive Restricted Account created in Section ~~[9-2-2009]~~ 63-38f-1309 upon receipt of documentation and the ~~[board]~~ office-approved request from the ~~[department]~~ office under Subsection (2).

Section 127. Section **63-38f-1307**, which is renumbered from Section 9-2-2007 is renumbered and amended to read:

~~[9-2-2007].~~ **63-38f-1307. Office's authority.**

(1) The ~~[department]~~ office, with ~~[approval]~~ the advice of the board and within the limitations of this part, may determine:

- (a) the structure and amount of any partial rebates offered under this part;
- (b) the economic impacts and job creation necessary to qualify for the incentive; and
- (c) the other terms and conditions of any agreement entered into under this part.

(2) In reviewing claims for partial rebates of new state revenues, the ~~[department]~~ office may accept:

(a) as the amount of employee income taxes paid, the amount of employee income taxes withheld and transmitted to the Utah State Tax Commission as evidenced by payroll records rather than adjusting for the difference between taxes withheld and taxes actually paid through filing by employees' annual income tax statements; and

(b) as the amount of company income taxes paid, the amount of corporate franchise and income taxes estimated and transmitted to the Utah State Tax Commission as evidenced by quarterly payment records rather than adjusting for the difference between estimated taxes paid quarterly and taxes actually paid through the filing of the corporation's annual income tax statement.

~~[(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the board may make, amend, and revoke rules regarding the development zone and partial rebates offered within it, provided the rules are consistent with state and federal law.]~~

~~[(4) (a) The department shall make a report to the Legislature's Workforce and~~

Community and Economic Development Interim Committee on:]

~~[(i) the success of attracting new commercial projects to development zones under this part and the corresponding increase in new, incremental jobs;]~~

~~[(ii) the period of time over which partial rebates of new state revenues shall be granted under this part, and]~~

~~[(iii) the economic impact on the state related to generating new state revenues and rebating a portion of those revenues under this part.]~~

~~[(b) The department shall make the reports prior to the 2005 General Session of the Legislature to enable the committee to determine whether this part should be modified during the 2005 General Session.]~~

Section 128. Section **63-38f-1308**, which is renumbered from Section 9-2-2008 is renumbered and amended to read:

~~[9-2-2008].~~ **63-38f-1308. Coordination with Industrial Assistance Fund.**

Projects that qualify for partial rebates of new state revenues under this part and enter into agreements with the ~~[department]~~ office under this part are ineligible to qualify for additional financial assistance from the Industrial Assistance Fund under Section ~~[9-2-1204]~~ 63-38f-904.

Section 129. Section **63-38f-1309**, which is renumbered from Section 9-2-2009 is renumbered and amended to read:

~~[9-2-2009].~~ **63-38f-1309. Establishment of the Economic Incentive Restricted Account.**

(1) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.

(2) The account shall be used to make payments as required under Section ~~[9-2-2006]~~ 63-38f-1306.

(3) (a) The Division of Finance shall transfer from the General Fund the amount estimated by the ~~[department]~~ office from new state revenues needed to make the partial rebates as allowed in Section ~~[9-2-2006]~~ 63-38f-1306.

(b) The amount transferred into the account shall be reduced by any unencumbered

balances in the account.

(4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving a request for payment, in accordance with Subsection [~~9-2-2006~~] 63-38f-1306(2), the Division of Finance shall pay the partial rebates as allowed in Section [~~9-2-2006~~] 63-38f-1306, from the account.

(5) (a) Prior to the beginning of each fiscal year, the [~~department~~] office shall notify the Governor's Office of Planning and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance of:

(i) the estimated amount of new state revenues created from economic growth in the development zones, the estimate detailed by the amounts from:

- (A) sales tax;
- (B) income tax; and
- (C) corporate franchise and income tax; and

(ii) the estimated amount partial rebates projected to be paid in the upcoming fiscal year, the estimates detailed by the amounts from:

- (A) sales tax;
- (B) income tax; and
- (C) corporate franchise and income tax.

(b) The [~~department~~] office shall update the estimates required by Subsections (5)(a)(i) and (ii) within 30 days of the signing of each new agreement entered into under this part.

Section 130. Section **63-38f-1401**, which is renumbered from Section 9-2-1701 is renumbered and amended to read:

Part 14. Tourism Performance Marketing Fund

[~~9-2-1701~~]. 63-38f-1401. Purpose.

The Legislature finds and declares that the development of travel and tourism in Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment of its citizens.

Section 131. Section **63-38f-1402**, which is renumbered from Section 9-2-1702 is

renumbered and amended to read:

~~[9-2-1702].~~ **63-38f-1402. Definitions.**

As used in this part:

(1) [~~"Committee"~~] "Board" means the [~~Tourism Marketing Performance Fund Committee as created in Section 9-2-1705]~~ Board of Tourism Development created in Section 63-38f-1406.

~~[(2) "Department" means the Department of Community and Economic Development.]~~

~~[(3) "Division" means the Division of Travel Development created in Section 9-3-204.]~~

(2) "Director" means the director of the Governor's Office for Economic Development.

~~[(4)]~~ (3) "Fund" means the restricted account known as the Tourism Marketing Performance Fund created in Section [9-2-1703] 63-38f-1403.

~~[(5)]~~ (4) "Industry" means the following travel and tourism industry groups:

- (a) retail/eating and drinking;
- (b) services/hotels and lodging;
- (c) services/automotive rental;
- (d) services/amusement and recreation; and
- (e) transportation.

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

(6) "Tourism marketing" means an activity to develop, encourage, solicit, or promote tourism within this state that attracts transient guests to the state, including:

- (a) planning;
- (b) product development; and
- (c) advertising directed to out of state consumers that promotes leisure travel products or attractions specific to Utah.

(7) "Tourism oriented sales and use taxes" means a state sales and use tax imposed under Section 59-12-103 for amounts paid or charged for taxable items or services:

- (a) described under Subsection 59-12-103(1); and
- (b) provided by a person described by the following SIC Codes of the 1987 Standard

Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget:

- (i) SIC Codes 4011 through 4789;
- (ii) SIC Codes 5812 and 5813;
- (iii) SIC Codes 7011 through 7041;
- (iv) SIC Codes 7513 through 7519; and
- (v) SIC Codes 7812 through 7999.

~~[(8) "Utah Tourism Industry Coalition" means the private nonprofit corporation created under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, composed of tourism-related businesses, organizations, and associations authorized to nominate committee members under Section 9-2-1705.]~~

Section 132. Section **63-38f-1403**, which is renumbered from Section 9-2-1703 is renumbered and amended to read:

[9-2-1703]. 63-38f-1403. Creation and administration of fund.

(1) (a) There is created within the General Fund a restricted account known as the "Tourism Marketing Performance Fund."

(b) The fund shall be administered by the ~~[department]~~ office in accordance with Section ~~[9-2-1704]~~ 63-38f-1405.

(2) The fund shall be funded by appropriations made to the fund by the Legislature in accordance with Section ~~[9-2-1703.5]~~ 63-38f-1404.

(3) Any undistributed monies in the fund at the end of the fiscal year are nonlapsing ~~[except that any balance greater than \$200,000 at the end of the fiscal year shall lapse to the General Fund]~~.

Section 133. Section **63-38f-1404**, which is renumbered from Section 9-2-1703.5 is renumbered and amended to read:

[9-2-1703.5]. 63-38f-1404. Appropriations to the fund.

(1) The Legislature shall appropriate \$200,000 to the fund each fiscal year for which the State Tax Commission finds that the industry growth for the prior fiscal year equals or exceeds

4%[, except that].

~~[(a) the growth factor requirement does not apply to the \$2,000,000 appropriation to the fund under Item 120 of S.B. 1, Appropriations Act, made for the fiscal year beginning July 1, 2002, only; and]~~

~~[(b) the growth factor requirement does not apply for the prior fiscal year beginning July 1, 2001, and ending June 30, 2002, only, but the appropriation may be for less than \$200,000 for the affected fiscal year only.]~~

(2) To determine the prior fiscal year industry growth the State Tax Commission shall:

(a) calculate the tourism-oriented sales and use taxes for the fiscal year two years preceding the fiscal year of appropriation;

(b) calculate the tourism-oriented sales and use taxes for the fiscal year three years preceding the fiscal year of the appropriation; and

(c) determine whether the tourism-oriented sales and use taxes calculated in Subsection (2)(a) increased from the tourism-oriented sales and use taxes calculated under Subsection (2)(b).

(3) The State Tax Commission shall report its determination under Subsection (2) to the Governor's Office of Planning and Budget by no later than September 30 of each year.

Section 134. Section **63-38f-1405**, which is renumbered from Section 9-2-1704 is renumbered and amended to read:

~~[9-2-1704].~~ 63-38f-1405. Distribution of fund monies -- Determination of recipients.

The appropriation to the fund required by Section ~~[9-2-1703.5]~~ 63-38f-1404 shall be distributed by the ~~[department]~~ office to the ~~[division]~~ program to be used to fund the tourism marketing plan ~~[developed in accordance with Section 9-2-1706].~~

Section 135. Section **63-38f-1406**, which is renumbered from Section 9-3-201 is renumbered and amended to read:

~~[9-3-201].~~ 63-38f-1406. Board of Tourism Development.

(1) There is created within the ~~[department]~~ office the Board of ~~[Travel]~~ Tourism Development.

(2) The board shall advise the [~~division~~] office in the [~~division's~~] office's planning, policies, and strategies and on trends and opportunities for [~~travel~~] tourism development that may exist in the various areas of the state.

Section 136. Section **63-38f-1407**, which is renumbered from Section 9-3-202 is renumbered and amended to read:

[9-3-202]. 63-38f-1407. Members -- Meetings -- Expenses.

(1) (a) The board shall consist of nine members appointed by the governor to four-year terms of office with the consent of the Senate.

(b) Notwithstanding the requirements of Subsection (1)(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.

(2) 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.

(3) Not more than five members of the board may be of the same political party.

(4) (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 (4)(b); and

(ii) a diverse mix of the travel and 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 travel and tourism industry representatives shall be appointed from among active participants in the ownership or management of travel and tourism related businesses.

(5) 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.

(6) Five members of the board constitutes a quorum for conducting board business and exercising board powers.

(7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a two-year term.

(8) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(9) The board shall meet at least once each quarter at various locations throughout the state.

(10) The board's office shall be in Salt Lake City.

Section 137. Section **63-38f-1408**, which is renumbered from Section 9-3-203 is renumbered and amended to read:

[9-3-203]. 63-38f-1408. Board duties.

(1) The board shall:

(a) review a program of information, advertising, and publicity relating to the recreational, scenic, historic, highway, and tourist attractions of the state at large; and

(b) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.

(2) The board may solicit and accept contributions of moneys, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in travel and tourism.

Section 138. Section **63-38f-1409**, which is renumbered from Section 9-3-204 is renumbered and amended to read:

[9-3-204]. 63-38f-1409. Powers and duties of office related to tourism

development plan -- Annual report and survey.

~~[(1) There is created within the department the Division of Travel Development under the administration and general supervision of the director.]~~

~~[(2) The division shall be under the policy direction of the director.]~~

~~[(3)]~~ (1) The ~~[division]~~ office shall:

- (a) be the ~~[travel]~~ tourism development authority of the state;
- (b) develop a ~~[travel]~~ tourism promotion program for the state;
- (c) develop a plan to increase the economic contribution by tourists visiting the state;
- (d) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, highway, and tourist advantages and attractions of the state at large; and

(e) 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 scenic attractions and tourist advantages of the state~~;~~ and].

~~[(4)]~~ (2) Any plan provided for under Subsection ~~[(3)]~~ (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

~~[(5)]~~ (3) The ~~[division]~~ office is encouraged to:

- (a) conduct surveys on tourism promotion activities undertaken by cities and counties within the state; and
- (b) in collaboration with the cities and counties surveyed, make an annual report to the Legislature on the economic benefit of those activities to the state and the cities and counties surveyed by the ~~[division]~~ office.

Section 139. Section **63-38f-1410**, which is renumbered from Section 9-3-206 is renumbered and amended to read:

~~[9-3-206].~~ 63-38f-1410. Agreements with other governmental entities.

The ~~[department, through the division,]~~ office may enter into agreements with ~~[other]~~

state or federal agencies to accept services, quarters, or facilities as a contribution in carrying out the duties and functions of the [~~department~~] office.

Section 140. Section **63-38f-1501**, which is renumbered from Section 9-8-901 is renumbered and amended to read:

Part 15. Utah Pioneer Communities Program

[9-8-901]. 63-38f-1501. Title.

This part shall be known as the "Utah Pioneer Communities Program Act."

Section 141. Section **63-38f-1502**, which is renumbered from Section 9-8-902 is renumbered and amended to read:

[9-8-902]. 63-38f-1502. Definitions.

As used in this part:

(1) "Advisory board" means the Utah Pioneer Communities Program Advisory Board created in Section [~~9-8-903~~] 63-38f-1503 within the [~~department~~] office.

(2) "Community" means a city, county, town, or any combination of these.

(3) "Revitalization" means the process of engaging in activities to increase economic activity while preserving and building upon a location's historically significant characteristics.

Section 142. Section **63-38f-1503**, which is renumbered from Section 9-8-903 is renumbered and amended to read:

[9-8-903]. 63-38f-1503. Advisory board.

(1) (a) There is created within the [~~department~~] office the Utah Pioneer Communities Advisory Board.

(b) The Permanent Community Impact Fund Board created in Section 9-4-304 shall act as the advisory board.

(2) The advisory board shall have the powers and duties described in Section [~~9-8-904~~] 63-38f-1504 and shall operate the Utah Pioneer Communities Program in accordance with Section [~~9-8-905~~] 63-38f-1505.

(3) The [~~executive~~] director shall designate an employee of the [~~department~~] office to serve as a nonvoting secretary for the advisory board.

(4) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the board at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Higher education members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Higher education members may decline to receive per diem and expenses for their service.

(d) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 143. Section **63-38f-1504**, which is renumbered from Section 9-8-904 is renumbered and amended to read:

[9-8-904]. 63-38f-1504. Advisory board duties.

(1) The advisory board shall:

(a) establish and administer a Utah Pioneer Communities Program to assist communities

in planning, managing, and implementing programs for the revitalization of business districts and the preservation of their distinct history, heritage, and culture as a basis for promoting stable, sustained economic growth through business expansion and tourism;

(b) select, upon application by the community, communities to participate in the Utah Pioneer Communities Program;

(c) enter into contracts to obtain services related to community preservation and tourism development;

(d) with help from interested communities, individuals, and organizations, develop a plan describing the objectives of the Utah Pioneer Communities Program and the methods by which the advisory board shall:

(i) coordinate the activities of that program with the private and public sector; and

(ii) solicit and use private sector funding to revitalize business districts and provide services related to community preservation, tourism, and business development; and

(e) coordinate and consult with other state and local or public and private entities that provide services to communities undertaking projects to provide services related to community preservation, tourism, and business development.

(2) The advisory board shall provide training, technical assistance, and information on services related to community preservation, tourism, and business development.

Section 144. Section **63-38f-1505**, which is renumbered from Section 9-8-905 is renumbered and amended to read:

[9-8-905]. 63-38f-1505. Criteria for participation -- Report.

(1) The advisory board shall develop objective criteria including the following:

(a) a three year commitment by the applicant to provide a project manager with a travel and operating budget;

(b) evidence that both the business community and the local government support the Utah Pioneer Communities Program approach philosophically and financially;

(c) capacity for economic change as a result of being a participant in the program;

(d) geographic location, population, and economic base diversity;

- (e) evidence of past preservation efforts; and
- (f) a population of less than 50,000.

(2) The advisory board shall provide to the governor and to the presiding officer of each house of the Legislature an annual report on the effects of the Utah Pioneer Communities Program.

Section 145. Section **63-38f-1601**, which is renumbered from Section 9-16-101 is renumbered and amended to read:

Part 16. Rural Development Act

~~[9-16-101].~~ 63-38f-1601. Title -- Definitions.

- (1) This chapter is known as the "[~~Office of~~] Rural Development Act."
- (2) As used in this chapter[;]:
 - (a) "Office" means the Governor's Office of [Rural] Economic Development.
 - (b) "Program" means the Rural Development Program.

Section 146. Section **63-38f-1602**, which is renumbered from Section 9-16-102 is renumbered and amended to read:

~~[9-16-102].~~ 63-38f-1602. Rural Development Program -- Supervision by office.

- (1) There is created within the [~~department~~] office the [~~Office of~~] Rural Development Program.
- (2) The [~~office~~] program is under the administration and general supervision of the [~~department~~] office.

Section 147. Section **63-38f-1603**, which is renumbered from Section 9-16-103 is renumbered and amended to read:

~~[9-16-103].~~ 63-38f-1603. Purpose of the program.

The [~~office shall~~] program 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 and priorities of rural Utah as identified in the strategic plan required under Subsection 63C-10-103(2);
- (5) 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; and
- (6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 148. Section **63-38f-1604**, which is renumbered from Section 9-16-104 is renumbered and amended to read:

~~9-16-104~~. 63-38f-1604. Duties.

- (1) The ~~[office]~~ program shall:
 - (a) provide, in conjunction with the Rural Coordinating Committee, staff support to the Governor's Rural Partnership board;
 - (b) facilitate within the department implementation of the strategic plan prepared under Subsection 63C-10-103(2);
 - (c) 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;
 - (d) work with the Rural Coordinating Committee to coordinate and focus available

resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah; and

(e) 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 ~~[office]~~ program may:

~~[(i) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, make rules necessary to carry out the duties of the office;]~~

~~[(ii)]~~ (i) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

~~[(iii)]~~ (ii) use those gifts, grants, devises, and property received under Subsection (2)(a)~~[(ii)]~~(i) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)~~[(ii)]~~ (i) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)~~[(iii)]~~ (ii).

(c) All funding for the benefit of rural Utah as defined in this section is nonlapsing. Section 149. Section **63-38f-1605**, which is renumbered from Section 9-16-105 is renumbered and amended to read:

~~[9-16-105].~~ **63-38f-1605. Program manager.**

(1) The ~~[executive]~~ director of the ~~[department]~~ office shall appoint ~~[the director of the office]~~ a manager for the program with the approval of the governor.

(2) The ~~[office director]~~ manager 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 ~~[of the department]~~, the ~~[office director]~~ manager of the program may not be dismissed without cause for at least 180 days.

(4) The [~~office director~~] manager shall be a member of the Rural Coordinating Committee's Steering Committee created in Subsection 63C-10-202(3).

Section 150. Section **63-38f-1606**, which is renumbered from Section 9-16-106 is renumbered and amended to read:

~~9-16-106~~. 63-38f-1606. Annual report.

The office shall submit an annual report of [~~its~~] the program's operations and recommendations to:

~~[(1) the department;]~~

~~[(2)]~~ (1) the governor; and

~~[(3)]~~ (2) the Rural Development Legislative Liaison Committee created in Section 36-25-102.

Section 151. Section **63-49a-1** is amended to read:

63-49a-1. Acquisition of easements -- Restrictions -- Resale.

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

(i) Hill Air Force Base is a military installation of vital importance to security of the United States of America and to the economic well-being of the citizens of Utah;

(ii) there are certain portions of land around the entire base that are being developed for residential and other uses that are incompatible with current and future operations of the base because of noise, health, safety, and accident reasons; and

(iii) it is the purpose of this chapter for the state to acquire those easements restricting the use of those lands and the air space above them in order to assure the continued operation of Hill Air Force Base as an active military base and to protect the health, safety, and economic well-being of the citizens of Utah.

(b) The [~~Department of Community and~~] Governor's Office of Economic Development may delegate its power to purchase or condemn easements under this subsection to other state

agencies if the department ensures that those agencies comply with the procedures and requirements of this chapter.

(2) (a) The [~~Department of Community and~~] Governor's Office of Economic Development shall ensure that the easements restrict the land from those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982, as not being acceptable.

(b) The [~~Department of Community and~~] Governor's Office of Economic Development may allow certain other uses not prohibited by those guidelines if those uses are consistent with the purpose of this chapter.

(c) Nothing in this chapter may be construed to authorize the [~~Department of Community and~~] Governor's Office of Economic Development or any other state agency to:

(i) acquire any ownership interest in real property other than an easement restricting the land from future uses inconsistent with the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982;

(ii) purchase businesses; or

(iii) require people to relocate or move from their property.

(d) To calculate the purchase price for the easements, the [~~Department of Community and~~] Governor's Office of Economic Development shall subtract the market value of the real property and its improvements after the acquisition of the easements from the market value of the real property and its improvements before the acquisition of the easements.

(e) When the Hill Air Force Base runways have not been used for seven years to accommodate the arrival and departure of airplanes, the [~~Department of Community and~~] Governor's Office of Economic Development shall:

(i) notify by certified mail each current owner of the property to which each easement is attached;

(ii) inform that owner that the owner may purchase the easement from the state for the same price that the state paid for it originally or for the market value of the easement at the time of the buyback, whichever is smaller; and

(iii) sell the easement to the owner of the property to which the easement is attached if the owner tenders the purchase price.

(f) In addition to purchasing the easements required by this chapter, the [~~Department of Community and~~] Governor's Office of Economic Development may provide reasonable relocation expenses to all churches, businesses, and schools that, as of March 1, 1994, were located either within the north Hill Air Force Base accident potential zone (APZ) identified in Subsection 63-49a-2(1)(a) or within the south Hill Air Force Base accident potential zone (APZ) identified in Subsection 63-49a-2(1)(b) if those churches, businesses, and schools can reasonably demonstrate that expansion of the use would have been permitted before acquisition of the easements but is now prohibited because of the easement.

(3) (a) The [~~Department of Community and~~] Governor's Office of Economic Development may take action to enforce the provisions of this chapter.

(b) The attorney general shall represent the [~~Department of Community and~~] Governor's Office of Economic Development in that action.

Section 152. Section **63-49a-2** is amended to read:

63-49a-2. Location of easements.

(1) The [~~Department of Community and~~] Governor's Office of Economic Development or its designees may acquire easements on the land within the following boundaries:

(a) beginning on the north Hill Air Force Base accident potential zone (APZ) at a point which is North 1,089,743.170 meters and East 459,346.946 meters based on the North zone, State of Utah, NAD 83 coordinates and runs north to North 63 degrees 10 minutes 44 seconds, East 457.109 meters, North 26 degrees 49 minutes 16 seconds, West 3,352.129 meters, South 63 degrees 10 minutes 44 seconds, West 914.217 meters, South 26 degrees 49 minutes 16 seconds, East 3,352.129 meters, North 63 degrees 10 minutes 44 seconds, East 457.109 meters back to the point of beginning; and

(b) beginning on the south Hill Air Force Base APZ which is North 1,086,065.786 meters and East 461,206.222 meters based on the North zone, State of Utah, NAD 83 coordinates and runs South 63 degrees 10 minutes 44 seconds, West 457.109 meters, South 26 degrees 49

minutes 16 seconds, East 502.179 meters, South 0 degrees 20 minutes 35 seconds, West 1,722.227 meters, South 89 degrees 39 minutes 25 seconds, East 883.743 meters, North 63 degrees 10 minutes 44 seconds, East 914.217 meters, North 26 degrees 49 minutes 16 seconds, West 2,437.912 meters, South 63 degrees 10 minutes 44 seconds, West 457.109 meters back to the point of beginning.

(2) The [~~Department of Community and~~ Governor's Office of Economic Development or its designees may acquire easements on the following land that is located inside the 75 and 80 level day-night (LDN) noise contour as identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October, 1982:

- (a) in the west half of Section 3, T4NR1W;
- (b) in the east half of Section 4, T4NR1W;
- (c) in the northeast quarter of Section 8, T4NR1W;
- (d) within all of Section 9, T4NR1W;
- (e) in the northwest quarter of Section 10, T4NR1W;
- (f) within the southwest quarter of Section 19, T5NR1W;
- (g) in the south half of Section 20, T5NR1W;
- (h) within the southwest quarter of Section 28, T5NR1W; and
- (i) within Section 29, T5NR1W.

Section 153. Section **63-49a-3** is amended to read:

63-49a-3. Certain improvements, alterations, and expansions prohibited.

(1) A person or entity may not begin to develop, or authorize development, on any land identified in this chapter until [~~whichever of the following occurs first: (a) May 31, 1995; or (b) the Department of Community and~~ the Governor's Office of Economic Development has affirmatively authorized the development of the land because the development is consistent with those uses identified in the Hill Air Force Base AICUZ Land Use Compatibility Guidelines Study, as amended, dated October 1982.

(2) Nothing in this chapter prohibits any property owner from improving, altering, or expanding any existing residential or commercial use of his property so long as the improvement,

alteration, or expansion does not materially increase the human density of that present use.

Section 154. Section **63-51-10** is amended to read:

63-51-10. Financial impact statement -- Alleviation plan -- Filing required -- Contents -- Payments credited against tax -- Provisions neither exclusive nor mandatory.

(1) (a) ~~[Any]~~ A developer desiring to prepay ad valorem property taxes under Section 63-51-3 shall first prepare and file with the ~~[Department of Community and]~~ Governor's Office of Economic Development and all units of local government likely to be affected with a significant financial impact due to a natural resource or industrial facility a financial impact statement together with a plan for alleviating these impacts.

(b) The impact statement and the alleviation plan shall be prepared in cooperation with and after consultation with the ~~[Department of Community and]~~ Governor's Office of Economic Development and the affected units of local government.

(c) The financial impact statement shall assess the projected financial impact on state agencies and units of local government, including~~[- but not limited to,]~~ the impact on transportation systems, culinary water systems, waste treatment facilities, public safety, schools, public health, housing, planning and zoning, and general government administration.

(d) The alleviation plan shall set out proposals for alleviating the impact and may include payments to local units of government or direct expenditures by the developer to alleviate the impact.

(e) The impact statement and the alleviation plan may be amended by the developer in cooperation with and after consultation with the ~~[Department of Community and]~~ Governor's Office of Economic Development and those units of local government affected by the amendment.

(2) At least 90 days prior to commencement of construction of an industrial facility or natural resources facility by a major developer, an impact statement and alleviation plan as described in Subsection (1) shall be filed by the major developer whether or not the major developer desires to prepay ad valorem property taxes.

(3) (a) Upon the filing of the financial impact statement and alleviation plan, a developer

may apply to the governing body of the affected unit of local government for authorization to prepay a portion of the anticipated ad valorem property taxes to be expended consistent with the alleviation plan.

(b) This authorization may provide that only a portion of the amounts so prepaid can be applied against the ad valorem property taxes due in any given year.

(c) In addition to payments directly to the affected unit of local government, an affected unit of local government may authorize a tax credit on anticipated ad valorem property taxes for expenditures made by the developer to other persons so long as the expenditure is consistent with the alleviation plan.

(4) (a) This chapter is designed to provide an additional mechanism for the alleviation of impacts on units of local government and is not intended to discourage the use of other mechanisms as may be available. [~~Moreover, nothing~~]

(b) ~~Nothing~~ in this chapter [~~shall require~~] requires a developer to prepay ad valorem property taxes or to make any other expenditure not otherwise required by law.

Section 155. Section **63A-9-801** is amended to read:

63A-9-801. State surplus property program -- Definitions -- Administration.

(1) As used in this section:

(a) "Agency" means:

(i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage Control, Commerce, Community and [~~Economic Development~~] Culture, Corrections, Workforce Services, Health, Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety, and Transportation and the Labor Commission;

(ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime Victim Reparations, Rehabilitation, and Treasurer;

(iii) the Public Service Commission and State Tax Commission;

(iv) the State Boards of Education, Pardons and Parole, and Regents;

(v) the Career Service Review Board;

(vi) other state agencies designated by the governor;

(vii) the legislative branch, the judicial branch, and the State Board of Regents; and
(viii) an institution of higher education, its president, and its board of trustees for purposes of Section 63A-9-802.

(b) "Division" means the Division of Fleet Operations.

(c) "Information technology equipment" means any equipment that is designed to electronically manipulate, store, or transfer any form of data.

(d) "Inventory property" means property in the possession of the division that is available for purchase by an agency or the public.

(e) "Judicial district" means the geographic districts established by Section 78-1-2.1.

(f) (i) "Surplus property" means property purchased by, seized by, or donated to, an agency that the agency wishes to dispose of.

(ii) "Surplus property" does not mean real property.

(g) "Transfer" means transfer of surplus property without cash consideration.

(2) (a) The division shall make rules establishing a state surplus property program that meets the requirements of this chapter by following the procedures and requirements of Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

(b) Those rules shall include:

(i) a requirement prohibiting the transfer of surplus property from one agency to another agency without written approval from the division;

(ii) procedures and requirements governing division administration requirements that an agency must follow;

(iii) requirements governing purchase priorities;

(iv) requirements governing accounting, reimbursement, and payment procedures;

(v) procedures for collecting bad debts;

(vi) requirements and procedures for disposing of firearms;

(vii) the elements of the rates or other charges assessed by the division for services and handling;

(viii) procedures governing the timing and location of public sales of inventory property;

and

(ix) procedures governing the transfer of information technology equipment by state agencies directly to public schools.

(c) The division shall report all transfers of information technology equipment by state agencies to public schools to the Utah Technology Commission and to the Legislative Interim Education Committee at the end of each fiscal year.

(3) In creating and administering the program, the division shall:

(a) when conditions, inventory, and demand permit:

(i) establish facilities to store inventory property at geographically dispersed locations throughout the state; and

(ii) hold public sales of property at geographically dispersed locations throughout the state;

(b) establish, after consultation with the agency requesting the sale of surplus property, the price at which the surplus property shall be sold; and

(c) transfer proceeds arising from the sale of state surplus property to the agency requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an amount established by the division by rule to pay the costs of administering the surplus property program.

(4) Unless specifically exempted from this chapter by explicit reference to this chapter, each state agency shall dispose of and acquire surplus property only by participating in the division's program.

Section 156. Section **63B-5-201** is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United [State] States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title [63] 63B, Chapter [9a,] 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Control to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B,

Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$3,470,200 for the construction of the Student Services Center, at the College of Eastern Utah, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the College of Eastern Utah to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions

and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed \$6,000,000 together with additional amounts necessary to:

- (A) pay cost of issuance;
- (B) pay capitalized interest; and
- (C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a,]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title ~~[63]~~ 63B, Chapter ~~[9a]~~ 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of Education and the ~~[Department of Community and]~~ Governor's Office of Economic Development to seek out the most cost effective and prudent lease purchase plan available.

Section 157. Section **63D-1a-203** is amended to read:

63D-1a-203. Utah Technology Industry Council.

(1) As used in this section:

(a) "Council" means the Utah Technology Industry Council created by this section.

(b) "Technology industry business in this state" means a business that has as a primary function the research, development, production, or marketing of technologies in technology sectors including:

- (i) aerospace;
- (ii) biotechnology or other technologies related to life sciences;
- (iii) information technologies or other technologies related to information technologies;

or

(iv) other key technology industries sectors as the technology industries develop.

(2) (a) There is created a Utah Technology Industry Council to act as a body that

recommends policy to the commission.

(b) Subject to the requirements of this section, the council:

(i) shall be organized by the steering committee created under Subsection (3); and

(ii) operate in accordance with the charter that:

(A) is initially adopted by the steering committee in accordance with Subsection (4); and

(B) amended as provided in the charter.

(c) A member of the council shall receive no compensation or benefits for the member's services including per diem or expenses incurred in the performance of the member's official duties on the council.

(3) (a) The steering committee described in Subsection (2) shall consist of eight members:

(i) the [executive] director of the [~~Department of Community and~~ Governor's Office of Economic Development or the [executive] director's designee, provided that the designee is a senior officer in the [~~department~~] office; and

(ii) seven members appointed as follows:

(A) the speaker of the House of Representatives shall appoint two members who are present or former senior:

(I) officers of technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state;

(B) the president of the Senate shall appoint two members who are present or former:

(I) senior officers of technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state;

(C) the governor shall appoint two members who are present or former:

(I) senior officers in technology industry businesses in the state; or

(II) executive directors of technology industry associations in this state; and

(D) the chair of the steering committee shall appoint a representative of political subdivisions of the state who is an elected official in any Utah municipality or county.

(b) (i) The members of the steering committee shall elect a chair of the steering

committee from the steering committee by a majority vote.

(ii) The chair of the steering committee shall act as chair of the council.

(c) (i) Except as required by Subsection (3)(c)(ii), a member of the steering committee appointed under Subsection (3)(a)(ii) shall be appointed to a term of four years.

(ii) Notwithstanding the requirements of Subsection (3)(c)(i), at the time of initial appointment of the steering committee, the members of the steering committee shall create a random process to adjust the length of terms of the initial members of the steering committee to ensure that the terms of members are staggered so that approximately half of the steering committee is appointed every two years.

(d) The [~~Department of Community and~~ Governor's Office of Economic Development] shall provide staff to:

(i) the steering committee; and

(ii) the council.

(4) The steering committee appointed under Subsection (3) shall adopt a charter for the council by no later than July 1, 2003 that specifies:

(a) the number, terms, and appointment of voting members of the council, except that the voting members of the council shall be:

(i) present or former senior officers of technology industry businesses in the state;

(ii) present or former executive directors of technology associations in the state; or

(iii) representatives of:

(A) state or local government; or

(B) public or higher education;

(b) the number, terms, and appointment of nonvoting members of the council;

(c) the term of the chair of the council;

(d) the process to be followed in creating any subcommittees of the council;

(e) the quorum requirements for the council or for subcommittees of the council to take action;

(f) the processes to be followed to call a meeting of the council or a subcommittee of the

council, except that:

(i) any meeting of the council or a subcommittee of the council is subject to Title 52, Chapter 4, Open and Public Meetings;

(ii) members of the commission shall be provided notice of each meeting of the council or of a subcommittee of the council; and

(iii) legislative members of the commission that attend a meeting of the council or a subcommittee of the council:

(A) may not vote unless the legislator is a member of the council or the subcommittee; and

(B) may receive a salary and expenses paid in accordance with Section 36-2-2 and Legislative Joint Rule 15.03; and

(g) the process for amending the charter under which the council operates.

(5) The council may:

(a) conduct research or other studies to the extent that funding is available;

(b) review practices in the worldwide private and public sectors that could foster technology business growth in the state;

(c) prepare an assessment of the current status of technology industries in the state including:

(i) the needs of technology industries in the state; and

(ii) opportunities for future growth of technology industries in the state;

(d) develop a strategic plan as to:

(i) the future of technology industries in the state;

(ii) the future economic value technology industries can bring to the state; and

(iii) the future benefits technology industries can bring to the quality of life of the citizens in the state;

(e) develop plans, including public and private sector initiatives, to meet any objectives included in the strategic plan statement described in Subsection (5)(d), including proposals to support the creation, retention, expansion, or attraction of technology industry businesses in the

state; and

(f) study other issues as directed by the commission related to economic development of technology industries.

Section 158. Section **67-19-6.7** is amended to read:

67-19-6.7. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Agreement" means the agreement authorized by the FLSA by which a nonexempt employee elects the form of compensation he will receive for overtime.

(c) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state [~~of Utah~~]; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(d) "Department" means the Department of Administrative Services, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Control, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the State Board of Education, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Community and [~~Economic Development~~] Culture, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety,

the Department of Human Resource Management, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, and merit employees in the Office of the State Auditor.

(e) "Elected official" means any person who is an employee of the state [~~of Utah~~] because he was elected by the registered voters of Utah to a position in state government.

(f) "Exempt employee" means a state employee who is exempt as defined by the FLSA.

(g) "FLSA" means the Fair Labor Standards Act, 29 U.S.C. Section 201 et seq. (1978).

(h) "Human Resource Management" means the Department of Human Resource Management.

(i) "Nonexempt employee" means a state employee who is nonexempt as defined by Human Resource Management applying FLSA requirements.

(j) "Overtime" means actual time worked in excess of the employee's defined work period.

(k) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(l) (i) "State employee" means every person employed by a department who is not an appointed official or an elected official.

(ii) "State employee" does not mean:

(A) certificated employees of the State Board of Education; and

(B) employees of the Department of Community and [~~Economic Development~~] Culture or the Governor's Office of Economic Development, whose positions are designated as schedule AM exempt employees under Section 67-19-15.

(m) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(n) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and
(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the FLSA.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed agreement from each nonexempt employee.

(b) In the agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by Human Resource Management.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If the department pays a nonexempt employee for overtime, the department shall charge that payment to the department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The director of Human Resource Management may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if the department has funds available.

(b) (i) Each department shall:

(A) establish in its written personnel policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the director of Human Resource Management, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by Human Resource Management rule lapses; and

(ii) unless authorized by the director of Human Resource Management under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to

work overtime from their immediate supervisor.

(f) If the department pays an exempt employee for overtime under authorization from the director of the Department of Human Resource Management, the department shall charge that payment to the department's budget in the pay period earned.

(5) Human Resource Management shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by Human Resource Management as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary

because of federal government action.

(6) In coordination with the procedures for recording overtime worked established in rule by Human Resource Management, the Division of Finance shall modify its payroll and personnel systems to accommodate those procedures.

(a) Notwithstanding the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by Human Resource Management as required by this section may appeal that determination to the executive director of Human Resource Management by following the procedures and requirements established in Human Resource Management rule.

(b) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(c) If the employee is aggrieved by the decision of the executive director of Human Resource Management, he shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 159. Section **67-19-12** is amended to read:

67-19-12. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules adopted by the department to implement this section, apply to each career and noncareer state employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), a state employee is considered to be in classified service.

(2) The following state employees are exempt from this section:

- (a) members of the Legislature and legislative employees;
- (b) members of the judiciary and judicial employees;
- (c) elected members of the executive branch and their direct staff who meet career service exempt criteria as defined in Subsection 67-19-15(1)(k);
- (d) certificated employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in any position that is determined by statute to be exempt from this

Subsection (2);

(g) attorneys in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor pursuant to statute;

(i) employees of the Department of Community and ~~[Economic Development]~~ Culture

whose positions are designated as executive/professional positions by the executive director of the Department of Community and ~~[Economic Development]~~ Culture with the concurrence of the director; ~~[and]~~

(j) employees of the Governor's Office of Economic Development whose positions are designated as executive/professional positions by the director of the office; and

~~[(j)]~~ (k) employees of the Medical Education Council.

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The department shall conduct periodic studies and desk audits to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the schedule for studies and desk audits after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit,

comparability of state salary ranges to salary ranges used by private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) Each pay plan shall consist of sufficient salary ranges to permit adequate salary differential among the various classes of positions in the classification plan.

(ii) The director shall assign each class of positions in the classification plan to a salary range and shall set the width of the salary range to reflect the normal growth and productivity potential of employees in that class. The width of the ranges need not be uniform for all classes of positions in the plan, but each range shall contain merit steps in increments of 2.75% salary increases.

(iii) The director shall issue rules for the administration of pay plans. The rules may provide for exceptional performance increases and for a program of incentive awards for cost-saving suggestions and other commendable acts of employees. The director shall issue rules providing for salary adjustments.

(iv) Merit step increases shall be granted, if funds are available, to employees who receive a rating of "successful" or higher in an annual evaluation of their productivity and performance.

(v) By October 15 of each year, the director shall submit market comparability adjustments to the director of the Governor's Office of Planning and Budget for consideration to be included as part of the affected agency's base budgets.

(vi) By October 31 of each year, the director shall recommend a compensation package to the governor.

(vii) Adjustments shall incorporate the results of a total compensation market survey of salary ranges and benefits of a reasonable cross section of comparable benchmark positions in private and public employment in the state. The survey may also study comparable unusual positions requiring recruitment outside Utah in the surrounding western states. The director may cooperate with other public and private employers in conducting the survey.

(viii) The director shall establish criteria to assure the adequacy and accuracy of the

survey and shall use methods and techniques similar to and consistent with those used in private sector surveys. Except as provided under Section 67-19-12.3, the survey shall include a reasonable cross section of employers. The director may cooperate with or participate in any survey conducted by other public and private employers.

(ix) The establishing of a salary range is a nondelegable activity subject to Subsection 67-19-8(1) and is not appealable under the grievance procedures of Sections 67-19-30 through 67-19-32, Title 67, Chapter 19a, Grievance and Appeal Procedures, or otherwise.

(x) The governor shall:

(A) consider salary adjustments recommended under Subsection (4)(c)(vi) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(B) submit compensation recommendations to the Legislature; and

(C) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(xi) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment.

(5) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The department shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) the most recent edition of the Employee Benefits Survey Data conducted by the U.S. Chamber of Commerce Research Center; or

(ii) the most recent edition of a nationally recognized benefits survey.

(6) (a) The director shall submit proposals for a state employee compensation plan to the governor by October 31 of each year, setting forth findings and recommendations affecting state employee compensation.

(b) The governor shall consider the director's proposals in preparing budget recommendations for the Legislature.

(c) The governor's budget proposals to the Legislature shall include a specific

recommendation on state employee compensation.

Section 160. Section **67-19-15** is amended to read:

67-19-15. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as otherwise provided by law or by rules and regulations established for federally aided programs, the following positions are exempt from the career service provisions of this chapter:

(a) the governor, members of the Legislature, and all other elected state officers, designated as Schedule AA;

(b) the agency heads enumerated in Section 67-22-2, and commissioners designated as Schedule AB;

(c) all employees and officers in the office and at the residence of the governor, designated as Schedule AC;

(d) employees who are in a confidential relationship to an agency head or commissioner and who report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;

(e) unskilled employees in positions requiring little or no specialized skill or training, designated as Schedule AE;

(f) part-time professional noncareer persons who are paid for any form of medical and other professional service and who are not engaged in the performance of administrative duties, designated as Schedule AF;

(g) attorneys in the attorney general's office who are under their own career service pay plan, designated as Schedule AG;

(h) teaching staff of all state institutions and patients and inmates employed in state institutions, designated as Schedule AH;

(i) persons appointed to a position vacated by an employee who has a right to return under federal or state law or policy, designated as Schedule AI;

(j) noncareer employees compensated for their services on a seasonal or contractual basis

who are hired for limited periods of less than nine consecutive months or who are employed on less than 1/2 time basis, designated as Schedule AJ;

(k) those employees in a personal and confidential relationship to elected officials, designated as Schedule AK;

(l) employees appointed to perform work of a limited duration not exceeding two years or to perform work with time-limited funding, designated as Schedule AL;

(m) employees of the Department of Community and [~~Economic Development~~] Culture whose positions are designated as executive/professional positions by the executive director of the Department of Community and [~~Economic Development~~] Culture with the concurrence of the director, and employees of the Governor's Office of Economic Development whose positions are designated as executive/professional positions by the director of the office, designated as Schedule AM;

(n) employees of the Legislature, designated as Schedule AN;

(o) employees of the judiciary, designated as Schedule AO;

(p) all judges in the judiciary, designated as Schedule AP;

(q) members of state and local boards and councils appointed by the governor and governing bodies of agencies, other local officials serving in an ex officio capacity, officers, faculty, and other employees of state universities and other state institutions of higher education, designated as Schedule AQ;

(r) employees who make statewide policy, designated as Schedule AR; and

(s) any other employee whose appointment is required by statute to be career service exempt, designated as Schedule AS.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).

(ii) Removal from any appointive position under Schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of all positions filled through competitive selection procedures as defined by the director.

(3) (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78-3-24.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapters 1, Governance, Powers, Rights and Responsibilities, and 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other Schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director of the Department of Human Resources.

(5) All employees of the Office of State Auditor, the Office of State Treasurer, the Office of the Attorney General, excluding attorneys who are under their own career service system, and employees who are not exempt under this section are covered by the career service provisions of this chapter.

Section 161. Section **67-19c-101** is amended to read:

67-19c-101. Department award program.

(1) As used in this section:

(a) "Department" means the Department of Administrative Services, the Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of Commerce, the Department of Community and ~~[Economic Development]~~ Culture, the Department of Corrections, the Department of Workforce Services, the Department of

Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Resource Management, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the State Board of Regents, the State Tax Commission, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) By April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for his department from the employees in his department.

(b) By July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to his employees.

(c) Department heads shall make the award to a person who demonstrates:

(i) extraordinary competence in performing his function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions to them;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The Department of Human Resource Management shall divide any appropriation for outstanding department employee awards that it receives from the Legislature equally among the departments.

(b) If the department receives monies from the Department of Human Resource Management or if the department budget allows, the department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) The department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for himself or for any relative as defined in Section 52-3-1.

(c) Any awards or award programs existing in any department as of May 3, 1993, shall be modified to conform to the requirements of this section.

Section 162. Section **67-22-2** is amended to read:

67-22-2. Compensation -- Other state officers.

(1) The governor shall establish salaries for the following state officers within the following salary ranges fixed by the Legislature:

State Officer	Salary Range
Commissioner of Agriculture and Food	\$65,200 - \$88,400
Commissioner of Insurance	\$65,200 - \$88,400
Commissioner of the Labor Commission	\$65,200 - \$88,400
Director, Alcoholic Beverage Control Commission	\$65,200 - \$88,400
Commissioner, Department of Financial Institutions	\$65,200 - \$88,400
Members, Board of Pardons and Parole	\$65,200 - \$88,400
Executive Director, Department of Commerce	\$65,200 - \$88,400
Executive Director, Commission on Criminal and Juvenile Justice	\$65,200 - \$88,400
Adjutant General	\$65,200 - \$88,400
Chair, Tax Commission	\$70,600 - \$95,200
Commissioners, Tax Commission	\$70,600 - \$95,200
Executive Director, Department of Community and [Economic]	

[Development] <u>Culture</u>	\$70,600 - \$95,200
Executive Director, Tax Commission	\$70,600 - \$95,200
Chair, Public Service Commission	\$70,600 - \$95,200
Commissioners, Public Service Commission	\$70,600 - \$95,200
Executive Director, Department of Corrections	\$76,800 - \$103,600
Commissioner, Department of Public Safety	\$76,800 - \$103,600
Executive Director, Department of Natural Resources	\$76,800 - \$103,600
Director, Governor's Office of Planning and Budget	\$76,800 - \$103,600
Executive Director, Department of Administrative Services	\$76,800 - \$103,600
Executive Director, Department of Human Resource Management	\$76,800 - \$103,600
Executive Director, Department of Environmental Quality	\$76,800 - \$103,600
Executive Director, Department of Workforce Services	\$83,600 - \$112,900
Executive Director, Department of Health	\$83,600 - \$112,900
Executive Director, Department of Human Services	\$83,600 - \$112,900
Executive Director, Department of Transportation	\$83,600 - \$112,900
Chief Information Officer <u>Director, Governor's Office</u>	\$83,600 - \$112,900

of Economic Development

\$76,800 - \$103,600

(2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same sick leave, converted sick leave, educational allowances, and holidays granted to Schedule B state employees, and the same annual leave granted to Schedule B state employees with more than ten years of state service;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its

executive director from its existing budget.

(3) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the Commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the Adjutant General a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

(4) (a) The governor has the discretion to establish a specific salary for each office listed in Subsection (1), and, within that discretion, may provide salary increases within the range fixed by the Legislature.

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the performance of the state officers listed in Subsection (1).

(5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary Act, shall be established as provided in Section 67-19-15.

Section 163. Section **72-1-209** is amended to read:

72-1-209. Department to cooperate in programs relating to scenic centers.

The department shall cooperate in planning and promoting road-building programs into the scenic centers of the state and in providing camping grounds and facilities in scenic centers for tourists with:

- (1) the [~~Department of Community and~~] Governor's Office of Economic Development;
- [(2)] ~~the Division of Travel Development;~~
- [(3)] (2) other states;
- [(4)] (3) all national, state, and local planning and zoning agencies and boards;
- [(5)] (4) municipal and county officials; and
- [(6)] (5) other agencies.

Section 164. Section **72-4-302** is amended to read:

72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership -- Meetings -- Expenses.

- (1) There is created the Utah State Scenic Byway Committee.
- (2) The committee shall consist of the following members:
 - (a) a representative from each of the following [~~agencies~~] entities appointed by each respective [~~agency~~] entity:
 - (i) the [~~Division of Travel~~] Governor's Office of Economic Development;
 - (ii) the Utah Department of Transportation;
 - (iii) the Utah Association of Governments;
 - (iv) the Division of State Parks and Recreation;
 - (v) the Federal Highway Administration;
 - (vi) the National Park Service;
 - (vii) the National Forest Service;
 - (viii) the Bureau of Land Management; and
 - (ix) the Utah Travel Regions Association;
 - (b) two local government tourism representatives selected by the state [~~agencies~~] entities identified in Subsection (2)(a); and

(c) a representative from the private sector selected by the state [~~agencies~~] entities identified in Subsection (2)(a).

(3) (a) The representative from the [~~Division of Travel~~] Governor's Office of Economic Development shall chair the committee.

(b) The members appointed under Subsections (2)(a)(v), (vi), (vii), and (viii) serve as nonvoting, ex officio members of the committee.

(4) The [~~Division of Travel~~] Governor's Office of Economic Development and the department shall provide staff support to the committee.

(5) (a) The chair may call a meeting of the committee only with the concurrence of the department.

(b) A majority of the voting members of the committee constitute a quorum.

(c) Action by a majority vote of a quorum of the committee constitutes action by the committee.

(6) (a) (i) Members who are not state government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(c) (i) Local government members who do not receive salary, per diem, or expenses from the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 165. Section **72-7-504** is amended to read:

72-7-504. Advertising prohibited near interstate or primary system -- Exceptions -- Logo advertising -- Department rules.

(1) Outdoor advertising that is capable of being read or comprehended from any place on the main-traveled way of an interstate or primary system may not be erected or maintained, except:

(a) directional and other official signs and notices authorized or required by law, including signs and notices pertaining to natural wonders and scenic and historic attractions, informational or directional signs regarding utility service, emergency telephone signs, buried or underground utility markers, and above ground utility closure signs;

(b) signs advertising the sale or lease of property upon which they are located;

(c) signs advertising activities conducted on the property where they are located, including signs on the premises of a public assembly facility as provided in Section 72-7-504.5;

(d) signs located in a commercial or industrial zone;

(e) signs located in unzoned industrial or commercial areas as determined from actual land uses; and

(f) logo advertising under Subsection (2).

(2) (a) The department may itself or by contract erect, administer, and maintain informational signs on the main-traveled way of an interstate or primary system for the display of logo advertising and information of interest to the traveling public if:

(i) the department complies with Title 63, Chapter 56, Utah Procurement Code, in the lease or other contract agreement with a private party for the sign or sign space; and

(ii) the private party for the lease of the sign or sign space pays an amount set by the department to be paid to the department or the party under contract with the department under this Subsection (2).

(b) The amount shall be sufficient to cover the costs of erecting, administering, and

maintaining the signs or sign spaces.

(c) The department may consult the [~~Division of Travel~~] Governor's Office of Economic Development in carrying out this Subsection (2).

(3) (a) Revenue generated under Subsection (2) shall be:

- (i) applied first to cover department costs under Subsection (2); and
- (ii) deposited in the Transportation Fund.

(b) Revenue in excess of costs under Subsection (2)(a) shall be deposited in the General Fund as a dedicated credit for use by the [~~Division of Travel~~] Governor's Office of Economic Development no later than the following fiscal year.

(4) Outdoor advertising under Subsections (1)(a), (d), (e), and (f) shall conform to the rules made by the department under Sections 72-7-506 and 72-7-507.

Section 166. Section **73-10c-3** is amended to read:

**73-10c-3. Water Development Coordinating Council created -- Purpose --
Members.**

(1) (a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council comprises:

- (i) the director of the Division of Water Resources;
- (ii) the executive secretary of the Water Quality Board;
- (iii) the executive secretary of the Drinking Water Board;
- (iv) the executive director of the Department of Community and [~~Economic Development~~] Culture or [~~his~~] the executive director's designee; and
- (v) the state treasurer or [~~his~~] the treasurer's designee.

(b) The council shall choose a chair and vice chair from among its own members.

(c) (i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the council at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem

and expenses for their service.

(2) The purposes of the council are to:

(a) coordinate the use and application of the funds available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;

(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;

(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state; and

(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs.

Section 167. Repealer.

This bill repeals:

Section 9-2-206, Director of division.

Section 9-2-801, Short title.

Section 9-2-809, State's share in moneys from technology and applications.

Section 9-2-1501, Title -- Purpose.

Section 9-2-1502, Definitions.

Section 9-2-1503, Community Economic Development Project Fund created --

Administration.

Section 9-2-1504, Distribution of fund moneys.

Section 9-2-1505, Entities authorized to receive fund moneys.

Section 9-2-1506, Application process and priorities.

Section 9-2-1507, Annual accounting.

Section 9-2-1705, Creation of Tourism Marketing Performance Fund Committee --

Members -- Appointment -- Qualifications -- Terms -- Quorum -- Per diem and expenses -- Staff.

Section **9-2-1706, Duties of Tourism Marketing Performance Fund Committee.**

Section **9-3-205, Director of division.**

Section **9-3-208, Offices in Salt Lake City.**

Section 168. **Study on the implementation of the restructuring of the Department of Community and Economic Development.**

(1) The Legislature's Workforce Services and Community and Economic Development Interim Committee shall monitor and study the implementation and consequences of the restructuring of the Department of Community and Economic Development into the Governor's Office of Economic Development and the Department of Community and Culture as required in this H.B. 318.

(2) The committee shall conduct its study to determine what modifications, if any, may be needed in the office, or the department, or both to further enhance the state's economic development and community and culture programs and policies.

(3) The committee shall complete the study required by Subsection (1) and present its findings, including any proposed legislation, to the Legislative Management Committee by November 30, 2005.

Section 169. **Legislative audits required.**

(1) Beginning July 1, 2005, the Legislative Auditor General shall:

(a) conduct a limited scope audit of the management and financial controls of the Governor's Office of Economic Development; and

(b) report its findings and recommendations to the Legislature's Interim Executive Appropriations Committee by December 22, 2005.

(2) Beginning March 15, 2006, the Legislative Auditor General shall:

(a) conduct a performance audit of the Governor's Office of Economic Development to evaluate the programs and expenditures of the office; and

(b) report its findings and recommendations to the Legislature's Interim Executive

Appropriations Committee by December 22, 2006.

Section 170. **Effective date.**

This bill takes effect on July 1, 2005.

Section 171. **Coordinating H.B. 318 with H.B. 1.**

If this H.B. 318 and H.B. 1, Annual Appropriations Act, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture.

Section 172. **Coordinating H.B. 318 with H.B. 11.**

If this H.B.318 and H.B.11, Economic Development Incentives, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 22 in H.B.11 shall be renumbered as Part 17 in Title 63, Chapter 38f, with Sections 9-2-2201, 9-2-2202, 9-2-2203, 9-2-2204, 9-2-2205, 9-2-2206, and 9-2-2207 being renumbered to 63-38f-1701, 63-38f-1702, 63-38f-1703, 63-38f-1704, 63-38f-1705, 63-38f-1706, and 63-38f-1707 respectively.

(2) The following subsections in Section 63-38f-1309 shall read as follows:

"(2) The account shall be used to make payments as required under [~~Section 9-2-2006~~] Sections 63-38f-1306 and 63-38f-1705."

"(3) (a) The Division of Finance shall transfer from the General Fund the amount estimated by the [~~department~~] office from new state revenues needed to make the partial rebates as allowed in [~~Section 9-2-2006~~] Sections 63-38f-1306 and 63-38f-1705."

"(4) Notwithstanding Subsections 51-5-3(23)(b) and 63-38-9(4)(c), after receiving

request for payment, in accordance with Subsection [~~9-2-2006~~] 63-38f-1306(2) or 63-38f-1705(2), the Division of Finance shall pay the partial rebates as allowed in Section [~~9-2-2006~~] 63-38f-1306 or 63-38f-1705 from the account."

"(5) (b) The [~~department~~] office shall update the estimates required by Subsections (5)(a)(i) and (ii) within 30 days of the signing of each new agreement entered into under this part or Part 17, Economic Development Incentives Act."

(3) Renumbered Section 63-38f-1703 shall read as follows:

"63-38f-1703. Definitions.

As used in this part:

(1) "Development zone" means an economic development zone created under Section 63-38f-1704.

(2) "High paying jobs" means the annual wages of employment positions that compare favorably against the median wage of a community in which the jobs will exist.

(3) "Local incentives" means financial and other assistance provided by local taxing authorities within a development zone, which may include:

(a) partial rebates of new local revenues; and

(b) other sources of funds under authority of state law or local ordinances, or both state law and local ordinances.

(4) "New incremental jobs" means jobs that are:

(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and

(b) created in addition to the baseline count of jobs already in existence within a company or employed by an individual.

(5) "New local revenues" mean incremental new local tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the local government's portion of sales taxes, property taxes, impact fees, and other taxes or fees, or both taxes and fees, derived from the projects, together with indirect local government revenues generated by the projects, but not to include any portion of sales taxes earmarked for state government or other taxing jurisdictions eligible for sales tax revenues.

(6) "New state revenues" means incremental new state tax revenues that are generated as a result of new economic commercial projects in a development zone, to include the state's portion of sales taxes, and company and employee income taxes derived from the projects, together with indirect state revenues generated by the projects, but not to include any portion of sales taxes earmarked for local governments or other taxing jurisdictions eligible for sales tax revenues.

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

(8) "Partial rebates" means returning a portion of the new local revenues and new state revenues generated by new commercial projects to companies or individuals that have created new economic growth within a development zone."

(4) Renumbered Section 63-38f-1704 shall read as follows:

"63-38f-1704. Creation of economic development zones -- Incentives.

(1) The office, with advice from the board, may create an economic development zone in the state that satisfies all of the following requirements:

(a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate use in a community approved master plan; and

(b) the request to create a development zone has been forwarded to the office after first being approved by an appropriate local government entity that has committed or will commit to provide local incentives.

(2) (a) The office, with advice from the board, may enter into agreements providing for partial rebates of new state revenues generated by new commercial projects to companies or individuals that create new economic growth within a development zone under the same restrictions and limitations as provided in Section 63-38f-1304.

(b) The limitations and restrictions applied to partial rebates of new state revenues in Section 63-38f-1304 also apply to partial rebates of new local revenues under this part."

(5) Renumbered Section 63-38f-1705 shall read as follows:

"63-38f-1705. Qualifications for rebates -- Payment procedure.

"(1) The office shall set standards to qualify for partial rebates under this part, subject to

the following:

(a) the qualification criteria established in Subsections 63-38f-1305(1), (2), (3), (4), and (6); and

(b) only projects that include significant capital investment, the creation of high paying jobs, or significant purchases from Utah vendors and providers, or any combination of these three economic factors are eligible for partial rebates.

(2) A payment of partial rebates of new state revenues shall be made in accordance with procedures adopted by the office, with advice from the board, to include the payment procedures described in Section 63-38f-1306 as applied to partial rebates authorized under this part."

(6) Renumbered Section 63-38f-1706 shall read as follows:

"63-38f-1706. Office's authority -- Report to Legislature.

(1) The office, with advice from the board, and within the limitations of this part, may determine:

(a) the structure and amount of any partial rebates offered under this part;

(b) the economic impacts and job creation necessary to qualify for the incentive; and

(c) the other terms and conditions of an agreement entered into under this part.

(2) In reviewing claims for partial rebates of new state revenues, the office may accept the same type of information and evidence allowed under Subsections 63-38f-1307(2)(a) and (b).

(3) (a) The office shall make a report to the Legislature's Workforce Services and Community and Economic Development Interim committee on:

(i) the success of attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(ii) the period of time over which partial rebates of new state revenues shall be granted under this part; and

(iii) the economic impact on the state related to generating new state revenues and rebating a portion of those revenues under this part.

(b) The office shall make the report prior to the 2006 General Session of the Legislature to enable the committee to determine whether this part should be modified during the 2006

General Session."

(7) Renumbered Section 63-38f-1707 shall read as follows:

"63-38f-1707. Coordination with the Industrial Assistance Fund.

Projects that qualify for partial rebates on new state revenues under this part and enter into agreements with the office under this part are ineligible to qualify for additional financial assistance for the Industrial Assistance Fund under Section 63-38f-904."

Section 173. Coordinating H.B. 318 with H.B. 17.

If this H.B. 318 and H.B. 17, Motion Picture Incentive Fund, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 21 in H.B. 17 shall be renumbered in Title 63, Chapter 38f, to be consistent with the renumbering done in H.B. 318 to include the renumbering of sections within the part and references to renumbered sections within the part.

(2) In Section 9-2-2102 the terms "executive director" shall be replaced with "director" and "Department of Community and Economic Development" be replaced with "Governor's Office of Economic Development" and the statutory cite shall be made consistent with the renumbering of the part to Title 63, Chapter 38f.

(3) Subsections 9-2-2103(2)(a) and (b) shall read:

"(2) (a) The fund shall be administered by the administrator with advice from the board.

(b) The administrator, with advice from the board, shall approve fund policies and qualification criteria to receive an incentive award consistent with the provisions of this part."

(4) Subsections 9-2-2104(2)(a) and (2)(b) shall read:

"(2) (a) The administrator has authority to determine the structure, amount, and nature of the incentive given to a motion picture company, subject to the limitations and considerations set out in Subsections (3) and (4).

(b) A financial incentive shall be paid to a motion picture company from the fund only after the administrator has determined with advice from the board that the motion picture company has satisfied the conditions upon which the incentive is to be given."

Section 174. Coordinating H.B. 318 with H.B. 224.

If this H.B. 318 and H.B. 224, Permanent Community Impact Fund - Board Membership, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the database for publication, shall modify Subsection 9-4-304(1)(j) enacted in H.B. 224 to read: "(j) a locally elected official from each of the two counties that produced the most mineral lease monies during the previous four-year period, prior to the term of appointment, as determined by the Department of Community and Culture."

Section 175. Coordinating H.B. 318 with H.B. 301.

If this H.B. 318 and H.B. 301, Supplemental Appropriations Act III, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture.

Section 176. Coordinating H.B. 318 with S.B. 1.

If this H.B. 318 and S.B. 1, Supplemental Appropriations Act, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture.

Section 177. Coordinating H.B. 318 with S.B. 3.

If this H.B. 318 and S.B. 3, Supplemental Appropriations Act II, both pass, it is the intent of the Legislature that the Division of Finance:

(1) reallocate any appropriations contained in the line items entitled "Department of Community and Economic Development - Business and Travel Development" and "Department of Community and Economic Development - Incentive Funds" to the newly created Governor's Office of Economic Development; and

(2) reallocate any appropriations contained in the remaining line items listed under the heading "Department of Community and Economic Development" to the Department of Community and Culture.

Section 178. Coordinating H.B. 318 with S.B. 57.

If this H.B. 318 and S.B. 57, Use of State Sales and Use Tax Revenues for Business Development in Disadvantaged Rural Communities, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 21 in S.B. 57 shall be renumbered in Title 63, Chapter 38f to be consistent with the renumbering done in H.B.318, to include the renumbering of sections within the part and references to renumbered sections within the part.

(2) In Section 9-2-2102, the references to "Section 9-2-202" shall be changed to Section 63-38f-301.

(3) (a) Subsection 9-2-2104(1)(c) shall read: "(c) If the board awards a loan to an eligible county in accordance with this section, the loan shall be subject to interest as provided by the procedures and methods referred to in Subsection (6).

(b) Subsection 9-2-2104(2)(b)(v) shall read:

"(v) establish that the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:

(A) median income per capita within the community;

(B) median property tax revenues generated within the community;

(C) median sales and use tax revenues generated within the community; or

(D) unemployment rates within the community;".

(c) Subsection 9-2-2104 (4)(c)(iii) shall read: "(iii) in accordance with procedures established for prioritizing which projects may be awarded a grant or loan by the board under this section;"; and Subsections (4)(c)(iii)(A) and (B) shall be deleted.

(d) In Subsections 9-2-2104(4)(c)(ii) and 9-2-2104(4)(d), the term "executive director" shall be replaced with "director".

(e) In Subsection 9-2-2104(5)(b), an "or" shall be inserted at the end of Subsection (iii), the "or" deleted at the end of Subsection (iv), and Subsection (v) deleted in its entirety.

(f) Subsection 9-2-2104(6) shall read:

"(6) The office shall establish procedures:

(a) for prioritizing which projects may be awarded a grant or loan by the board under this section; and

(b) for loans awarded in accordance with this section:

(i) the methods of calculating interest applicable to the loans; and

(ii) procedures for:

(A) applying interest to the loans; and

(B) paying interest on the loans."

(4) (a) In Subsection 9-2-2105(1) and (2)(b), the term "executive director" shall be replaced with "director".

(b) In Subsection 9-2-2105(3)(c), the numeral "(i)" shall be deleted and Subsection (ii) shall be deleted in its entirety.

(5) In Subsection 63-65-4(1)(b)(v), the reference to Section 9-2-2103 shall be changed to reflect the renumbering of the section in Title 63, Chapter 38f.

Section 179. Coordinating H.B. 318 with S.B. 141.

If this H.B. 318 and S.B. 141, Military Installation Partnerships, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall make the following changes:

(1) Part 23 in S.B. 141 shall be renumbered in Title 63, Chapter 38f, to be consistent

with the renumbering done in H.B. 318;

(2) in Section 9-2-2301, the terms "department" shall be replaced with "office" and "executive director" be replaced with "director"; and

(3) in Section 2. Appropriation, in S.B. 141 the term "Department of Community and Economic Development" shall be replaced with "Governor's Office of Economic Development".