

Representative Wayne A. Harper proposes the following substitute bill:

**RESTRUCTURING OF THE DEPARTMENT OF COMMUNITY
AND CULTURE**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Stuart C. Reid

LONG TITLE

General Description:

This bill provides a mechanism for the restructuring of the Department of Community and Culture and distributes and transitions certain of its powers, duties, functions, and programs to other governmental departments and agencies.

Highlighted Provisions:

This bill:

- ▶ provides a mechanism for the restructuring of the Department of Community and Culture and the transitioning of certain powers, duties, functions, and programs;

- ▶ moves the Utah Science Center Authority, the Heber Valley Historic Railroad Authority, and the Utah State Railroad Museum Authority to Title 63H, Independent State Entities;

- ▶ moves the Bond Volume Cap Allocation program to the Governor's Office of Economic Development; and

- ▶ makes certain technical changes.

Money Appropriated in this Bill:

§→ [—None] This bill appropriates as an ongoing appropriation subject to future budget constraints, \$104,400 from the General Fund for fiscal year 2011-12 to the Department of Community and Culture to offset the loss of funds by the department related to the shifting of the Bond Volume Cap Allocation program to the Governor's Office of Economic Development. ←§

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **59-12-104**, as last amended by Laws of Utah 2010, Chapters 88, 209, and 364

30 **63A-5-306**, as last amended by Laws of Utah 2010, Chapter 343

31 **63E-1-102**, as last amended by Laws of Utah 2010, Chapters 152 and 364

32 **63I-1-209**, as last amended by Laws of Utah 2010, Chapter 364

33 **63I-1-263**, as last amended by Laws of Utah 2010, Chapters 319 and 358

34 **63I-4-102**, as last amended by Laws of Utah 2010, Chapters 152, 353, and 364

35 **63J-7-102**, as last amended by Laws of Utah 2010, Chapters 152, 364, and 370

36 **63M-1-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

37 **63M-7-301**, as last amended by Laws of Utah 2010, Chapter 39

38 RENUMBERS AND AMENDS:

39 **63H-3-101**, (Renumbered from 9-3-401, as enacted by Laws of Utah 1993, Chapter
40 309)

41 **63H-3-102**, (Renumbered from 9-3-402, as last amended by Laws of Utah 2001,
42 Chapter 151)

43 **63H-3-103**, (Renumbered from 9-3-403, as last amended by Laws of Utah 2010,
44 Chapter 286)

45 **63H-3-104**, (Renumbered from 9-3-404, as enacted by Laws of Utah 1993, Chapter
46 309)

47 **63H-3-105**, (Renumbered from 9-3-405, as enacted by Laws of Utah 1993, Chapter
48 309)

49 **63H-3-106**, (Renumbered from 9-3-406, as enacted by Laws of Utah 1993, Chapter
50 309)

51 **63H-3-107**, (Renumbered from 9-3-407, as last amended by Laws of Utah 2010,
52 Chapter 378)

53 **63H-3-108**, (Renumbered from 9-3-409, as last amended by Laws of Utah 2009, First
54 Special Session, Chapter 5)

55 **63H-3-109**, (Renumbered from 9-3-410, as last amended by Laws of Utah 2010,
56 Chapter 324)

- 57 **63H-3-110**, (Renumbered from 9-3-411, as enacted by Laws of Utah 1993, Chapter
- 58 309)
- 59 **63H-4-101**, (Renumbered from 9-3-501, as enacted by Laws of Utah 2010, Chapter
- 60 364)
- 61 **63H-4-102**, (Renumbered from 9-3-502, as enacted by Laws of Utah 2010, Chapter
- 62 364)
- 63 **63H-4-103**, (Renumbered from 9-3-503, as enacted by Laws of Utah 2010, Chapter
- 64 364)
- 65 **63H-4-104**, (Renumbered from 9-3-504, as enacted by Laws of Utah 2010, Chapter
- 66 364)
- 67 **63H-4-105**, (Renumbered from 9-3-505, as enacted by Laws of Utah 2010, Chapter
- 68 364)
- 69 **63H-4-106**, (Renumbered from 9-3-506, as enacted by Laws of Utah 2010, Chapter
- 70 364)
- 71 **63H-4-107**, (Renumbered from 9-3-507, as enacted by Laws of Utah 2010, Chapter
- 72 364)
- 73 **63H-4-108**, (Renumbered from 9-3-508, as enacted by Laws of Utah 2010, Chapter
- 74 364)
- 75 **63H-4-109**, (Renumbered from 9-3-509, as enacted by Laws of Utah 2010, Chapter
- 76 364)
- 77 **63H-4-110**, (Renumbered from 9-3-510, as enacted by Laws of Utah 2010, Chapter
- 78 364)
- 79 **63H-4-111**, (Renumbered from 9-3-511, as enacted by Laws of Utah 2010, Chapter
- 80 364)
- 81 **63H-5-101**, (Renumbered from 9-3-601, as enacted by Laws of Utah 2010, Chapter
- 82 152)
- 83 **63H-5-102**, (Renumbered from 9-3-602, as enacted by Laws of Utah 2010, Chapter
- 84 152)
- 85 **63H-5-103**, (Renumbered from 9-3-603, as enacted by Laws of Utah 2010, Chapter
- 86 152)
- 87 **63H-5-104**, (Renumbered from 9-3-604, as enacted by Laws of Utah 2010, Chapter

88 152)
89 **63H-5-105**, (Renumbered from 9-3-605, as enacted by Laws of Utah 2010, Chapter
90 152)
91 **63H-5-106**, (Renumbered from 9-3-606, as enacted by Laws of Utah 2010, Chapter
92 152)
93 **63H-5-107**, (Renumbered from 9-3-607, as enacted by Laws of Utah 2010, Chapter
94 152)
95 **63H-5-108**, (Renumbered from 9-3-608, as enacted by Laws of Utah 2010, Chapter
96 152)
97 **63H-5-109**, (Renumbered from 9-3-609, as enacted by Laws of Utah 2010, Chapter
98 152)
99 **63H-5-110**, (Renumbered from 9-3-610, as enacted by Laws of Utah 2010, Chapter
100 152)
101 **63H-6-101**, (Renumbered from 9-4-1101, as enacted by Laws of Utah 1995, Chapter
102 260)
103 **63H-6-102**, (Renumbered from 9-4-1102, as enacted by Laws of Utah 1995, Chapter
104 260)
105 **63H-6-103**, (Renumbered from 9-4-1103, as last amended by Laws of Utah 2008,
106 Chapter 382)
107 **63H-6-104**, (Renumbered from 9-4-1104, as last amended by Laws of Utah 2002,
108 Chapter 176)
109 **63H-6-105**, (Renumbered from 9-4-1105, as enacted by Laws of Utah 1995, Chapter
110 260)
111 **63H-6-106**, (Renumbered from 9-4-1106, as enacted by Laws of Utah 1995, Chapter
112 260)
113 **63H-6-107**, (Renumbered from 9-4-1107, as enacted by Laws of Utah 1995, Chapter
114 260)
115 **63M-1-2901**, (Renumbered from 9-4-501, as enacted by Laws of Utah 1992, Chapter
116 287)
117 **63M-1-2902**, (Renumbered from 9-4-502, as enacted by Laws of Utah 1992, Chapter
118 287)

119 **63M-1-2903**, (Renumbered from 9-4-503, as last amended by Laws of Utah 2010,
120 Chapter 286)

121 **63M-1-2904**, (Renumbered from 9-4-504, as last amended by Laws of Utah 1997,
122 Chapter 192)

123 **63M-1-2905**, (Renumbered from 9-4-505, as last amended by Laws of Utah 2004,
124 Chapter 90)

125 **63M-1-2906**, (Renumbered from 9-4-506, as last amended by Laws of Utah 2000,
126 Chapter 95)

127 **63M-1-2907**, (Renumbered from 9-4-507, as enacted by Laws of Utah 1992, Chapter
128 287)

129 **63M-1-2908**, (Renumbered from 9-4-508, as last amended by Laws of Utah 2005,
130 Chapter 170)

131 **63M-1-2909**, (Renumbered from 9-4-509, as last amended by Laws of Utah 2008,
132 Chapter 382)

133 **Uncodified Material Affected:**
134 ENACTS UNCODIFIED MATERIAL



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

137 Section 1. Section **59-12-104** is amended to read:

138 **59-12-104. Exemptions.**

139 The following sales and uses are exempt from the taxes imposed by this chapter:

140 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
141 under Chapter 13, Motor and Special Fuel Tax Act;

142 (2) sales to the state, its institutions, and its political subdivisions; however, this
143 exemption does not apply to sales of:

144 (a) construction materials except:

145 (i) construction materials purchased by or on behalf of institutions of the public
146 education system as defined in Utah Constitution Article X, Section 2, provided the
147 construction materials are clearly identified and segregated and installed or converted to real
148 property which is owned by institutions of the public education system; and

149 (ii) construction materials purchased by the state, its institutions, or its political

150 subdivisions which are installed or converted to real property by employees of the state, its
151 institutions, or its political subdivisions; or

152 (b) tangible personal property in connection with the construction, operation,
153 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
154 providing additional project capacity, as defined in Section 11-13-103;

155 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

156 (i) the proceeds of each sale do not exceed \$1; and

157 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
158 the cost of the item described in Subsection (3)(b) as goods consumed; and

159 (b) Subsection (3)(a) applies to:

160 (i) food and food ingredients; or

161 (ii) prepared food;

162 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

163 (i) alcoholic beverages;

164 (ii) food and food ingredients; or

165 (iii) prepared food;

166 (b) sales of tangible personal property or a product transferred electronically:

167 (i) to a passenger;

168 (ii) by a commercial airline carrier; and

169 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

170 (c) services related to Subsection (4)(a) or (b);

171 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
172 and equipment:

173 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
174 North American Industry Classification System of the federal Executive Office of the
175 President, Office of Management and Budget; and

176 (II) for:

177 (Aa) installation in an aircraft, including services relating to the installation of parts or
178 equipment in the aircraft;

179 (Bb) renovation of an aircraft; or

180 (Cc) repair of an aircraft; or

181 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
182 commerce; or

183 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
184 aircraft operated by a common carrier in interstate or foreign commerce; and

185 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
186 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
187 refund:

188 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

189 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

190 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
191 the sale prior to filing for the refund;

192 (iv) for sales and use taxes paid under this chapter on the sale;

193 (v) in accordance with Section 59-1-1410; and

194 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
195 the person files for the refund on or before September 30, 2011;

196 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
197 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
198 exhibitor, distributor, or commercial television or radio broadcaster;

199 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
200 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
201 washing of tangible personal property;

202 (b) if a seller that sells at the same business location assisted cleaning or washing of
203 tangible personal property and cleaning or washing of tangible personal property that is not
204 assisted cleaning or washing of tangible personal property, the exemption described in
205 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
206 or washing of the tangible personal property; and

207 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
208 Utah Administrative Rulemaking Act, the commission may make rules:

209 (i) governing the circumstances under which sales are at the same business location;
210 and

211 (ii) establishing the procedures and requirements for a seller to separately account for

212 sales of assisted cleaning or washing of tangible personal property;

213 (8) sales made to or by religious or charitable institutions in the conduct of their regular

214 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are

215 fulfilled;

216 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of

217 this state if the vehicle is:

218 (a) not registered in this state; and

219 (b) (i) not used in this state; or

220 (ii) used in this state:

221 (A) if the vehicle is not used to conduct business, for a time period that does not

222 exceed the longer of:

223 (I) 30 days in any calendar year; or

224 (II) the time period necessary to transport the vehicle to the borders of this state; or

225 (B) if the vehicle is used to conduct business, for the time period necessary to transport

226 the vehicle to the borders of this state;

227 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

228 (i) the item is intended for human use; and

229 (ii) (A) a prescription was issued for the item; or

230 (B) the item was purchased by a hospital or other medical facility; and

231 (b) (i) Subsection (10)(a) applies to:

232 (A) a drug;

233 (B) a syringe; or

234 (C) a stoma supply; and

235 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

236 commission may by rule define the terms:

237 (A) "syringe"; or

238 (B) "stoma supply";

239 (11) sales or use of property, materials, or services used in the construction of or

240 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

241 (12) (a) sales of an item described in Subsection (12)(c) served by:

242 (i) the following if the item described in Subsection (12)(c) is not available to the

243 general public:

244 (A) a church; or

245 (B) a charitable institution;

246 (ii) an institution of higher education if:

247 (A) the item described in Subsection (12)(c) is not available to the general public; or

248 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

249 offered by the institution of higher education; or

250 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

251 (i) a medical facility; or

252 (ii) a nursing facility; and

253 (c) Subsections (12)(a) and (b) apply to:

254 (i) food and food ingredients;

255 (ii) prepared food; or

256 (iii) alcoholic beverages;

257 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

258 or a product transferred electronically by a person:

259 (i) regardless of the number of transactions involving the sale of that tangible personal

260 property or product transferred electronically by that person; and

261 (ii) not regularly engaged in the business of selling that type of tangible personal

262 property or product transferred electronically;

263 (b) this Subsection (13) does not apply if:

264 (i) the sale is one of a series of sales of a character to indicate that the person is

265 regularly engaged in the business of selling that type of tangible personal property or product

266 transferred electronically;

267 (ii) the person holds that person out as regularly engaged in the business of selling that

268 type of tangible personal property or product transferred electronically;

269 (iii) the person sells an item of tangible personal property or product transferred

270 electronically that the person purchased as a sale that is exempt under Subsection (25); or

271 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

272 this state in which case the tax is based upon:

273 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

274 sold; or

275 (B) in the absence of a bill of sale or other written evidence of value, the fair market
276 value of the vehicle or vessel being sold at the time of the sale as determined by the
277 commission; and

278 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
279 commission shall make rules establishing the circumstances under which:

280 (i) a person is regularly engaged in the business of selling a type of tangible personal
281 property or product transferred electronically;

282 (ii) a sale of tangible personal property or a product transferred electronically is one of
283 a series of sales of a character to indicate that a person is regularly engaged in the business of
284 selling that type of tangible personal property or product transferred electronically; or

285 (iii) a person holds that person out as regularly engaged in the business of selling a type
286 of tangible personal property or product transferred electronically;

287 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
288 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
289 facility, of the following:

290 (i) machinery and equipment that:

291 (A) are used:

292 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
293 recycler described in Subsection 59-12-102(54)(b):

294 (Aa) in the manufacturing process;

295 (Bb) to manufacture an item sold as tangible personal property; and

296 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
297 (14)(a)(i)(A)(I) in the state; or

298 (II) for a manufacturing facility that is a scrap recycler described in Subsection
299 59-12-102(54)(b):

300 (Aa) to process an item sold as tangible personal property; and

301 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
302 (14)(a)(i)(A)(II) in the state; and

303 (B) have an economic life of three or more years; and

304 (ii) normal operating repair or replacement parts that:

305 (A) have an economic life of three or more years; and
306 (B) are used:
307 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
308 recycler described in Subsection 59-12-102(54)(b):
309 (Aa) in the manufacturing process; and
310 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
311 state; or
312 (II) for a manufacturing facility that is a scrap recycler described in Subsection
313 59-12-102(54)(b):
314 (Aa) to process an item sold as tangible personal property; and
315 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
316 state;
317 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
318 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
319 of the following:
320 (i) machinery and equipment that:
321 (A) are used:
322 (I) in the manufacturing process;
323 (II) to manufacture an item sold as tangible personal property; and
324 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
325 (14)(b) in the state; and
326 (B) have an economic life of three or more years; and
327 (ii) normal operating repair or replacement parts that:
328 (A) are used:
329 (I) in the manufacturing process; and
330 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
331 (B) have an economic life of three or more years;
332 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
333 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
334 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
335 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,

336 of the 2002 North American Industry Classification System of the federal Executive Office of
337 the President, Office of Management and Budget, of the following:

338 (i) machinery and equipment that:

339 (A) are used:

340 (I) (Aa) in the production process, other than the production of real property; or

341 (Bb) in research and development; and

342 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
343 in the state; and

344 (B) have an economic life of three or more years; and

345 (ii) normal operating repair or replacement parts that:

346 (A) have an economic life of three or more years; and

347 (B) are used in:

348 (I) (Aa) the production process, except for the production of real property; and

349 (Bb) an establishment described in this Subsection (14)(c) in the state; or

350 (II) (Aa) research and development; and

351 (Bb) in an establishment described in this Subsection (14)(c) in the state;

352 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

353 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

354 Search Portals, of the 2002 North American Industry Classification System of the federal
355 Executive Office of the President, Office of Management and Budget, of the following:

356 (A) machinery and equipment that:

357 (I) are used in the operation of the web search portal;

358 (II) have an economic life of three or more years; and

359 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

360 in the state; and

361 (B) normal operating repair or replacement parts that:

362 (I) are used in the operation of the web search portal;

363 (II) have an economic life of three or more years; and

364 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

365 in the state; or

366 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

367 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
368 American Industry Classification System of the federal Executive Office of the President,
369 Office of Management and Budget, of the following:

370 (A) machinery and equipment that:

371 (I) are used in the operation of the web search portal; and

372 (II) have an economic life of three or more years; and

373 (B) normal operating repair or replacement parts that:

374 (I) are used in the operation of the web search portal; and

375 (II) have an economic life of three or more years;

376 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
377 Utah Administrative Rulemaking Act, the commission:

378 (i) shall by rule define the term "establishment"; and

379 (ii) may by rule define what constitutes:

380 (A) processing an item sold as tangible personal property;

381 (B) the production process, except for the production of real property;

382 (C) research and development; or

383 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

384 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

385 commission shall:

386 (i) review the exemptions described in this Subsection (14) and make
387 recommendations to the Revenue and Taxation Interim Committee concerning whether the
388 exemptions should be continued, modified, or repealed; and

389 (ii) include in its report:

390 (A) an estimate of the cost of the exemptions;

391 (B) the purpose and effectiveness of the exemptions; and

392 (C) the benefits of the exemptions to the state;

393 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

394 (i) tooling;

395 (ii) special tooling;

396 (iii) support equipment;

397 (iv) special test equipment; or

398 (v) parts used in the repairs or renovations of tooling or equipment described in
399 Subsections (15)(a)(i) through (iv); and
400 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
401 (i) the tooling, equipment, or parts are used or consumed exclusively in the
402 performance of any aerospace or electronics industry contract with the United States
403 government or any subcontract under that contract; and
404 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
405 title to the tooling, equipment, or parts is vested in the United States government as evidenced
406 by:
407 (A) a government identification tag placed on the tooling, equipment, or parts; or
408 (B) listing on a government-approved property record if placing a government
409 identification tag on the tooling, equipment, or parts is impractical;
410 (16) sales of newspapers or newspaper subscriptions;
411 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
412 product transferred electronically traded in as full or part payment of the purchase price, except
413 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
414 trade-ins are limited to other vehicles only, and the tax is based upon:
415 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
416 vehicle being traded in; or
417 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
418 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
419 commission; and
420 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
421 following items of tangible personal property or products transferred electronically traded in as
422 full or part payment of the purchase price:
423 (i) money;
424 (ii) electricity;
425 (iii) water;
426 (iv) gas; or
427 (v) steam;
428 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

429 or a product transferred electronically used or consumed primarily and directly in farming
430 operations, regardless of whether the tangible personal property or product transferred
431 electronically:

432 (A) becomes part of real estate; or

433 (B) is installed by a:

434 (I) farmer;

435 (II) contractor; or

436 (III) subcontractor; or

437 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
438 product transferred electronically if the tangible personal property or product transferred
439 electronically is exempt under Subsection (18)(a)(i); and

440 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
441 subject to the taxes imposed by this chapter:

442 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
443 incidental to farming:

444 (I) machinery;

445 (II) equipment;

446 (III) materials; or

447 (IV) supplies; and

448 (B) tangible personal property that is considered to be used in a manner that is
449 incidental to farming includes:

450 (I) hand tools; or

451 (II) maintenance and janitorial equipment and supplies;

452 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
453 transferred electronically if the tangible personal property or product transferred electronically
454 is used in an activity other than farming; and

455 (B) tangible personal property or a product transferred electronically that is considered
456 to be used in an activity other than farming includes:

457 (I) office equipment and supplies; or

458 (II) equipment and supplies used in:

459 (Aa) the sale or distribution of farm products;

- 460 (Bb) research; or
- 461 (Cc) transportation; or
- 462 (iii) a vehicle required to be registered by the laws of this state during the period
- 463 ending two years after the date of the vehicle's purchase;
- 464 (19) sales of hay;
- 465 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 466 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 467 garden, farm, or other agricultural produce is sold by:
- 468 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 469 agricultural produce;
- 470 (b) an employee of the producer described in Subsection (20)(a); or
- 471 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 472 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 473 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 474 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 475 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 476 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 477 manufacturer, processor, wholesaler, or retailer;
- 478 (23) a product stored in the state for resale;
- 479 (24) (a) purchases of a product if:
- 480 (i) the product is:
- 481 (A) purchased outside of this state;
- 482 (B) brought into this state:
- 483 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 484 (II) by a nonresident person who is not living or working in this state at the time of the
- 485 purchase;
- 486 (C) used for the personal use or enjoyment of the nonresident person described in
- 487 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 488 (D) not used in conducting business in this state; and
- 489 (ii) for:
- 490 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

491 the product for a purpose for which the product is designed occurs outside of this state;
492 (B) a boat, the boat is registered outside of this state; or
493 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
494 outside of this state;

495 (b) the exemption provided for in Subsection (24)(a) does not apply to:
496 (i) a lease or rental of a product; or
497 (ii) a sale of a vehicle exempt under Subsection (33); and
498 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
499 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
500 following:

501 (i) conducting business in this state if that phrase has the same meaning in this
502 Subsection (24) as in Subsection (63);
503 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
504 as in Subsection (63); or
505 (iii) a purpose for which a product is designed if that phrase has the same meaning in
506 this Subsection (24) as in Subsection (63);

507 (25) a product purchased for resale in this state, in the regular course of business, either
508 in its original form or as an ingredient or component part of a manufactured or compounded
509 product;

510 (26) a product upon which a sales or use tax was paid to some other state, or one of its
511 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
512 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
513 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
514 Act;

515 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
516 person for use in compounding a service taxable under the subsections;

517 (28) purchases made in accordance with the special supplemental nutrition program for
518 women, infants, and children established in 42 U.S.C. Sec. 1786;

519 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
520 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
521 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification

522 Manual of the federal Executive Office of the President, Office of Management and Budget;
523 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
524 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
525 (a) not registered in this state; and
526 (b) (i) not used in this state; or
527 (ii) used in this state:
528 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
529 time period that does not exceed the longer of:
530 (I) 30 days in any calendar year; or
531 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
532 the borders of this state; or
533 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
534 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
535 state;
536 (31) sales of aircraft manufactured in Utah;
537 (32) amounts paid for the purchase of telecommunications service for purposes of
538 providing telecommunications service;
539 (33) sales, leases, or uses of the following:
540 (a) a vehicle by an authorized carrier; or
541 (b) tangible personal property that is installed on a vehicle:
542 (i) sold or leased to or used by an authorized carrier; and
543 (ii) before the vehicle is placed in service for the first time;
544 (34) (a) 45% of the sales price of any new manufactured home; and
545 (b) 100% of the sales price of any used manufactured home;
546 (35) sales relating to schools and fundraising sales;
547 (36) sales or rentals of durable medical equipment if:
548 (a) a person presents a prescription for the durable medical equipment; and
549 (b) the durable medical equipment is used for home use only;
550 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
551 Section 72-11-102; and
552 (b) the commission shall by rule determine the method for calculating sales exempt

553 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
554 (38) sales to a ski resort of:
555 (a) snowmaking equipment;
556 (b) ski slope grooming equipment;
557 (c) passenger ropeways as defined in Section 72-11-102; or
558 (d) parts used in the repairs or renovations of equipment or passenger ropeways
559 described in Subsections (38)(a) through (c);
560 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
561 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
562 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
563 59-12-102;
564 (b) if a seller that sells or rents at the same business location the right to use or operate
565 for amusement, entertainment, or recreation one or more unassisted amusement devices and
566 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
567 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
568 amusement, entertainment, or recreation for the assisted amusement devices; and
569 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
570 Utah Administrative Rulemaking Act, the commission may make rules:
571 (i) governing the circumstances under which sales are at the same business location;
572 and
573 (ii) establishing the procedures and requirements for a seller to separately account for
574 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
575 assisted amusement devices;
576 (41) (a) sales of photocopies by:
577 (i) a governmental entity; or
578 (ii) an entity within the state system of public education, including:
579 (A) a school; or
580 (B) the State Board of Education; or
581 (b) sales of publications by a governmental entity;
582 (42) amounts paid for admission to an athletic event at an institution of higher
583 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

584 20 U.S.C. Sec. 1681 et seq.;

585 (43) (a) sales made to or by:

586 (i) an area agency on aging; or

587 (ii) a senior citizen center owned by a county, city, or town; or

588 (b) sales made by a senior citizen center that contracts with an area agency on aging;

589 (44) sales or leases of semiconductor fabricating, processing, research, or development

590 materials regardless of whether the semiconductor fabricating, processing, research, or

591 development materials:

592 (a) actually come into contact with a semiconductor; or

593 (b) ultimately become incorporated into real property;

594 (45) an amount paid by or charged to a purchaser for accommodations and services

595 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

596 59-12-104.2;

597 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

598 sports event registration certificate in accordance with Section 41-3-306 for the event period

599 specified on the temporary sports event registration certificate;

600 (47) sales or uses of electricity, if the sales or uses are:

601 (a) made under a tariff adopted by the Public Service Commission of Utah only for

602 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

603 source, as designated in the tariff by the Public Service Commission of Utah; and

604 (b) for an amount of electricity that is:

605 (i) unrelated to the amount of electricity used by the person purchasing the electricity

606 under the tariff described in Subsection (47)(a); and

607 (ii) equivalent to the number of kilowatthours specified in the tariff described in

608 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

609 (48) sales or rentals of mobility enhancing equipment if a person presents a

610 prescription for the mobility enhancing equipment;

611 (49) sales of water in a:

612 (a) pipe;

613 (b) conduit;

614 (c) ditch; or

- 615 (d) reservoir;
- 616 (50) sales of currency or coinage that constitute legal tender of the United States or of a
- 617 foreign nation;
- 618 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 619 (i) does not constitute legal tender of any nation; and
- 620 (ii) has a gold, silver, or platinum content of 80% or more; and
- 621 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 622 (i) ingot;
- 623 (ii) bar;
- 624 (iii) medallion; or
- 625 (iv) decorative coin;
- 626 (52) amounts paid on a sale-leaseback transaction;
- 627 (53) sales of a prosthetic device:
- 628 (a) for use on or in a human; and
- 629 (b) (i) for which a prescription is required; or
- 630 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 631 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 632 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 633 or equipment is primarily used in the production or postproduction of the following media for
- 634 commercial distribution:
- 635 (i) a motion picture;
- 636 (ii) a television program;
- 637 (iii) a movie made for television;
- 638 (iv) a music video;
- 639 (v) a commercial;
- 640 (vi) a documentary; or
- 641 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 642 commission by administrative rule made in accordance with Subsection (54)(d); or
- 643 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
- 644 equipment by an establishment described in Subsection (54)(c) that is used for the production
- 645 or postproduction of the following are subject to the taxes imposed by this chapter:

- 646 (i) a live musical performance;
- 647 (ii) a live news program; or
- 648 (iii) a live sporting event;
- 649 (c) the following establishments listed in the 1997 North American Industry
- 650 Classification System of the federal Executive Office of the President, Office of Management
- 651 and Budget, apply to Subsections (54)(a) and (b):
- 652 (i) NAICS Code 512110; or
- 653 (ii) NAICS Code 51219; and
- 654 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 655 commission may by rule:
- 656 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 657 or
- 658 (ii) define:
- 659 (A) "commercial distribution";
- 660 (B) "live musical performance";
- 661 (C) "live news program"; or
- 662 (D) "live sporting event";
- 663 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 664 or before June 30, 2019, of machinery or equipment that:
- 665 (i) is leased or purchased for or by a facility that:
- 666 (A) is a renewable energy production facility;
- 667 (B) is located in the state; and
- 668 (C) (I) becomes operational on or after July 1, 2004; or
- 669 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 670 2004 as a result of the use of the machinery or equipment;
- 671 (ii) has an economic life of five or more years; and
- 672 (iii) is used to make the facility or the increase in capacity of the facility described in
- 673 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 674 transmission grid including:
- 675 (A) a wind turbine;
- 676 (B) generating equipment;

- 677 (C) a control and monitoring system;
- 678 (D) a power line;
- 679 (E) substation equipment;
- 680 (F) lighting;
- 681 (G) fencing;
- 682 (H) pipes; or
- 683 (I) other equipment used for locating a power line or pole; and
- 684 (b) this Subsection (55) does not apply to:
 - 685 (i) machinery or equipment used in construction of:
 - 686 (A) a new renewable energy production facility; or
 - 687 (B) the increase in the capacity of a renewable energy production facility;
 - 688 (ii) contracted services required for construction and routine maintenance activities;
 - 689 and
 - 690 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 691 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
 - 692 acquired after:
 - 693 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
 - 694 operational as described in Subsection (55)(a)(iii); or
 - 695 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 696 in Subsection (55)(a)(iii);
- 697 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 698 or before June 30, 2019, of machinery or equipment that:
 - 699 (i) is leased or purchased for or by a facility that:
 - 700 (A) is a waste energy production facility;
 - 701 (B) is located in the state; and
 - 702 (C) (I) becomes operational on or after July 1, 2004; or
 - 703 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 704 2004 as a result of the use of the machinery or equipment;
 - 705 (ii) has an economic life of five or more years; and
 - 706 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 707 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

708 transmission grid including:

- 709 (A) generating equipment;
- 710 (B) a control and monitoring system;
- 711 (C) a power line;
- 712 (D) substation equipment;
- 713 (E) lighting;
- 714 (F) fencing;
- 715 (G) pipes; or
- 716 (H) other equipment used for locating a power line or pole; and

717 (b) this Subsection (56) does not apply to:

- 718 (i) machinery or equipment used in construction of:
- 719 (A) a new waste energy facility; or
- 720 (B) the increase in the capacity of a waste energy facility;
- 721 (ii) contracted services required for construction and routine maintenance activities;

722 and

- 723 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 724 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 725 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 726 described in Subsection (56)(a)(iii); or
- 727 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 728 in Subsection (56)(a)(iii);

729 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

730 or before June 30, 2019, of machinery or equipment that:

- 731 (i) is leased or purchased for or by a facility that:
- 732 (A) is located in the state;
- 733 (B) produces fuel from biomass energy including:
- 734 (I) methanol; or
- 735 (II) ethanol; and
- 736 (C) (I) becomes operational on or after July 1, 2004; or
- 737 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
- 738 a result of the installation of the machinery or equipment;

- 739 (ii) has an economic life of five or more years; and
- 740 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 741 (b) this Subsection (57) does not apply to:
- 742 (i) machinery or equipment used in construction of:
- 743 (A) a new facility described in Subsection (57)(a)(i); or
- 744 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 745 (ii) contracted services required for construction and routine maintenance activities;
- 746 and
- 747 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 748 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 749 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 750 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 751 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
- 752 product transferred electronically to a person within this state if that tangible personal property
- 753 or product transferred electronically is subsequently shipped outside the state and incorporated
- 754 pursuant to contract into and becomes a part of real property located outside of this state;
- 755 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 756 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 757 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 758 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 759 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 760 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 761 refund:
- 762 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 763 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
- 764 which the sale is made;
- 765 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
- 766 sale prior to filing for the refund;
- 767 (iv) for sales and use taxes paid under this chapter on the sale;
- 768 (v) in accordance with Section 59-1-1410; and
- 769 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

770 the person files for the refund on or before June 30, 2011;

771 (59) purchases:

772 (a) of one or more of the following items in printed or electronic format:

773 (i) a list containing information that includes one or more:

774 (A) names; or

775 (B) addresses; or

776 (ii) a database containing information that includes one or more:

777 (A) names; or

778 (B) addresses; and

779 (b) used to send direct mail;

780 (60) redemptions or repurchases of a product by a person if that product was:

781 (a) delivered to a pawnbroker as part of a pawn transaction; and

782 (b) redeemed or repurchased within the time period established in a written agreement

783 between the person and the pawnbroker for redeeming or repurchasing the product;

784 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

785 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

786 and

787 (ii) has a useful economic life of one or more years; and

788 (b) the following apply to Subsection (61)(a):

789 (i) telecommunications enabling or facilitating equipment, machinery, or software;

790 (ii) telecommunications equipment, machinery, or software required for 911 service;

791 (iii) telecommunications maintenance or repair equipment, machinery, or software;

792 (iv) telecommunications switching or routing equipment, machinery, or software; or

793 (v) telecommunications transmission equipment, machinery, or software;

794 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible

795 personal property or a product transferred electronically that are used in the research and

796 development of coal-to-liquids, oil shale, or tar sands technology; and

797 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

798 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

799 purchases of tangible personal property or a product transferred electronically that are used in

800 the research and development of coal-to-liquids, oil shale, and tar sands technology;

801 (63) (a) purchases of tangible personal property or a product transferred electronically

802 if:

803 (i) the tangible personal property or product transferred electronically is:

804 (A) purchased outside of this state;

805 (B) brought into this state at any time after the purchase described in Subsection

806 (63)(a)(i)(A); and

807 (C) used in conducting business in this state; and

808 (ii) for:

809 (A) tangible personal property or a product transferred electronically other than the

810 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

811 for a purpose for which the property is designed occurs outside of this state; or

812 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

813 outside of this state;

814 (b) the exemption provided for in Subsection (63)(a) does not apply to:

815 (i) a lease or rental of tangible personal property or a product transferred electronically;

816 or

817 (ii) a sale of a vehicle exempt under Subsection (33); and

818 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

819 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

820 following:

821 (i) conducting business in this state if that phrase has the same meaning in this

822 Subsection (63) as in Subsection (24);

823 (ii) the first use of tangible personal property or a product transferred electronically if

824 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

825 (iii) a purpose for which tangible personal property or a product transferred

826 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

827 Subsection (24);

828 (64) sales of disposable home medical equipment or supplies if:

829 (a) a person presents a prescription for the disposable home medical equipment or

830 supplies;

831 (b) the disposable home medical equipment or supplies are used exclusively by the

832 person to whom the prescription described in Subsection (64)(a) is issued; and
833 (c) the disposable home medical equipment and supplies are listed as eligible for
834 payment under:
835 (i) Title XVIII, federal Social Security Act; or
836 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
837 (65) sales:
838 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
839 District Act; or
840 (b) of tangible personal property to a subcontractor of a public transit district, if the
841 tangible personal property is:
842 (i) clearly identified; and
843 (ii) installed or converted to real property owned by the public transit district;
844 (66) sales of construction materials:
845 (a) purchased on or after July 1, 2010;
846 (b) purchased by, on behalf of, or for the benefit of an international airport:
847 (i) located within a county of the first class; and
848 (ii) that has a United States customs office on its premises; and
849 (c) if the construction materials are:
850 (i) clearly identified;
851 (ii) segregated; and
852 (iii) installed or converted to real property:
853 (A) owned or operated by the international airport described in Subsection (66)(b); and
854 (B) located at the international airport described in Subsection (66)(b);
855 (67) sales of construction materials:
856 (a) purchased on or after July 1, 2008;
857 (b) purchased by, on behalf of, or for the benefit of a new airport:
858 (i) located within a county of the second class; and
859 (ii) that is owned or operated by a city in which an airline as defined in Section
860 59-2-102 is headquartered; and
861 (c) if the construction materials are:
862 (i) clearly identified;

- 863 (ii) segregated; and
- 864 (iii) installed or converted to real property:
- 865 (A) owned or operated by the new airport described in Subsection (67)(b);
- 866 (B) located at the new airport described in Subsection (67)(b); and
- 867 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 868 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 869 (69) purchases and sales described in Section [~~9-3-511~~] 63H-4-111; and
- 870 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 871 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 872 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 873 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 874 powered aircraft; or
- 875 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 876 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 877 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 878 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 879 powered aircraft.

880 Section 2. Section **63A-5-306** is amended to read:

881 **63A-5-306. Leasing of state fair park -- Lease -- Terms -- Demolition of facilities**
882 **-- Limits on debt or obligations.**

883 (1) As used in this section:

884 (a) "Corporation" means the Utah State Fair Corporation created in Section [~~9-4-1103~~]
885 63H-6-103.

886 (b) "Division" means the Division of Facilities Construction and Management.

887 (c) "State fair park" means the property and buildings owned by the state located at 155
888 North 1000 West, Salt Lake City, Utah.

889 (2) The division:

890 (a) may lease the state fair park to the corporation for a period not to exceed 50 years:

891 (i) subject to the corporation satisfying the requirements of Subsection (5)(b)(i); and

892 (ii) except that on June 30, 2017, that portion of the state fair park known as the White
893 Ball Field located on the south side of North Temple Street shall revert to the division and not

894 be a part of any continuing lease agreement between the division and the corporation, unless
895 otherwise agreed upon by the division and the corporation prior to June 30, 2017;

896 (b) shall ensure that any lease entered into under Subsection (2)(a):

897 (i) defines which party is responsible for repairs and maintenance to the grounds and
898 buildings;

899 (ii) defines any restrictions on the use of the property or buildings, including the
900 construction of any new buildings or facilities at the state fair park;

901 (iii) requires that for each year under the lease the corporation holds a state fair meeting
902 the requirements of Subsection [~~9-4-1103~~] 63H-6-103(5)(a)(vi); and

903 (iv) provides for the renegotiation or termination of the lease if the corporation:

904 (A) no longer operates as an independent public nonprofit corporation as provided in
905 Title [~~9~~] 63H, Chapter [~~4~~] 6, [~~Part 11~~], Utah State Fair Corporation Act; or

906 (B) engages in any activity inconsistent with Title [~~9~~] 63H, Chapter [~~4~~] 6, [~~Part 11~~],
907 Utah State Fair Corporation Act;

908 (c) may:

909 (i) require that any lease entered into under Subsection (2)(a) grants the division the
910 right to unilaterally terminate the lease at its discretion; and

911 (ii) provide a process to determine compensation, if any, the division shall pay the
912 corporation for termination of the lease under Subsection (2)(c)(i); and

913 (d) if the lease described in Subsection (2)(a) is amended or renewed after the effective
914 date of this act and except as provided in Subsection (3), shall require the corporation under the
915 lease to:

916 (i) obtain the approval of the State Building Board before demolishing a facility at the
917 state fair park; and

918 (ii) include the approval requirement described in Subsection (2)(d)(i) in any sublease
919 entered into, renewed, or amended after the effective date of this act.

920 (3) (a) The approval required under Subsection (2)(d) does not apply to a facility
921 demolished in accordance with a contract entered into but not amended before the effective
922 date of this act.

923 (b) Notwithstanding Subsection (3)(a), before a facility described in Subsection (3)(a)
924 is demolished, the corporation shall notify the division concerning any demolishing of the

925 facility.

926 (4) The State Building Board shall notify the state historic preservation office of any
927 State Building Board meeting at which consideration will be given to a proposal to demolish
928 facilities at the state fair park.

929 (5) (a) Notwithstanding Subsection (2), the division may review and adjust the amount
930 of any payments made by the corporation under the lease every three years beginning July 1,
931 2000.

932 (b) (i) The division may lease the state fair park to the corporation for a period not to
933 exceed 50 years, if the corporation demonstrates to the satisfaction of the division that the lease
934 period will result in significant capital improvements at the state fair park by a private or public
935 entity.

936 (ii) The corporation may enter into a sublease of up to 50 years, subject to satisfying
937 the requirements of Subsections (2)(d)(i) and (5)(b)(i).

938 (6) The state shall assume the responsibilities of the corporation under any contract that
939 is in effect on the day a lease between the division and the corporation terminates if:

940 (a) the contract is for the lease or construction of a building or facility at the state park;
941 and

942 (b) the lease between the division and the corporation is terminated in accordance with
943 Subsection (2)(b)(iv).

944 (7) (a) Payments made by the corporation under a lease with the division shall be
945 deposited into the Capital Project Fund.

946 (b) If, in accordance with Subsection (5), the payments made by the corporation under
947 a lease with the division are increased from the amount paid on July 1, 1997, the lease
948 payments made by the division shall be dedicated to capital improvements at the state fair park
949 unless, as part of the capital budget, the Legislature directs that the money be used for other
950 capital improvements.

951 (8) (a) A debt or obligation contracted by the corporation is a debt or obligation of the
952 corporation.

953 (b) The state is not liable for and assumes no legal or moral responsibility for any debt
954 or obligation described in Subsection (8)(a), unless the Legislature through statute or an
955 appropriation act specifically:

- 956 (i) authorizes the corporation to contract for that debt or obligation; and
- 957 (ii) accepts liability for or assumes responsibility for the debt or obligation.

958 Section 3. Section **63E-1-102** is amended to read:

959 **63E-1-102. Definitions.**

960 As used in this title:

961 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

962 (2) "Committee" means the Retirement and Independent Entities Committee created in
963 Section 63E-1-201.

964 (3) "Independent corporation" means a corporation incorporated in accordance with
965 Chapter 2, Independent Corporations Act.

966 (4) (a) "Independent entity" means an entity having a public purpose relating to the
967 state or its citizens that is individually created by the state or is given by the state the right to
968 exist and conduct its affairs as an:

- 969 (i) independent state agency; or
- 970 (ii) independent corporation.

971 (b) "Independent entity" includes the:

972 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

973 (ii) Heber Valley Railroad Authority created in [~~Title 9, Chapter 3, Part 5,~~] Title 63H,
974 Chapter 4, Heber Valley Historic Railroad Authority;

975 (iii) Utah State Railroad Museum Authority created in [~~Title 9, Chapter 3, Part 6~~] Title
976 63H, Chapter 5, Utah State Railroad Museum Authority;

977 (iv) Utah Science Center Authority created in [~~Title 9, Chapter 3, Part 4~~] Title 63H,
978 Chapter 3, Utah Science Center Authority;

979 (v) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
980 Corporation Act;

981 (vi) Utah State Fair Corporation created in [~~Title 9, Chapter 4, Part 11~~] Title 63H,
982 Chapter 6, Utah State Fair Corporation Act;

983 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
984 Compensation Fund;

985 (viii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State
986 Retirement Systems Administration;

987 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter
988 1, Part 2, School and Institutional Trust Lands Administration;

989 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
990 Communications Agency Network Act;

991 (xi) Utah Generated Renewable Energy Electricity Network Authority created in Title
992 63H, Chapter 2, Utah Generated Renewable Energy Electricity Network Authority Act; and

993 (xii) Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12,
994 Utah Venture Capital Enhancement Act.

995 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

996 (i) the Public Service Commission of Utah created in Section 54-1-1;

997 (ii) an institution within the state system of higher education;

998 (iii) a city, county, or town;

999 (iv) a local school district;

1000 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
1001 Districts; or

1002 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

1003 (5) "Independent state agency" means an entity that is created by the state, but is
1004 independent of the governor's direct supervisory control.

1005 (6) "Money held in trust" means money maintained for the benefit of:

1006 (a) one or more private individuals, including public employees;

1007 (b) one or more public or private entities; or

1008 (c) the owners of a quasi-public corporation.

1009 (7) "Public corporation" means an artificial person, public in ownership, individually
1010 created by the state as a body politic and corporate for the administration of a public purpose
1011 relating to the state or its citizens.

1012 (8) "Quasi-public corporation" means an artificial person, private in ownership,
1013 individually created as a corporation by the state which has accepted from the state the grant of
1014 a franchise or contract involving the performance of a public purpose relating to the state or its
1015 citizens.

1016 Section 4. Section **63H-3-101**, which is renumbered from Section 9-3-401 is
1017 renumbered and amended to read:

1018 **CHAPTER 3. UTAH SCIENCE CENTER AUTHORITY**

1019 **[9-3-401]. 63H-3-101. Short title.**

1020 This ~~[part]~~ chapter is known as the "Utah Science Center Authority."

1021 Section 5. Section **63H-3-102**, which is renumbered from Section 9-3-402 is
1022 renumbered and amended to read:

1023 **[9-3-402]. 63H-3-102. Legislative findings -- State purpose.**

1024 (1) The Legislature finds and declares that:

1025 (a) a Utah Science Center Authority can promote science, Utah's effort in high
1026 technology, engineering, the arts, culture, Utah's unique origins, and can enhance tourism and
1027 provide a valuable educational forum, and other benefits for Utah's citizens; and

1028 (b) fostering the development of science, arts, tourism, culture, and educational
1029 facilities is a state purpose affecting the welfare of all state citizens and the growth of the
1030 economy statewide.

1031 (2) It is therefore the purpose of this ~~[part]~~ chapter that the state provide a means to
1032 foster the development of science, technology, engineering, arts, tourism, cultural, and
1033 educational facilities in order to further the welfare of the citizens of the state and its economic
1034 growth.

1035 Section 6. Section **63H-3-103**, which is renumbered from Section 9-3-403 is
1036 renumbered and amended to read:

1037 **[9-3-403]. 63H-3-103. Creation -- Members -- Chair -- Powers -- Quorum --**
1038 **Per diem and expenses.**

1039 (1) There is created an independent state agency and a body politic and corporate
1040 known as the "Utah Science Center Authority."

1041 (2) (a) The authority ~~[shall be]~~ is composed of 13 members.

1042 (b) The governor shall appoint:

1043 (i) three members representing the informal science and arts community that could
1044 include members from the board of directors of the Hansen Planetarium, the Hogle Zoo, the
1045 Children's Museum of Utah, the Utah Museum of Natural History, and other related museums,
1046 centers, and agencies;

1047 (ii) one member of the State Board of Education;

1048 (iii) one member of the Division of Housing and Community Development of the

1049 Department of Community and Culture;

1050 (iv) one member of the Board of Tourism Development;

1051 (v) one member of the State Board of Regents; and

1052 (vi) three public members representing Utah industry, the diverse regions of the state,
1053 and the public at large.

1054 (c) The county legislative body of Salt Lake County shall appoint one member to
1055 represent Salt Lake County.

1056 (d) The mayor of Salt Lake City shall appoint one member to represent Salt Lake City
1057 Corporation.

1058 (e) The State Science Advisor or the advisor's designee is also a member of the
1059 authority.

1060 (f) In appointing the three public members, the governor shall ensure that there is
1061 representation from the science, technology, and business communities.

1062 (3) All members shall be residents of Utah.

1063 (4) Each member [~~shall be~~] is appointed for four-year terms beginning July 1 of the
1064 year appointed.

1065 (5) (a) Except as required by Subsection (5)(b), as terms of current authority members
1066 expire, the governor shall appoint each new member or reappointed member to a four-year
1067 term.

1068 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
1069 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1070 authority members are staggered so that approximately half of the authority is appointed every
1071 two years.

1072 (6) A member may be removed from office by the governor or for cause by an
1073 affirmative vote of nine members of the authority.

1074 (7) When a vacancy occurs in the membership for any reason, the replacement [~~shall~~
1075 ~~be~~] is appointed by the governor for the unexpired term.

1076 (8) Each public member shall hold office for the term of [~~his~~] the member's
1077 appointment and until the member's successor has been appointed and qualified.

1078 (9) A public member is eligible for reappointment, but may not serve more than two
1079 full consecutive terms.

1080 (10) The governor shall appoint the chair of the authority from among its members.

1081 (11) The members shall elect from among their number a vice chair and other officers
1082 they may determine.

1083 (12) The chair and vice chair [~~shall be~~] are elected for two-year terms.

1084 (13) The powers of the authority [~~shall be~~] are vested in its members.

1085 (14) Seven members constitute a quorum for transaction of authority business.

1086 (15) A member may not receive compensation or benefits for the member's service, but
1087 may receive per diem and travel expenses in accordance with:

1088 (a) Section 63A-3-106;

1089 (b) Section 63A-3-107; and

1090 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
1091 63A-3-107.

1092 Section 7. Section **63H-3-104**, which is renumbered from Section 9-3-404 is
1093 renumbered and amended to read:

1094 ~~[9-3-404].~~ **63H-3-104. Executive director -- Powers and duties.**

1095 (1) (a) The members shall appoint an executive director who shall be an employee of
1096 the authority, but who may not be a member of the authority[~~, and who shall serve~~].

1097 (b) The executive director serves at the pleasure of the members and [~~receive~~] receives
1098 compensation as set by the members and approved by the governor.

1099 (2) The executive director shall:

1100 (a) administer, manage, and direct the affairs and activities of the authority in
1101 accordance with the policies, control, and direction of the members;

1102 (b) approve all accounts for allowable expenses of the authority or of any of its
1103 employees and expenses incidental to the operation of the authority;

1104 (c) attend the meetings of the authority;

1105 (d) keep a record of the proceedings of the authority;

1106 (e) maintain and be custodian of all books, documents, and papers filed with the
1107 authority; and

1108 (f) perform other duties as directed by the members in carrying out the purposes of this
1109 part.

1110 Section 8. Section **63H-3-105**, which is renumbered from Section 9-3-405 is

1111 renumbered and amended to read:

1112 ~~[9-3-405].~~ **63H-3-105. Member or employee -- Disclosure of interest.**

1113 ~~[Any]~~ (1) A member or employee of the authority who has, will have, or later acquires
1114 an interest, direct or indirect, in ~~[any]~~ a transaction with the authority shall immediately
1115 disclose the nature and extent of that interest in writing to the authority as soon as the member
1116 has knowledge of the actual or prospective interest.

1117 (2) This disclosure shall be entered upon the minutes of the authority.

1118 (3) Upon this disclosure that member or employee may participate in any action by the
1119 authority authorizing the transaction.

1120 Section 9. Section **63H-3-106**, which is renumbered from Section 9-3-406 is
1121 renumbered and amended to read:

1122 ~~[9-3-406].~~ **63H-3-106. Officer or employee -- No forfeiture of office or**
1123 **employment.**

1124 Notwithstanding the provisions of any other law, ~~[no]~~ an officer or employee of this
1125 state ~~[shall be deemed to have forfeited or shall forfeit his]~~ does not forfeit an office of or
1126 employment within the state by reason of ~~[his]~~ the person's acceptance of membership on the
1127 authority or ~~[his]~~ service on it.

1128 Section 10. Section **63H-3-107**, which is renumbered from Section 9-3-407 is
1129 renumbered and amended to read:

1130 ~~[9-3-407].~~ **63H-3-107. Authority -- Powers.**

1131 (1) (a) The authority shall create, operate, and maintain a center that ~~[shall promote]~~
1132 promotes the purposes described in Section ~~[9-3-402]~~ 63H-3-102.

1133 (b) The center shall:

1134 (i) have an extensive outreach program that serves all regions of the state; and

1135 (ii) collaborate and coordinate with education, arts, technology, and engineering
1136 entities, including schools and industries.

1137 (2) The authority has perpetual succession as a body politic and corporate and may:

1138 (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its
1139 affairs and the conduct of its business;

1140 (b) sue and be sued in its own name;

1141 (c) maintain an office at ~~[any]~~ a place ~~[or places]~~ within this state it ~~[may designate]~~

1142 designates;

1143 (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this [part] chapter,
1144 to carry into effect the powers and purposes of the authority and the conduct of its business;

1145 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

1146 (f) employ experts, advisory groups, and other professionals it considers necessary;

1147 (g) employ and retain independent legal counsel;

1148 (h) make and execute contracts and all other instruments necessary or convenient for
1149 the performance of its duties and the exercise of its duties under this [part] chapter to create,
1150 operate, and maintain a Science Center in Utah;

1151 (i) procure insurance for liability and against any loss in connection with its property
1152 and other assets in amounts and from insurers it considers desirable;

1153 (j) borrow money, receive ~~[appropriation]~~ appropriations from the Legislature, and
1154 receive other public money and accept aid or contributions from any source of money,
1155 property, labor, or other things of value to be held, used, and applied to carry out the purposes
1156 of this [part] chapter subject to the conditions upon which the grants and contributions are
1157 made, including gifts or grants from any department, agency, or instrumentality of the United
1158 States or of this state for any purpose consistent with this [part] chapter;

1159 (k) enter into agreements with any department, agency, or instrumentality or political
1160 subdivision of the United States or this state for the purpose of providing for the creation,
1161 operation, and maintenance of a Science Center in Utah; and

1162 (l) to do any act necessary or convenient to the exercise of the powers granted by this
1163 [part] chapter.

1164 (3) (a) All money received by the authority under Subsection (2)(j) and from any other
1165 source ~~[shall be]~~ is for the exclusive use of the authority to create, operate, maintain, improve,
1166 and provide for a Science Center in Utah.

1167 (b) The money received by the authority may not be used for any other purpose or by
1168 any other entity.

1169 Section 11. Section **63H-3-108**, which is renumbered from Section 9-3-409 is
1170 renumbered and amended to read:

1171 ~~[9-3-409]~~. **63H-3-108**. **Actions on validity or enforceability of bonds -- Time**
1172 **for bringing action.**

1173 (1) In ~~[any]~~ a suit, action, or proceeding involving the validity or enforceability of
 1174 ~~[any]~~ a bond issued under this chapter or the security for them, ~~[any such]~~ the bond reciting in
 1175 substance that it has been issued by the authority in connection with the Utah Science Center
 1176 ~~[shall be]~~ is conclusively considered to have been issued for that purpose.

1177 (2) (a) After receiving notice described in Subsection (2)(a)(ii), a person may contest:

1178 (i) (A) the legality of a resolution;

1179 (B) notice of bonds to be issued; or

1180 (C) a provision made for the security and payment of the bonds; and

1181 (ii) for a period of 30 days after the publication of the resolution authorizing the bonds,

1182 or a notice of bonds to be issued by the authority containing those items described in Section

1183 11-14-316:

1184 (A) in a newspaper having general circulation in the area of operation; and

1185 (B) as required in Section 45-1-101.

1186 (b) After the 30-day period no one has any cause of action to contest the regularity,

1187 formality, or legality of the notice of bonds to be issued or the bonds for any cause whatsoever.

1188 Section 12. Section **63H-3-109**, which is renumbered from Section 9-3-410 is

1189 renumbered and amended to read:

1190 ~~[9-3-410]~~. **63H-3-109. Relation to certain acts.**

1191 (1) The authority is exempt from:

1192 (a) Title 51, Chapter 5, Funds Consolidation Act;

1193 (b) Title 63A, Chapter 1, Department of Administrative Services;

1194 (c) Title 63G, Chapter 6, Utah Procurement Code;

1195 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

1196 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

1197 (2) The authority ~~[shall be]~~ is subject to audit by:

1198 (a) the state auditor pursuant to Title 67, Chapter 3, Auditor; and

1199 (b) the legislative auditor general pursuant to Section 36-12-15.

1200 (3) The authority shall annually report to the Retirement and Independent Entities

1201 Committee created under Section 63E-1-201 concerning the authority's implementation of this

1202 part.

1203 Section 13. Section **63H-3-110**, which is renumbered from Section 9-3-411 is

1204 renumbered and amended to read:

1205 ~~[9-3-411]~~. **63H-3-110**. **Sales tax exemption.**

1206 The authority and its operators are exempt from sales and use tax imposed under Title
1207 59, Chapter 12, Sales and Use Tax Act.

1208 Section 14. Section **63H-4-101**, which is renumbered from Section 9-3-501 is
1209 renumbered and amended to read:

1210 **CHAPTER 4. HEBER VALLEY HISTORIC RAILROAD AUTHORITY**

1211 ~~[9-3-501]~~. **63H-4-101**. **Title.**

1212 This ~~[part]~~ chapter is known as the "Heber Valley Historic Railroad Authority."

1213 Section 15. Section **63H-4-102**, which is renumbered from Section 9-3-502 is
1214 renumbered and amended to read:

1215 ~~[9-3-502]~~. **63H-4-102**. **Creation -- Members -- Chair -- Powers -- Quorum --**
1216 **Per diem and expenses.**

1217 (1) There is created an independent state agency and a body politic and corporate
1218 known as the "Heber Valley Historic Railroad Authority."

1219 (2) The authority ~~[shall be]~~ is composed of eight members as follows:

1220 (a) one member of the county legislative body of Wasatch County;

1221 (b) the mayor of Heber City;

1222 (c) the mayor of Midway;

1223 (d) the executive director of the Department of Transportation or the executive
1224 director's designee;

1225 (e) the executive director of Parks and Recreation, or the executive director's designee;
1226 and

1227 (f) three public members appointed by the governor with the consent of the Senate,
1228 being private citizens of the state, as follows:

1229 (i) two people representing the tourism industry, one each from Wasatch and Utah
1230 counties; and

1231 (ii) one person representing the public at large.

1232 (3) All members shall be residents of the state.

1233 (4) (a) Except as required by Subsection (4)(b), the three public members ~~[shall be]~~ are
1234 appointed for four-year terms beginning July 1, 2010.

1235 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
1236 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1237 authority members are staggered so that approximately half of the authority is appointed every
1238 two years.

1239 (5) Any of the three public members may be removed from office by the governor or
1240 for cause by an affirmative vote of any four members of the authority.

1241 (6) When a vacancy occurs in the membership for any reason, the replacement [~~shall~~
1242 ~~be~~] is appointed for the unexpired term by the governor with consent of the Senate for the
1243 unexpired term.

1244 (7) Each public member shall hold office for the term of appointment and until a
1245 successor has been appointed and qualified.

1246 (8) [~~Any~~] A public member is eligible for reappointment, but may not serve more than
1247 two full consecutive terms.

1248 (9) The governor shall appoint the chair of the authority from among its members.

1249 (10) The members shall elect from among their number a vice chair and other officers
1250 they may determine.

1251 (11) The powers of the authority [~~shall be~~] are vested in its members.

1252 (12) (a) Four members constitute a quorum for transaction of authority business.

1253 (b) An affirmative vote of at least four members is necessary for any action [~~to be~~]
1254 taken by the authority.

1255 (13) (a) (i) Members who are not government employees [~~shall~~] may not receive [~~no~~]
1256 compensation or benefits for their services, but may receive per diem and expenses incurred in
1257 the performance of the member's official duties at the rates established by the Division of
1258 Finance under Sections 63A-3-106 and 63A-3-107.

1259 (ii) Members may decline to receive per diem and expenses for their service.

1260 (b) (i) State government officer and employee members who do not receive salary, per
1261 diem, or expenses from their agency for their service may receive per diem and expenses
1262 incurred in the performance of their official duties from the authority at the rates established by
1263 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1264 (ii) State government officer and employee members may decline to receive per diem
1265 and expenses for their service.

1266 (c) (i) Local government members who do not receive salary, per diem, or expenses
1267 from the entity that they represent for their service may receive per diem and expenses incurred
1268 in the performance of their official duties at the rates established by the Division of Finance
1269 under Sections 63A-3-106 and 63A-3-107.

1270 (ii) Local government members may decline to receive per diem and expenses for their
1271 service.

1272 Section 16. Section **63H-4-103**, which is renumbered from Section 9-3-503 is
1273 renumbered and amended to read:

1274 **[9-3-503]. 63H-4-103. Executive director -- Powers and duties.**

1275 (1) (a) The members shall appoint an executive director who [~~shall be~~] is an employee
1276 of the authority, but who [~~may~~] is not [~~be~~] a member of the authority[~~, and who shall serve~~].

1277 (b) The executive director serves at the pleasure of the members and [~~receive~~] receives
1278 compensation as set by the members and approved by the governor.

1279 (2) The executive director shall:

1280 (a) administer, manage, and direct the affairs and activities of the authority in
1281 accordance with the policies, control, and direction of the members;

1282 (b) approve all accounts for allowable expenses of the authority or of any of its
1283 employees and expenses incidental to the operation of the authority;

1284 (c) attend the meetings of the authority;

1285 (d) keep a record of the proceedings of the authority;

1286 (e) maintain and be custodian of all books, documents, and papers filed with the
1287 authority; and

1288 (f) perform other duties as directed by the members in carrying out the purposes of this
1289 [~~part~~] chapter.

1290 Section 17. Section **63H-4-104**, which is renumbered from Section 9-3-504 is
1291 renumbered and amended to read:

1292 **[9-3-504]. 63H-4-104. Member or employee -- Disclosure of interest.**

1293 [~~Any~~] (1) A member or employee of the authority who has, will have, or later acquires
1294 an interest, direct or indirect, in [~~any~~] a transaction with the authority shall immediately
1295 disclose the nature and extent of that interest in writing to the authority as soon as the member
1296 or employee has knowledge of the actual or prospective interest.

1297 (2) This disclosure shall be entered upon the minutes of the authority.

1298 (3) Upon this disclosure that member or employee may participate in any action by the
1299 authority authorizing the transaction.

1300 Section 18. Section **63H-4-105**, which is renumbered from Section 9-3-505 is
1301 renumbered and amended to read:

1302 **[9-3-505]. 63H-4-105. Officer or employee -- No forfeiture of office or**
1303 **employment.**

1304 Notwithstanding the provisions of any other law, [~~no~~] an officer or employee of this
1305 state [~~shall be considered to have forfeited or shall~~] does not forfeit an officer's or employee's
1306 office or employment by reason of acceptance of membership on the authority or service on it.

1307 Section 19. Section **63H-4-106**, which is renumbered from Section 9-3-506 is
1308 renumbered and amended to read:

1309 **[9-3-506]. 63H-4-106. Authority -- Powers.**

1310 (1) The authority shall operate and maintain a scenic and historic railroad in and
1311 around the Heber Valley.

1312 (2) The authority has perpetual succession as a body politic and corporate and may:

1313 (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its
1314 affairs and the conduct of its business;

1315 (b) sue and be sued in its own name;

1316 (c) maintain an office at [~~any~~] a place [~~or places~~] within this state it [~~may designate~~]
1317 designates;

1318 (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this [~~part~~] chapter,
1319 to carry into effect the powers and purposes of the authority and the conduct of its business;

1320 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

1321 (f) employ experts and other professionals it considers necessary;

1322 (g) employ and retain independent legal counsel;

1323 (h) make and execute contracts and all other instruments necessary or convenient for
1324 the performance of its duties and the exercise of its duties under this [~~part~~] chapter to operate
1325 and maintain a scenic railroad in and around the Heber Valley;

1326 (i) procure insurance for liability and against any loss in connection with its property
1327 and other assets in amounts and from insurers it considers desirable;

1328 (j) receive [~~appropriation~~] appropriations from the Legislature and receive other public
1329 money and accept aid or contributions from any source of money, property, labor, or other
1330 things of value to be held, used, and applied to carry out the purposes of this [~~part~~] chapter,
1331 subject to the conditions upon which the grants and contributions are made, including [~~, but not~~
1332 ~~limited to,~~] gifts or grants from any department, agency, or instrumentality of the United States
1333 or of this state for any purpose consistent with this [~~part~~] chapter;

1334 (k) enter into agreements with any department, agency, or instrumentality of the United
1335 States or this state for the purpose of providing for the operation and maintenance of a scenic
1336 railway in and around the Heber Valley; and

1337 (l) do any act necessary or convenient to the exercise of the powers granted by this
1338 [~~part~~] chapter.

1339 (3) (a) All money received by the authority under Subsection (2)(j) and from any other
1340 source [~~shall be~~] is for the exclusive use of the authority to operate, maintain, improve, and
1341 provide for a scenic and historic railway in and around the Heber Valley.

1342 (b) The money received by the authority may not be used for any other purpose or by
1343 any other entity.

1344 Section 20. Section **63H-4-107**, which is renumbered from Section 9-3-507 is
1345 renumbered and amended to read:

1346 **[9-3-507]. 63H-4-107. Notes, bonds, other obligation -- Not debt liability --**
1347 **Expenses payable from funds provided -- Agency without authority to incur liability on**
1348 **behalf of state.**

1349 (1) (a) An obligation or liability of the authority does not constitute a debt or liability
1350 of this state or of any of its political subdivisions nor does any obligation or liability constitute
1351 the loaning of credit of the state or of any of its political subdivisions nor may any obligation or
1352 liability of the authority be payable from funds other than those of the authority.

1353 (b) All obligations of the authority shall contain a statement to the effect that the
1354 authority is obligated to pay them solely from the revenues or other funds of the authority and
1355 that this state or its political subdivisions are not obligated to pay them and that neither the
1356 faith and credit nor the taxing power of this state or any of its political subdivisions is pledged
1357 to the payment of them.

1358 (2) All expenses incurred in carrying out this part [~~shall be~~] are payable solely from

1359 [funds] money of the authority provided under this [part] chapter, and nothing in this [part]
1360 chapter may be construed to authorize the authority to incur indebtedness or liability on behalf
1361 of or payable by this state or any of its political subdivisions.

1362 Section 21. Section **63H-4-108**, which is renumbered from Section 9-3-508 is
1363 renumbered and amended to read:

1364 **[9-3-508]. 63H-4-108. Relation to certain acts.**

1365 (1) The authority is exempt from:

1366 (a) Title 51, Chapter 5, Funds Consolidation Act;

1367 (b) Title 63A, Utah Administrative Services Code;

1368 (c) Title 63G, Chapter 6, Utah Procurement Code;

1369 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

1370 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

1371 (2) The authority [~~shall be~~] is subject to audit by the state auditor pursuant to Title 67,
1372 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

1373 Section 22. Section **63H-4-109**, which is renumbered from Section 9-3-509 is
1374 renumbered and amended to read:

1375 **[9-3-509]. 63H-4-109. Duty to maintain rails.**

1376 The authority shall maintain the rails, bed, right-of-way, and related property upon
1377 which the authority's train shall operate in compliance with state and federal statutes, rules, and
1378 regulations.

1379 Section 23. Section **63H-4-110**, which is renumbered from Section 9-3-510 is
1380 renumbered and amended to read:

1381 **[9-3-510]. 63H-4-110. Lease of rails from Department of Transportation and**
1382 **Division of Parks and Recreation.**

1383 The Department of Transportation and the Division of Parks and Recreation shall
1384 jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to
1385 the authority.

1386 Section 24. Section **63H-4-111**, which is renumbered from Section 9-3-511 is
1387 renumbered and amended to read:

1388 **[9-3-511]. 63H-4-111. Sales tax exemption.**

1389 The authority and its operators are exempt from sales and use tax imposed under Title

1390 59, Chapter 12, Sales and Use Tax Act, for their purchases and sales related to the operation
1391 and maintenance of a scenic and historic railroad in and around the Heber Valley.

1392 Section 25. Section **63H-5-101**, which is renumbered from Section 9-3-601 is
1393 renumbered and amended to read:

1394 **CHAPTER 5. UTAH STATE RAILROAD MUSEUM AUTHORITY**

1395 **[9-3-601]. 63H-5-101. Title.**

1396 This [part] chapter is known as the "Utah State Railroad Museum Authority."

1397 Section 26. Section **63H-5-102**, which is renumbered from Section 9-3-602 is
1398 renumbered and amended to read:

1399 **[9-3-602]. 63H-5-102. Creation -- Members -- Chair -- Powers -- Quorum --**

1400 **Per diem and expenses.**

1401 (1) There is created an independent body politic and corporate known as the "Utah
1402 State Railroad Museum Authority," hereafter referred to in this [part] chapter as "the authority."

1403 (2) The authority is composed of 11 members as follows:

1404 (a) one member of the county legislative body of Weber County appointed by that
1405 legislative body;

1406 (b) two members of the county legislative body of Box Elder County appointed by that
1407 legislative body;

1408 (c) the executive director of the Department of Transportation or the director's
1409 designee; and

1410 (d) seven public members appointed by the governor, as follows:

1411 (i) two individuals representing the tourism industry, one each from Weber and Box
1412 Elder Counties;

1413 (ii) one individual representing the public at large; and

1414 (iii) four individuals representing railroad historic and heritage preservation
1415 organizations active in Weber and Box Elder Counties, as follows:

1416 (A) one individual representing the Railroad and Locomotive Historical Society
1417 Golden Spike Chapter;

1418 (B) one individual representing the Golden Spike Heritage Foundation;

1419 (C) one individual representing the Golden Spike Association; and

1420 (D) one individual representing the Corinne Historical Society.

1421 (3) All members shall be residents of the state.

1422 (4) (a) Except as required by Subsection (4)(b), the governor shall appoint the seven
1423 public members for four-year terms beginning July 1.

1424 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
1425 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1426 authority members appointed under Subsection (2)(d) are staggered so that approximately
1427 one-half of the seven public members are appointed every two years.

1428 (5) Any of the seven public members may be removed from office by the governor or
1429 for cause by an affirmative vote of six members of the authority.

1430 (6) When a vacancy occurs in the public membership for any reason, the governor shall
1431 appoint a replacement for the unexpired term.

1432 (7) Each public member shall hold office for the term of the member's appointment and
1433 until a successor has been appointed and qualified.

1434 (8) A public member is eligible for reappointment, but may not serve more than two
1435 full consecutive terms.

1436 (9) The governor shall appoint the chair of the authority from among its members.

1437 (10) (a) The members shall elect from among their membership a vice chair and other
1438 officers as they may determine.

1439 (b) The officers serve as the executive committee for the authority.

1440 (11) The powers of the authority are vested in its members.

1441 (12) (a) Six members constitute a quorum for transaction of authority business.

1442 (b) An affirmative vote of at least six members is necessary for an action to be taken
1443 by the authority.

1444 (13) (a) A member who is not a government employee receives no compensation or
1445 benefits for the member's services, but may receive per diem and expenses incurred in the
1446 performance of the member's official duties at rates established by the Division of Finance
1447 under Sections 63A-3-106 and 63A-3-107.

1448 (b) A state government officer or employee member who does not receive salary, per
1449 diem, or expenses from the member's agency for the member's service may receive per diem
1450 and expenses incurred in the performance of official duties from the authority at rates
1451 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1452 (c) A local government member who does not receive salary, per diem, or expenses for
1453 the member's service from the entity that the member represents may receive per diem and
1454 expenses incurred in the performance of the member's official duties at rates established by the
1455 Division of Finance under Sections 63A-3-106 and 63A-3-107.

1456 (d) A member may decline to receive per diem and expenses for the member's services.
1457 Section 27. Section **63H-5-103**, which is renumbered from Section 9-3-603 is
1458 renumbered and amended to read:

1459 **[9-3-603]. 63H-5-103. Executive director -- Powers and duties.**

1460 (1) (a) The members of the authority shall appoint an executive director who is an
1461 employee of the authority, but who is not a member of the authority.

1462 (b) The executive director serves at the pleasure of the members and receives
1463 compensation as set by the members and approved by the governor.

1464 (2) The executive director shall:

1465 (a) administer, manage, and direct the affairs and activities of the authority in
1466 accordance with the policies, control, and direction of the members of the authority;

1467 (b) approve all accounts for allowable expenses of the authority or of any of its
1468 employees and expenses incidental to the operation of the authority;

1469 (c) attend meetings of the authority;

1470 (d) keep a record of the proceedings of the authority;

1471 (e) maintain and be the custodian of all books, documents, and papers filed with the
1472 authority;

1473 (f) document and maintain records concerning ownership of all assets owned or under
1474 the control of the authority; and

1475 (g) perform other duties as directed by the members of the authority in carrying out the
1476 purposes of this ~~[part]~~ chapter.

1477 Section 28. Section **63H-5-104**, which is renumbered from Section 9-3-604 is
1478 renumbered and amended to read:

1479 **[9-3-604]. 63H-5-104. Member or employee -- Disclosure of interest.**

1480 (1) A member or employee of the authority who has, will have, or later acquires an
1481 interest, direct or indirect, in a transaction with the authority shall immediately disclose the
1482 nature and extent of that interest in writing to the authority as soon as the individual has

1483 knowledge of the actual or prospective interest.

1484 (2) The disclosure shall be entered upon the minutes of the authority.

1485 (3) After making the disclosure, the member or employee may participate in any action
1486 by the authority authorizing the transaction.

1487 Section 29. Section **63H-5-105**, which is renumbered from Section 9-3-605 is
1488 renumbered and amended to read:

1489 **[9-3-605]. 63H-5-105. Officer or employee -- No forfeiture of office or**
1490 **employment.**

1491 Notwithstanding any other provision of law, an officer or employee of this state does
1492 not forfeit the office or employment with the state by reason of acceptance of membership on
1493 the authority or service on it.

1494 Section 30. Section **63H-5-106**, which is renumbered from Section 9-3-606 is
1495 renumbered and amended to read:

1496 **[9-3-606]. 63H-5-106. Authority -- Powers.**

1497 (1) The authority shall:

1498 (a) facilitate or operate and maintain a scenic and historic railroad in and around Weber
1499 and Box Elder Counties;

1500 (b) facilitate or operate and maintain one or more railroad history museums in and
1501 around Weber and Box Elder Counties;

1502 (c) facilitate the restoration, preservation, and public display of railroad artifacts and
1503 heritage in and around Weber and Box Elder Counties; and

1504 (d) facilitate the restoration, preservation, and operation of historically significant
1505 railroad related properties in and around Weber and Box Elder Counties for public benefit.

1506 (2) The authority has perpetual succession as a body politic and corporate and may:

1507 (a) adopt, amend, and repeal policies and procedures for the regulation of its affairs and
1508 the conduct of its business;

1509 (b) sue and be sued in its own name;

1510 (c) maintain an office at a place ~~[or places]~~ it designates within the state;

1511 (d) adopt, amend, and repeal bylaws and rules, consistent with this ~~[part] chapter~~, to
1512 carry into effect the powers and purposes of the authority and the conduct of its business;

1513 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

- 1514 (f) employ experts and other professionals it considers necessary;
- 1515 (g) employ and retain independent legal counsel;
- 1516 (h) make and execute contracts and all other instruments necessary or convenient for
- 1517 the performance of its duties under this ~~[part]~~ chapter as described in Subsection (1);
- 1518 (i) procure insurance for liability and against any loss in connection with its property
- 1519 and other assets in amounts and from insurers it considers desirable;
- 1520 (j) receive appropriations from the Legislature and receive other public ~~[moneys]~~
- 1521 money and accept aid or contributions from any source of money, property, labor, or other
- 1522 things of value to be held, used, and applied to carry out the purposes of this ~~[part]~~ chapter,
- 1523 subject to the conditions upon which the grants and contributions are made, including gifts or
- 1524 grants from a department, agency, or instrumentality of the United States or of this state for any
- 1525 purpose consistent with this ~~[part]~~ chapter;
- 1526 (k) enter into agreements with a department, agency, or instrumentality of the United
- 1527 States or this state for the purpose of providing for the operation and maintenance of a scenic
- 1528 railway in and around Weber and Box Elder Counties; and
- 1529 (l) do any act necessary or convenient to the exercise of the powers granted to the
- 1530 authority by this ~~[part]~~ chapter.
- 1531 (3) (a) All ~~[monies]~~ money received by the authority under Subsection (2)(j) and from
- 1532 any other source ~~[are]~~ is for the exclusive use of the authority in the performance and exercise
- 1533 of its duties under this ~~[part]~~ chapter as described in Subsection (1).
- 1534 (b) ~~[Monies]~~ Money received by the authority may not be used for any other purpose or
- 1535 by any other entity.
- 1536 Section 31. Section **63H-5-107**, which is renumbered from Section 9-3-607 is
- 1537 renumbered and amended to read:
- 1538 **[9-3-607]. 63H-5-107. Notes, bonds, other obligation -- Not debt liability --**
- 1539 **Expenses payable from funds provided -- Agency without authority to incur liability on**
- 1540 **behalf of state.**
- 1541 (1) (a) An obligation or liability of the authority does not constitute:
- 1542 (i) a debt or liability of the state or of any of its political subdivisions; or
- 1543 (ii) the loaning of credit of the state or of any of its political subdivisions.
- 1544 (b) An obligation or liability of the authority is payable only from ~~[funds]~~ money of the

1545 authority.

1546 (2) An obligation of the authority shall contain a statement to the effect:

1547 (a) that the authority is obligated to pay the obligation solely from the revenues or other
1548 ~~[funds]~~ money of the authority;

1549 (b) that neither the state nor its political subdivisions are obligated to pay it; and

1550 (c) that neither the faith and credit nor the taxing power of the state or any of its
1551 political subdivisions is pledged to the payment of the obligation.

1552 (3) (a) Expenses incurred in carrying out this ~~[part]~~ chapter are payable solely from
1553 ~~[funds]~~ money of the authority provided under this ~~[part]~~ chapter.

1554 (b) Nothing in this ~~[part]~~ chapter authorizes the authority to incur indebtedness or
1555 liability on behalf of or payable by the state or any of its political subdivisions.

1556 Section 32. Section **63H-5-108**, which is renumbered from Section 9-3-608 is
1557 renumbered and amended to read:

1558 **~~[9-3-608]. 63H-5-108. Relation to certain acts.~~**

1559 (1) The authority is exempt from:

1560 (a) Title 51, Chapter 5, Funds Consolidation Act;

1561 (b) Title 63A, Chapter 1, Department of Administrative Services;

1562 (c) Title 63G, Chapter 6, Utah Procurement Code;

1563 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

1564 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

1565 (2) The authority is subject to audit by the state auditor pursuant to Title 67, Chapter 3,
1566 Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

1567 Section 33. Section **63H-5-109**, which is renumbered from Section 9-3-609 is
1568 renumbered and amended to read:

1569 **~~[9-3-609]. 63H-5-109. Duty to maintain rails and operating equipment.~~**

1570 The authority shall maintain the rails, bed, right-of-way, and related property owned by
1571 the authority upon which the authority's train operates in compliance with state and federal
1572 statutes, rules, and regulations.

1573 Section 34. Section **63H-5-110**, which is renumbered from Section 9-3-610 is
1574 renumbered and amended to read:

1575 **~~[9-3-610]. 63H-5-110. Lease of rails or equipment from Department of~~**

1576 **Transportation and Division of Parks and Recreation.**

1577 The Department of Transportation and the Division of Parks and Recreation may jointly
1578 lease the rails, bed, right-of-way, and related property for the operation of a scenic and historic
1579 railroad in and around Weber and Box Elder Counties, for not more than \$1 per year to the
1580 authority.

1581 Section 35. Section **63H-6-101**, which is renumbered from Section 9-4-1101 is
1582 renumbered and amended to read:

1583 **CHAPTER 6. UTAH STATE FAIR CORPORATION ACT**

1584 ~~[9-4-1101]~~. **63H-6-101. Title.**

1585 This ~~[part]~~ chapter is known as the "Utah State Fair Corporation Act."

1586 Section 36. Section **63H-6-102**, which is renumbered from Section 9-4-1102 is
1587 renumbered and amended to read:

1588 ~~[9-4-1102]~~. **63H-6-102. Definitions.**

1589 As used in this ~~[part]~~ chapter:

- 1590 (1) "Board" means the board of directors of the corporation.
- 1591 (2) "Corporation" means the Utah State Fair Corporation created by this ~~[part]~~ chapter.
- 1592 (3) "State fair park" means the property owned by the state located at 155 North 1000
1593 West, Salt Lake City, Utah.

1594 Section 37. Section **63H-6-103**, which is renumbered from Section 9-4-1103 is
1595 renumbered and amended to read:

1596 ~~[9-4-1103]~~. **63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.**

- 1597 (1) There is created an independent public nonprofit corporation known as the "Utah
1598 State Fair Corporation."
- 1599 (2) The board shall file articles of incorporation for the corporation with the Division
1600 of Corporations and Commercial Code.
- 1601 (3) The corporation ~~[shall]~~, subject to this ~~[part]~~ chapter, ~~[have]~~ has all powers and
1602 authority permitted nonprofit corporations by law.
- 1603 (4) The corporation shall, subject to approval of the board:
 - 1604 (a) have general management, supervision, and control over all activities relating to the
1605 state fair and have charge of all state expositions except as otherwise provided by statute;
 - 1606 (b) for public entertainment, displays, and exhibits or similar events:

- 1607 (i) provide, sponsor, or arrange the events;
- 1608 (ii) publicize and promote the events; and
- 1609 (iii) secure funds to cover the cost of the exhibits from:
 - 1610 (A) private contributions;
 - 1611 (B) public appropriations;
 - 1612 (C) admission charges; and
 - 1613 (D) other lawful means;
- 1614 (c) establish the time, place, and purpose of state expositions; and
- 1615 (d) acquire and designate exposition sites.
- 1616 (5) (a) The corporation shall:
 - 1617 (i) use generally accepted accounting principals in accounting for its assets, liabilities,
1618 and operations;
 - 1619 (ii) seek corporate sponsorships for the state fair park and for individual buildings or
1620 facilities within the fair park;
 - 1621 (iii) work with county and municipal governments, the Salt Lake Convention and
1622 Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote
1623 expositions and the use of the state fair park;
 - 1624 (iv) develop and maintain a marketing program to promote expositions and the use of
1625 the state fair park;
 - 1626 (v) in cooperation with the Division of Facilities Construction and Management,
1627 maintain the physical appearance and structural integrity of the state fair park and the buildings
1628 located at the state fair park;
 - 1629 (vi) hold an annual exhibition that:
 - 1630 (A) is called the state fair or a similar name;
 - 1631 (B) includes expositions of livestock, poultry, agricultural, domestic science,
1632 horticultural, floricultural, mineral, and industrial products, manufactured articles, and
1633 domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial,
1634 artistic, and educational pursuits and the sharing of talents among the people of Utah;
 - 1635 (C) includes the award of premiums for the best specimens of the exhibited articles and
1636 animals;
 - 1637 (D) permits competition by livestock exhibited by citizens of other states and territories

1638 of the United States; and
1639 (E) is arranged according to plans approved by the board;
1640 (vii) fix the conditions of entry to the exposition described in Subsection (5)(a)(vi); and
1641 (viii) publish a list of premiums that will be awarded at the exhibition described in
1642 Subsection (5)(a)(vi) for the best specimens of exhibited articles and animals.
1643 (b) In addition to the state fair to be held in accordance with Subsection (5)(a)(vi), the
1644 corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science,
1645 horticultural, floricultural, mineral, and industrial products, manufactured articles, and
1646 domestic animals that, in its opinion, will best stimulate agricultural, industrial, artistic, and
1647 educational pursuits and the sharing of talents among the people of Utah.
1648 (6) The corporation may:
1649 (a) employ advisers, consultants, and agents, including financial experts and
1650 independent legal counsel, and fix their compensation;
1651 (b) procure insurance against any loss in connection with its property and other assets,
1652 including mortgage loans;
1653 (c) receive and accept aid or contributions of money, property, labor, or other things of
1654 value from any source, including any grants or appropriations from any department, agency, or
1655 instrumentality of the United States or Utah;
1656 (d) hold, use, loan, grant, and apply that aid and those contributions to carry out the
1657 purposes of the corporation, subject to the conditions, if any, upon which the aid and
1658 contributions were made;
1659 (e) enter into management agreements with any person or entity for the performance of
1660 its functions or powers;
1661 (f) establish whatever accounts and procedures as necessary to budget, receive, and
1662 disburse, account for, and audit all funds received, appropriated, or generated;
1663 (g) enter into agreements for the leasing of any of the facilities at the state fair park, if
1664 approved by the board; and
1665 (h) sponsor events as approved by the board.
1666 (7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the
1667 corporation is exempt from:
1668 (i) Title 51, Chapter 5, Funds Consolidation Act;

- 1669 (ii) Title 51, Chapter 7, State Money Management Act;
- 1670 (iii) Title 63A, Utah Administrative Services Code;
- 1671 (iv) Title 63G, Chapter 6, Utah Procurement Code;
- 1672 (v) Title 63J, Chapter 1, Budgetary Procedures Act; and
- 1673 (vi) Title 67, Chapter 19, Utah State Personnel Management Act.
- 1674 (b) The board shall adopt policies parallel to and consistent with:
- 1675 (i) Title 51, Chapter 5, Funds Consolidation Act;
- 1676 (ii) Title 51, Chapter 7, State Money Management Act;
- 1677 (iii) Title 63A, Utah Administrative Services Code;
- 1678 (iv) Title 63G, Chapter 6, Utah Procurement Code; and
- 1679 (v) Title 63J, Chapter 1, Budgetary Procedures Act.
- 1680 (c) The corporation shall comply with the legislative approval requirements for new
- 1681 facilities established in Subsection 63A-5-104(3).

1682 Section 38. Section ~~63H-6-104~~, which is renumbered from Section 9-4-1104 is

1683 renumbered and amended to read:

1684 ~~[9-4-1104]~~. **63H-6-104. Board of Directors -- Membership -- Term -- Quorum --**

1685 **Vacancies.**

- 1686 (1) The corporation ~~[shall be]~~ is governed by a board of directors.
- 1687 (2) The board ~~[shall be]~~ is composed of 11 members appointed by the governor with
- 1688 the consent of the Senate.
- 1689 (3) The governor shall ensure that:
- 1690 (a) two members of the board are residents of Salt Lake County in which the state fair
- 1691 is held;
- 1692 (b) there is at least one member of the board from each judicial district;
- 1693 (c) two members of the board are residents of the First Congressional District;
- 1694 (d) two members of the board are residents of the Second Congressional District;
- 1695 (e) two members of the board are residents of the Third Congressional District; and
- 1696 (f) two members of the board represent agricultural interests.
- 1697 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the governor shall appoint board
- 1698 members to serve terms that expire on the December 1 four years after the year that the board
- 1699 member was appointed.

1700 (ii) In making appointments to the board, the governor shall ensure that the terms of
1701 approximately 1/4 of the board expire each year.

1702 (b) Except as provided in Subsection (4)(c), board members [~~shall~~] serve until their
1703 successors are appointed and qualified.

1704 (c) (i) If a board member is absent from three consecutive board meetings without
1705 excuse, that member's appointment is terminated, the position is vacant, and the governor shall
1706 appoint a replacement.

1707 (ii) The governor may remove any member of the board at will.

1708 (d) The governor shall fill any vacancy that occurs on the board for any reason by
1709 appointing a person according to the procedures of this section for the unexpired term of the
1710 vacated member.

1711 (5) The governor shall select the board's chair.

1712 (6) Six members of the board are a quorum for the transaction of business.

1713 (7) The board may elect a vice chair and any other board offices.

1714 Section 39. Section **63H-6-105**, which is renumbered from Section 9-4-1105 is
1715 renumbered and amended to read:

1716 **~~[9-4-1105].~~ 63H-6-105. Executive director.**

1717 (1) (a) The board shall:

1718 (i) hire an executive director for the corporation as provided in this subsection;

1719 (ii) conduct a national search to find applicants for the position of executive director;

1720 and

1721 (iii) establish the salary, benefits, and other compensation of the executive director.

1722 (b) The board may appoint an interim director while searching for a permanent
1723 executive director.

1724 (c) The executive director serves at the pleasure of the board and may be terminated by
1725 the board at will.

1726 (d) The executive director is an employee of the corporation.

1727 (e) The executive director may not be a member of the board.

1728 (2) The executive director shall:

1729 (a) act as the executive officer of the board and the corporation;

1730 (b) administer, manage, and direct the affairs and activities of the corporation in

- 1731 accordance with the policies and under the control and direction of the board;
- 1732 (c) keep the board, the governor, the Legislature, and its agencies, and other affected
- 1733 officers, associations, and groups informed about the operations of the corporation;
- 1734 (d) recommend to the board any necessary or desirable changes in the statutes
- 1735 governing the corporation;
- 1736 (e) recommend to the board an annual administrative budget covering the operations
- 1737 of the corporation and, upon approval, submit the budget to the governor and the Legislature
- 1738 for their examination and approval;
- 1739 (f) after approval, direct and control the subsequent expenditures of the budget;
- 1740 (g) employ, within the limitations of the budget, staff personnel and consultants to
- 1741 accomplish the purpose of the corporation, and establish their qualifications, duties, and
- 1742 compensation;
- 1743 (h) keep in convenient form all records and accounts of the corporation, including
- 1744 those necessary for the administration of the state fair;
- 1745 (i) in cooperation with the board, create:
- 1746 (i) business plans for the corporation;
- 1747 (ii) a financial plan for the corporation that projects self-sufficiency for the corporation
- 1748 within two years; and
- 1749 (iii) a master plan for the state fair park;
- 1750 (j) approve all accounts for:
- 1751 (i) salaries;
- 1752 (ii) allowable expenses of the corporation and its employees and consultants; and
- 1753 (iii) expenses incidental to the operation of the corporation; and
- 1754 (k) perform other duties as directed by the board.
- 1755 Section 40. Section **63H-6-106**, which is renumbered from Section 9-4-1106 is
- 1756 renumbered and amended to read:
- 1757 **[9-4-1106]. 63H-6-106. Financial reports -- Audit -- Surety bonds.**
- 1758 (1) (a) The corporation shall, following the close of each fiscal year, submit an annual
- 1759 report of its activities for the preceding year to the governor and the Legislature.
- 1760 (b) The report shall contain:
- 1761 (i) a complete operating report detailing the corporation's activities; and

1762 (ii) financial statements of the corporation audited by a certified public accountant
1763 according to generally accepted auditing standards.

1764 (2) (a) At least once ~~per~~ a year, the state auditor shall:

1765 (i) audit the books and accounts of the corporation; or

1766 (ii) contract with a nationally recognized independent certified public accountant to
1767 conduct the audit and review the audit report when it is completed.

1768 (b) The corporation shall reimburse the state auditor for the costs of the audit.

1769 (c) If the audit is conducted by an independent auditor, the independent auditor shall
1770 submit a copy of the audit to the state auditor for review within 90 days after the end of the
1771 fiscal year covered by the audit.

1772 (3) (a) The corporation shall maintain a surety bond in the penal sum of \$25,000 for
1773 each member of the board.

1774 (b) The corporation shall maintain a surety bond in the penal sum of \$50,000 for the
1775 executive director.

1776 (c) The corporation shall ensure that each surety bond is:

1777 (i) conditioned upon the faithful performance of the duties of office to which it
1778 attaches;

1779 (ii) ~~is~~ issued by a surety company authorized to transact business in Utah as a surety;
1780 and

1781 (iii) filed in the office of the State Treasurer.

1782 (d) The corporation shall pay the cost of the surety bonds.

1783 Section 41. Section ~~63H-6-107~~, which is renumbered from Section 9-4-1107 is
1784 renumbered and amended to read:

1785 ~~[9-4-1107]~~. **63H-6-107. Enterprise Fund -- Creation -- Revenue -- Uses.**

1786 (1) (a) There is created an enterprise fund entitled the Utah State Fair Fund.

1787 (b) The executive director shall administer the fund under the direction of the board.

1788 (2) The fund consists of money generated from the following revenue sources:

1789 (a) lease payments from person or entities leasing the state fair park or any other
1790 facilities owned by the corporation;

1791 (b) revenues received from any expositions or other events wholly or partially
1792 sponsored by the corporation;

1793 (c) aid or contributions of money, property, labor, or other things of value from any
 1794 source, including any grants or appropriations from any department, agency, or instrumentality
 1795 of the United States or Utah;

1796 (d) appropriations made to the fund by the Legislature; and

1797 (e) any other income obtained by the corporation.

1798 (3) (a) The fund shall earn interest.

1799 (b) All interest earned on fund money shall be deposited into the fund.

1800 (4) The executive director may use fund money to operate, maintain, and support the
 1801 Utah state fair, the state fair park, and other expositions sponsored by the corporation.

1802 Section 42. Section **63I-1-209** is amended to read:

1803 **63I-1-209. Repeal dates, Title 9.**

1804 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
 1805 repealed July 1, 2014.

1806 [~~(2) Title 9, Chapter 3, Part 5, Heber Valley Historic Railroad Authority, is repealed~~
 1807 ~~July 1, 2020.~~]

1808 [~~(3)~~ (2) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1,
 1809 2016.

1810 Section 43. Section **63I-1-263** is amended to read:

1811 **63I-1-263. Repeal dates, Titles 63 to 63M.**

1812 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
 1813 any public school district which chooses to participate, is repealed July 1, 2016.

1814 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

1815 (3) Section 63C-8-106, Rural residency training program, is repealed July 1, 2015.

1816 (4) Subsection 63G-6-502(5)(b)(ii) authorizing certain transportation agencies to award
 1817 a contract for a design-build transportation project in certain circumstances, is repealed July 1,
 1818 2015.

1819 (5) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
 1820 2020.

1821 [~~(5)~~ (6) The Resource Development Coordinating Committee, created in Section
 1822 63J-4-501, is repealed July 1, 2015.

1823 [~~(6)~~ (7) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

1824 [~~7~~] (8) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act,
1825 is repealed July 1, 2020.

1826 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in
1827 recycling market development zones, are repealed for taxable years beginning on or after
1828 January 1, 2011.

1829 (c) Notwithstanding Subsection [~~7~~] (8)(b), a person may not claim a tax credit under
1830 Section 59-7-610 or 59-10-1007:

1831 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
1832 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

1833 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
1834 the expenditure is made on or after July 1, 2010.

1835 (d) Notwithstanding Subsections [~~7~~] (8)(b) and (c), a person may carry forward a tax
1836 credit in accordance with Section 59-7-610 or 59-10-1007 if:

1837 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

1838 (ii) (A) for the purchase price of machinery or equipment described in Section
1839 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30, 2010;
1840 or

1841 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
1842 expenditure is made on or before June 30, 2010.

1843 [~~8~~] (9) Title 63M, Chapter 7, Part 4, Sentencing Commission, is repealed January 1,
1844 2012.

1845 [~~9~~] (10) The Crime Victim Reparations Board, created in Section 63M-7-504, is
1846 repealed July 1, 2017.

1847 [~~10~~] (11) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is
1848 repealed July 1, 2011.

1849 [~~11~~] (12) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
1850 Children and Youth At Risk Act, is repealed July 1, 2016.

1851 [~~12~~] (13) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
1852 2012.

1853 Section 44. Section **63I-4-102** is amended to read:

1854 **63I-4-102. Definitions.**

- 1855 (1) (a) "Activity" means to provide a good or service.
- 1856 (b) "Activity" includes to:
- 1857 (i) manufacture a good or service;
- 1858 (ii) process a good or service;
- 1859 (iii) sell a good or service;
- 1860 (iv) offer for sale a good or service;
- 1861 (v) rent a good or service;
- 1862 (vi) lease a good or service;
- 1863 (vii) deliver a good or service;
- 1864 (viii) distribute a good or service; or
- 1865 (ix) advertise a good or service.
- 1866 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 1867 (i) the state; or
- 1868 (ii) an entity of the state including a department, office, division, authority,
- 1869 commission, or board.
- 1870 (b) "Agency" does not include:
- 1871 (i) the Legislature;
- 1872 (ii) an entity or agency of the Legislature;
- 1873 (iii) the state auditor;
- 1874 (iv) the state treasurer;
- 1875 (v) the Office of the Attorney General;
- 1876 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 1877 [~~(vii) the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 5, Heber~~
- 1878 ~~Valley Historic Railroad Authority;~~]
- 1879 [~~(viii)~~ (vii) the Utah Science Center Authority created in [~~Title 9, Chapter 3, Part 4]~~
- 1880 Title 63H, Chapter 3, Utah Science Center Authority;
- 1881 (viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber
- 1882 Valley Historic Railroad Authority;
- 1883 (ix) the Utah State Railroad Museum Authority created in [~~Title 9, Chapter 3, Part 6]~~
- 1884 Title 63H, Chapter 5, Utah State Railroad Museum Authority;
- 1885 (x) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing

- 1886 Corporation Act;
- 1887 (xi) the Utah State Fair Corporation created in [~~Title 9, Chapter 4, Part 11~~] Title 63H,
- 1888 Chapter 6, Utah State Fair Corporation Act;
- 1889 (xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 1890 Compensation Fund;
- 1891 (xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
- 1892 Retirement Systems Administration;
- 1893 (xiv) a charter school chartered by the State Charter School Board or a board of
- 1894 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 1895 Schools Act;
- 1896 (xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
- 1897 Utah Schools for the Deaf and the Blind;
- 1898 (xvi) an institution of higher education as defined in Section 53B-3-102;
- 1899 (xvii) the School and Institutional Trust Lands Administration created in Title 53C,
- 1900 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 1901 (xviii) the Utah Communications Agency Network created in Title 63C, Chapter 7,
- 1902 Utah Communications Agency Network Act; or
- 1903 (xix) the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12,
- 1904 Utah Venture Capital Enhancement Act.
- 1905 (3) "Agency head" means the chief administrative officer of an agency.
- 1906 (4) "Board" means the Privatization Policy Board created in Section 63I-4-201.
- 1907 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 1908 or in part from a private enterprise.
- 1909 (6) "Local entity" means:
- 1910 (a) a political subdivision of the state, including a:
- 1911 (i) county;
- 1912 (ii) city;
- 1913 (iii) town;
- 1914 (iv) local school district;
- 1915 (v) local district; or
- 1916 (vi) special service district;

1917 (b) an agency of an entity described in this Subsection (6), including a department,
1918 office, division, authority, commission, or board; and

1919 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
1920 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).

1921 (7) "Private enterprise" means a person that for profit:

1922 (a) manufactures a good or service;

1923 (b) processes a good or service;

1924 (c) sells a good or service;

1925 (d) offers for sale a good or service;

1926 (e) rents a good or service;

1927 (f) leases a good or service;

1928 (g) delivers a good or service;

1929 (h) distributes a good or service; or

1930 (i) advertises a good or service.

1931 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
1932 private enterprise engages in the activity including a transfer by:

1933 (a) contract;

1934 (b) transfer of property; or

1935 (c) another arrangement.

1936 Section 45. Section **63J-7-102** is amended to read:

1937 **63J-7-102. Scope and applicability of chapter.**

1938 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
1939 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
1940 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

1941 (2) This chapter does not govern:

1942 (a) a grant deposited into a General Fund restricted account;

1943 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

1944 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

1945 (d) a grant made to the state without a restriction or other designated purpose that is
1946 deposited into the General Fund as free revenue;

1947 (e) a grant made to the state that is restricted only to "education" and that is deposited

- 1948 into the Education Fund or Uniform School Fund as free revenue;
- 1949 (f) in-kind donations;
- 1950 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
- 1951 when required by state law or application of state law;
- 1952 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
- 1953 Contribution Act;
- 1954 (i) a grant received by an agency from another agency or political subdivision;
- 1955 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
- 1956 Act;
- 1957 (k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah
- 1958 Science Center Authority;
- 1959 ~~[(k)]~~ (l) a grant to the Heber Valley Railroad Authority created in [Title 9, Chapter 3,
- 1960 Part 5,] Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;
- 1961 ~~[(l) a grant to the Utah Science Center Authority created in Title 9, Chapter 3, Part 4,~~
- 1962 ~~Utah Science Center Authority;]~~
- 1963 (m) a grant to the Utah State Railroad Museum Authority created in ~~[Title 9, Chapter 3,~~
- 1964 Part 6] Title 63H, Chapter 5, Utah State Railroad Museum Authority;
- 1965 (n) a grant to the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah
- 1966 Housing Corporation Act;
- 1967 (o) a grant to the Utah State Fair Corporation created in ~~[Title 9, Chapter 4, Part 11]~~
- 1968 Title 63H, Chapter 6, Utah State Fair Corporation Act;
- 1969 (p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
- 1970 Workers' Compensation Fund;
- 1971 (q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
- 1972 State Retirement Systems Administration;
- 1973 (r) a grant to the School and Institutional Trust Lands Administration created in Title
- 1974 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 1975 (s) a grant to the Utah Communications Agency Network created in Title 63C, Chapter
- 1976 7, Utah Communications Agency Network Act;
- 1977 (t) a grant to the Medical Education Program created in Section 63C-8-102;
- 1978 (u) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1,

1979 Part 12, Utah Venture Capital Enhancement Act;

1980 (v) a grant to the State Charter School Finance Authority created in Section

1981 53A-20b-103;

1982 (w) a grant to the State Building Ownership Authority created in Section 63B-1-304;

1983 (x) a grant to the Utah Comprehensive Health Insurance Pool created in Section

1984 31A-29-104; or

1985 (y) a grant to the Military Installation Development Authority created in Section

1986 63H-1-201.

1987 (3) An agency need not seek legislative review or approval of grants under Part 2,

1988 Grant Approval Requirements, if:

1989 (a) the governor has declared a state of emergency; and

1990 (b) the grant is donated to the agency to assist victims of the state of emergency under

1991 Subsection 63K-4-201(1).

1992 Section 46. Section **63M-1-201** is amended to read:

1993 **63M-1-201. Creation of office.**

1994 (1) There is created the Governor's Office of Economic Development.

1995 (2) The office shall:

1996 (a) be responsible for economic development within the state;

1997 (b) perform economic development planning for the state;

1998 (c) administer and coordinate all state or federal grant programs which are, or become

1999 available, for economic development;

2000 (d) administer any other programs over which the office is given administrative

2001 supervision by the governor;

2002 (e) annually submit a report to the Legislature by October 1; and

2003 (f) perform any other duties as provided by the Legislature.

2004 (3) The office may solicit and accept contributions of money, services, and facilities

2005 from any other source, public or private, but may not use the money for publicizing the

2006 exclusive interest of the donor.

2007 (4) Money received under Subsection (3) shall be deposited in the General Fund as

2008 dedicated credits of the office.

2009 (5) (a) The office is recognized as an issuing authority as defined in Subsection

2010 63M-1-2902(7), entitled to issue bonds from the Small Issue Bond Account created in
2011 Subsection 63M-1-2906(1)(c) as a part of the state's private activity bond volume cap
2012 authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the code.

2013 (b) To promote and encourage the issuance of bonds from the Small Issue Bond
2014 Account for manufacturing projects, the office may:

2015 (i) develop campaigns and materials that inform qualified small manufacturing
2016 businesses about the existence of the program and the application process;

2017 (ii) assist small businesses in applying for and qualifying for these bonds; or

2018 (iii) develop strategies to lower the cost to small businesses of applying for and
2019 qualifying for these bonds, including making arrangements with financial advisors,

2020 underwriters, bond counsel, and other professionals involved in the issuance process to provide
2021 their services at a reduced rate when the division can provide them with a high volume of
2022 applicants or issues.

2023 Section 47. Section **63M-1-2901**, which is renumbered from Section 9-4-501 is
2024 renumbered and amended to read:

2025 **Part 29. Bond Volume Cap Allocation**

2026 **~~[9-4-501].~~ 63M-1-2901. Legislative intent.**

2027 It is the intent of the Legislature to establish procedures to most effectively and
2028 equitably allocate this state's private activity bond volume cap authorized by the Internal
2029 Revenue Code of 1986 in order to maximize the social and economic benefits to this state.

2030 Section 48. Section **63M-1-2902**, which is renumbered from Section 9-4-502 is
2031 renumbered and amended to read:

2032 **~~[9-4-502].~~ 63M-1-2902. Definitions.**

2033 As used in this part:

2034 (1) "Allocated volume cap" means ~~[any]~~ a volume cap for which a certificate of
2035 allocation is in effect or for which bonds have been issued.

2036 (2) "Allotment accounts" means the various accounts created in Section ~~[9-4-506]~~
2037 63M-1-2906.

2038 (3) "Board of review" means the Private Activity Bond Review Board created in
2039 Section ~~[9-4-503]~~ 63M-1-2903.

2040 (4) "Bond" means any obligation for which an allocation of volume cap is required by

2041 the code.

2042 (5) "Code" means the Internal Revenue Code of 1986, as amended, and any related
2043 Internal Revenue Service regulations.

2044 (6) "Form 8038" means the Department of the Treasury tax form 8038 (OMB No.
2045 1545-0720) or any other federal tax form or other method of reporting required by the
2046 Department of the Treasury under Section 149(e) of the code.

2047 (7) "Issuing authority" means:

2048 (a) any county, city, or town in the state;

2049 (b) any not-for-profit corporation or joint agency, or other entity acting on behalf of
2050 one or more counties, cities, towns, or any combination of these;

2051 (c) the state; or

2052 (d) any other entity authorized to issue bonds under state law.

2053 (8) "State" means the state of Utah and any of its agencies, institutions, and divisions
2054 authorized to issue bonds or certificates under state law.

2055 (9) "Volume cap" means the private activity bond volume cap for the state as computed
2056 under Section 146 of the code.

2057 (10) "Year" means each calendar year [~~beginning calendar year 1992~~].

2058 Section 49. Section **63M-1-2903**, which is renumbered from Section 9-4-503 is
2059 renumbered and amended to read:

2060 **~~9-4-503~~. 63M-1-2903. Private Activity Bond Review Board.**

2061 (1) There is created within the [~~department~~] office the Private Activity Bond Review
2062 Board, composed of 11 members as follows:

2063 (a) five ex officio members who [~~shall be~~] are:

2064 (i) the [~~executive~~] director of the [~~department~~] office or the [~~executive~~] director's
2065 designee;

2066 (ii) the director of the Division of Business and Economic Development or the
2067 director's designee;

2068 (iii) the state treasurer or the treasurer's designee;

2069 (iv) the chair of the Board of Regents or the chair's designee; and

2070 (v) the chair of the Utah Housing Corporation or the chair's designee; and

2071 (b) six local government members who [~~shall be~~] are:

2072 (i) three elected or appointed county officials, nominated by the Utah Association of
2073 Counties and appointed by the governor with the consent of the Senate; and

2074 (ii) three elected or appointed municipal officials, nominated by the Utah League of
2075 Cities and Towns and appointed by the governor with the consent of the Senate.

2076 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local
2077 government members of the board of review shall be four-year terms.

2078 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
2079 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
2080 board members are staggered so that approximately half of the board is appointed every two
2081 years.

2082 (c) Members may be reappointed only once.

2083 (3) (a) If a local government member ceases to be an elected or appointed official of
2084 the city or county the member is appointed to represent, that membership on the board of
2085 review terminates immediately and there shall be a vacancy in the membership.

2086 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
2087 appointed within 30 days in the manner of the regular appointment for the unexpired term, and
2088 until his successor is appointed and qualified.

2089 (4) (a) The chair of the board of review [~~shall be~~] is the [~~executive~~] director of the
2090 [~~department~~] office or the [~~executive~~] director's designee.

2091 (b) The chair is nonvoting except in the case of a tie vote.

2092 (5) Six members of the board of review constitute a quorum.

2093 (6) Formal action by the board of review requires a majority vote of a quorum.

2094 (7) A member may not receive compensation or benefits for the member's service, but
2095 may receive per diem and travel expenses in accordance with:

2096 (a) Section 63A-3-106;

2097 (b) Section 63A-3-107; and

2098 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
2099 63A-3-107.

2100 (8) The chair of the board of review serves as the state official designated under state
2101 law to make certifications required to be made under Section 146 of the code including the
2102 certification required by Section 149(e)(2)(F) of the code.

2103 Section 50. Section **63M-1-2904**, which is renumbered from Section 9-4-504 is
2104 renumbered and amended to read:

2105 ~~[9-4-504]~~. **63M-1-2904**. **Powers, functions, and duties of board of review.**

2106 The board of review shall:

2107 (1) make, subject to the limitations of the code, allocations of volume cap to issuing
2108 authorities;

2109 (2) determine the amount of volume cap to be allocated with respect to approved
2110 applications;

2111 (3) maintain a record of all applications filed by issuing authorities under Section
2112 ~~[9-4-505]~~ 63M-1-2905 and all certificates of allocation issued under Section ~~[9-4-507]~~
2113 63M-1-2907;

2114 (4) maintain a record of all bonds issued by issuing authorities during each year;

2115 (5) determine the amount of volume cap to be treated as a carryforward under Section
2116 146(f) of the code and allocate this carryforward to one or more qualified carryforward
2117 purposes;

2118 (6) make available upon reasonable request a certified copy of all or any part of the
2119 records maintained by the board of review under this part or a summary of them, including
2120 information relating to the volume cap for each year and any amounts available for allocation
2121 under this part;

2122 (7) promulgate rules for the allocation of volume cap under this part; and

2123 (8) charge reasonable fees for the performance of duties prescribed by this part,
2124 including application, filing, and processing fees.

2125 Section 51. Section **63M-1-2905**, which is renumbered from Section 9-4-505 is
2126 renumbered and amended to read:

2127 ~~[9-4-505]~~. **63M-1-2905**. **Allocation of volume cap.**

2128 (1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed
2129 by the board of review to the various allotment accounts as set forth in Section ~~[9-4-506]~~
2130 63M-1-2906.

2131 (b) The board of review may distribute up to 50% of each increase in the volume cap
2132 that occurs after March 11, 1999, for use in development that occurs in quality growth areas,
2133 depending upon the board's analysis of the relative need for additional volume cap between

2134 development in quality growth areas and the allotment accounts under Section [~~9-4-506~~]
2135 63M-1-2906.

2136 (2) To obtain an allocation of the volume cap, issuing authorities shall submit to the
2137 board of review an application containing information required by the procedures and
2138 processes of the board of review.

2139 (3) (a) The board of review shall establish criteria for making allocations of volume
2140 cap that are consistent with the purposes of the code and this part.

2141 (b) In making an allocation of volume cap the board of review shall consider the
2142 following:

2143 [~~(a)~~] (i) the principal amount of the bonds proposed to be issued;

2144 [~~(b)~~] (ii) the nature and the location of the project or the type of program;

2145 [~~(c)~~] (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

2146 [~~(d)~~] (iv) whether the project or program could obtain adequate financing without an
2147 allocation of volume cap;

2148 [~~(e)~~] (v) the degree to which an allocation of volume cap is required for the project or
2149 program to proceed or continue;

2150 [~~(f)~~] (vi) the social, health, economic, and educational effects of the project or program
2151 on the local community and state as a whole;

2152 [~~(g)~~] (vii) the anticipated economic development created or retained within the local
2153 community and the state as a whole;

2154 [~~(h)~~] (viii) the anticipated number of jobs, both temporary and permanent, created or
2155 retained within the local community and the state as a whole;

2156 [~~(i)~~] (ix) if the project is a residential rental project, the degree to which the residential
2157 rental project:

2158 [~~(j)~~] (A) targets lower income populations; and

2159 [~~(j)~~] (B) is accessible housing; and

2160 [~~(j)~~] (x) whether the project meets the principles of quality growth recommended by the
2161 Quality Growth Commission created under Section 11-38-201.

2162 (4) The board of review shall evidence an allocation of volume cap by issuing a
2163 certificate in accordance with Section [~~9-4-507~~] 63M-1-2907.

2164 (5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small

2165 Issue Bond Account that may be allocated only to manufacturing projects.

2166 (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool
2167 Account that may be allocated only to manufacturing projects.

2168 Section 52. Section **63M-1-2906**, which is renumbered from Section 9-4-506 is
2169 renumbered and amended to read:

2170 ~~[9-4-506]~~. **63M-1-2906. Allotment accounts.**

2171 (1) There are created the following allotment accounts:

2172 (a) the Single Family Housing Account, for which eligible issuing authorities are those
2173 authorized under the code and state statute to issue qualified mortgage bonds under Section 143
2174 of the code;

2175 (b) the Student Loan Account, for which eligible issuing authorities are those
2176 authorized under the code and state statute to issue qualified student loan bonds under Section
2177 144(b) of the code;

2178 (c) the Small Issue Bond Account, for which eligible issuing authorities are those
2179 authorized under the code and state statute to issue:

2180 (i) qualified small issue bonds under Section 144(a) of the code; ~~§~~→ [or] ←~~§~~

2181 (ii) qualified exempt facility bonds for qualified residential rental projects under
2182 Section 142(d) of the code; ~~§~~→ or

2182a **(iii) qualified redevelopment bonds under Section 144(c) of the code;** ←~~§~~

2183 (d) the Exempt Facilities Account, for which eligible issuing authorities are those
2184 authorized under the code and state statute to issue ~~§~~→ **any** ←~~§~~ bonds requiring an allocation of
2184a volume cap

2185 other than for purposes described in Subsections (1)(a), (b), or (c);

2186 (e) the Pool Account, for which eligible issuing authorities are those authorized under
2187 the code and state statute to issue ~~§~~→ **any** ←~~§~~ bonds requiring an allocation of volume cap; and

2188 (f) the Carryforward Account, for which eligible issuing authorities are those with
2189 projects or programs qualifying under Section 146(f) of the code.

2190 (2) (a) The volume cap shall be distributed to the various allotment accounts on
2191 January 1 of each year on the following basis:

2192 (i) 42% to the Single Family Housing Account;

2193 (ii) 33% to the Student Loan Account;

2194 (iii) 1% to the Exempt Facilities Account; and

2195 (iv) 24% to the Small Issue Bond Account.

2196 (b) From July 1 to September 30 of each year, the board of review may transfer any
2197 unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account
2198 to the Pool Account.

2199 (c) The board of review, upon written notification by the issuing authorities eligible for
2200 volume cap allocation from the Single Family Housing Account or the Student Loan Account
2201 that all or a portion of volume cap distributed into that allotment account will not be used, may
2202 transfer the unused volume cap between the Single Family Housing Account and the Student
2203 Loan Account.

2204 (d) From October 1 to the third Friday of December of each year, the board of review
2205 shall transfer all unallocated volume cap [~~shall be transferred~~] into the Pool Account.

2206 (e) [~~Unallocated~~] On the third Saturday of December, the board of review shall transfer
2207 uncollected volume cap or allocated volume cap for which bonds have not been issued prior to
2208 the third Saturday of December [~~shall be transferred on that date~~] into the Carryforward
2209 Account.

2210 (f) If the authority to issue bonds designated in any allotment account is rescinded by
2211 amendment to the code, the board of review may transfer any unallocated volume cap from that
2212 allotment account to any other allotment account.

2213 Section 53. Section **63M-1-2907**, which is renumbered from Section 9-4-507 is
2214 renumbered and amended to read:

2215 **[9-4-507]. 63M-1-2907. Certificates of allocation.**

2216 (1) (a) After an allocation of volume cap for a project or program is approved by the
2217 board of review, the board shall issue a numbered certificate of allocation [~~shall be issued~~]
2218 stating the amount of the allocation, the allotment account for which the allocation is being
2219 made, and the expiration date of the allocation.

2220 (b) The certificates of allocation shall be mailed to the issuing authority within 10
2221 working days of the date of approval.

2222 (c) No bonds are entitled to any allocation of the volume cap unless the issuing
2223 authority received a certificate of allocation with respect to the bonds.

2224 (d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the
2225 date of approval.

2226 (ii) If bonds for which a certificate has been approved are not issued within the 90-day

2227 period, the certificate of allocation is void and volume cap shall be returned to the applicable
2228 allotment account for reallocation by the board of review.

2229 (2) (a) An issuing authority receiving an allocation of volume cap from the
2230 Carryforward Account shall receive a certificate of allocation similar to the certificates of
2231 allocation described in Subsection (1) from the board of review stating the amount of allocation
2232 from the Carryforward Account that ~~[have]~~ has been allocated to the issuing authority and the
2233 expiration of the allocation.

2234 (b) If in the judgment of the board of review ~~[any]~~ an issuing authority or ~~[any]~~ a
2235 person or entity responsible for a project or program receiving an allocation from the
2236 Carryforward Account does not proceed with diligence in providing for the issuance of the
2237 bonds with respect to the project or program, and because of the lack of ~~[such]~~ diligence the
2238 volume cap cannot be used, the board of review may exclude from its consideration for a given
2239 period of time, determined by the board of review, ~~[applications]~~ an application of ~~[these]~~ the
2240 issuing ~~[authorities or persons or entities]~~ authority, person, or entity. The board of review
2241 may, at any time, review and modify its decisions relating to this exclusion.

2242 Section 54. Section ~~63M-1-2908~~, which is renumbered from Section 9-4-508 is
2243 renumbered and amended to read:

2244 ~~[9-4-508]~~. **63M-1-2908. Issuing authorities -- Limitations -- Duties.**

2245 (1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds
2246 without a certificate of allocation issued under Section ~~[9-4-507]~~ 63M-1-2907, or an issuing
2247 authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an
2248 allocation of the volume cap for those bonds.

2249 (b) An issuing authority issuing bonds in excess of the amount set forth in the related
2250 certificate of allocation is not entitled to an allocation of the volume cap for the excess.

2251 (2) Each issuing authority shall:

2252 (a) advise the board of review, within 15 days after the issuance of bonds, of the
2253 principal amount of bonds issued under each certificate of allocation by delivering to the board
2254 of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal
2255 Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered
2256 to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of
2257 review with respect to the bonds; and

2258 (b) if all or a stated portion of the bonds for which a certificate of allocation was
2259 received will not be issued, advise the board of review in writing, within 15 days of the earlier
2260 of:

2261 (i) the final decision not to issue all or a stated portion of the bonds; or

2262 (ii) the expiration of the certificate of allocation.

2263 (3) Failure by an issuing authority to notify the board of review under Subsection (2),
2264 including failure to timely deliver a Form 8038, may, in the sole discretion of the board of
2265 review, result in the issuing authority being denied further consideration of applications.

2266 Section 55. Section **63M-1-2909**, which is renumbered from Section 9-4-509 is
2267 renumbered and amended to read:

2268 ~~[9-4-509].~~ **63M-1-2909. Procedures -- Adjudicative proceedings.**

2269 The board of review shall comply with the procedures and requirements of Title 63G,
2270 Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

2271 Section 56. Section **63M-7-301** is amended to read:

2272 **63M-7-301. Definitions -- Creation of council -- Membership -- Terms.**

2273 (1) (a) As used in this part, "council" means the Utah Substance Abuse Advisory
2274 Council created in this section.

2275 (b) There is created within the governor's office the Utah Substance Abuse Advisory
2276 Council.

2277 (2) The council shall be comprised of the following voting members:

2278 (a) the attorney general or the attorney general's designee;

2279 (b) a county commissioner designated by the Utah Association of Counties;

2280 (c) the commissioner of public safety or the commissioner's designee;

2281 (d) the director of the Division of Substance Abuse and Mental Health or the director's
2282 designee;

2283 (e) the state superintendent of public instruction or the superintendent's designee;

2284 (f) the director of the Department of Health or the director's designee;

2285 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
2286 executive director's designee;

2287 (h) the governor or the governor's designee;

2288 (i) the executive director of the Department of Corrections or the executive director's

2289 designee;

2290 (j) the director of the Division of Juvenile Justice Services or the director's designee;

2291 (k) the executive director of the private nonprofit Utah Domestic Violence Council or

2292 the executive director's designee;

2293 (l) the director of the Division of Indian Affairs or the director's designee;

2294 (m) the state court administrator or the state court administrator's designee;

2295 (n) the following members designated to serve four-year terms:

2296 (i) a member of the House of Representatives designated by the speaker of the House

2297 of Representatives;

2298 (ii) a member of the Senate designated by the president of the Senate;

2299 (iii) a representative designated by the Utah League of Cities and Towns; and

2300 (iv) a representative from the [~~Office of Ethnic Affairs within the~~] Department of

2301 Community and Culture designated by the director of the office or a designee;

2302 (o) the following members appointed by the governor to serve four-year terms:

2303 (i) a representative of the Utah National Guard;

2304 (ii) one resident of the state who has been personally affected by alcohol or other drug

2305 abuse; and

2306 (iii) one citizen representative;

2307 (p) in addition to the voting members described in Subsections (2)(a) through (o), the

2308 following voting members may be appointed by a majority of the members described in

2309 Subsections (2)(a) through (o) to serve four-year terms:

2310 (i) a person knowledgeable in criminal justice issues;

2311 (ii) a person knowledgeable in substance abuse treatment issues;

2312 (iii) a person knowledgeable in substance abuse prevention issues; and

2313 (iv) a person knowledgeable in judiciary issues; and

2314 (q) in addition to the voting members described in Subsections (2)(a) through (p), one

2315 or more chairs or co-chairs of a committee established by the council under Subsection

2316 63M-7-302(5) may be appointed as a voting member by a majority of the members described in

2317 Subsections (2)(a) through (p).

2318 (3) A person other than a person described in Subsection (2) may not be appointed as a

2319 voting member of the council.

2320 Section 57. **Legislative findings -- Interim study --Report.**

2321 (1) The Legislature finds that it is in the best interest of the state for the Department of
2322 Community and Culture, through its executive director, to conduct an in-depth assessment of
2323 the department to determine what internal restructuring or assignment of its functions,
2324 divisions, and programs to other entities of state government would:

2325 (a) improve the efficiency of government;

2326 (b) reduce the cost of government; and

2327 (c) better focus the state and its employees:

2328 (i) on providing community and cultural development opportunities throughout the
2329 state; and

2330 (ii) in administering and coordinating all state and federal grant programs that are, or
2331 become, available for community and cultural development.

2332 (2) (a) It is the further intent of the Legislature that the reorganization or restructuring
2333 process for the department shall begin with movement of:

2334 (i) the bond volume cap allocation, including the Private Activity Bond Review Board,
2335 to the Governor's Office of Economic Development; and

2336 (ii) the Utah Science Center Authority, the Heber Valley Historic Railroad Authority,
2337 the Utah State Railroad Museum Authority, and the Utah State Fair Corporation to Title 63H,
2338 Independent State Entities.

2339 (b) The moves shall be finalized by July 1, 2011.

2340 (3) (a) It is the further intent of the Legislature that the executive director immediately
2341 conduct a study involving all stakeholders of the various ethnic groups throughout the state, as
2342 to the state's changing demographics and how the needs of these groups might best be met by
2343 and represented in state government.

2344 (4) (a) It is the further intent of the Legislature that the executive director to the
2345 Department of Community and Culture coordinate and direct the assessment, restructuring, and
2346 movement, if any, of its functions, division, and programs to other entities of state government.

2347 (b) In conducting the activities under Subsection (4)(a), the director or the director's
2348 designee shall hold meetings and solicit input from stakeholders throughout the state,
2349 including:

2350 (i) representatives from community, ethnic, and cultural entities;

2351 (ii) representatives of the arts, libraries, history, and museums;

2352 (iii) Indian tribal leaders;

2353 (iv) communities and individuals served by the department; and

2354 (v) business and community leaders.

2355 (c) The director or the director's designee shall conduct a study of various options for
2356 assessing or restructuring the department and its divisions, including:

2357 (i) retaining or moving the Division of Housing and Community Development or its
2358 major components; and

2359 (ii) retaining or moving the Divisions of Arts and Museums, State History, and
2360 Libraries.

2361 (d) The director or the director's designee may request assistance from agencies
2362 identified as recipients of restructuring, and request assistance, support, and involvement from
2363 local government, private business, and other affected parties in conducting the assessment,
2364 restructuring, and dispersion.

2365 (5) (a) It is the further intent of the Legislature that the interim director shall prepare
2366 and present a report regarding the assessment, restructuring, and dispersion to:

2367 (i) the governor by August 31, 2011;

2368 (ii) the Legislature's Workforce Services and Community and Economic Development
2369 Interim Committee by October 19, 2011; and

2370 (iii) the Legislative Management Committee by December 15, 2011.

2371 (b) The report shall include any anticipated cost savings, stakeholder
2372 recommendations, and statutory or rule changes required to implement restructuring and
2373 transitioning.

2373a **§→ Section 58. Appropriation.**

2373b **As an ongoing appropriation subject to future budget constraints, there is appropriated**
2373c **from the General Fund for fiscal year 2011-12, \$104,400 to the Department of Community and**
2373d **Culture to offset the loss of funds by the department related to the shifting of the Bond Volume**
2373e **Allocation Cap program to the Governor's Office of Economic Development.**

2373f **To Governor's Office of Economic Development - Business Development**
2373g **From General Fund (\$104,400)**

2373h **Schedule of Programs**

2373i **Business Growth (\$104,000)**

2373j **To Department of Community and Culture - Housing and Community Development**

2373k **From General Fund \$104,000**

2373l **Schedule of Programs**

2373m **Administration \$104,000 ←\$**

FISCAL NOTE

H.B. 287 2nd Sub. (Gray)

SHORT TITLE: Restructuring of the Department of Community and Culture

SPONSOR: Harper, W.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

The bill would save GOED \$104,400 in Private Activity Bond Dedicated Credits currently used for administration in Housing and Community Development. It would cost Housing and Community Development that same \$104,400 from the General Fund. A subsequent General Fund reallocation from GOED to HCD could make the reorganization directed by the bill revenue neutral.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$104,400	\$104,400
Dedicated Credits	\$0	(\$104,400)	(\$104,400)
Total Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	(\$104,400)	(\$104,400)

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.

