LONG TITLE

General Description:
This bill modifies statutory provisions related to the Governor's Office of Economic Development (GOED).

Highlighted Provisions:
This bill:
- creates Title 63N, Governor's Office of Economic Development;
- recodifies statutory provisions related to GOED;
- modifies the organization of GOED, the Board of Business and Economic Development, and the Governor's Economic Development Coordinating Council; and
- makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:
17-31-9, as enacted by Laws of Utah 2014, Chapter 429
26-18-14, as enacted by Laws of Utah 2008, Chapter 383
26-18-18, as enacted by Laws of Utah 2013, Chapter 477
31A-2-201.2, as last amended by Laws of Utah 2013, Chapter 319
31A-2-212, as last amended by Laws of Utah 2013, Chapter 341
31A-2-218, as enacted by Laws of Utah 2008, Chapter 383
31A-22-613.5, as last amended by Laws of Utah 2012, Chapter 279
31A-22-635, as last amended by Laws of Utah 2014, Chapters 290 and 300
31A-22-726, as enacted by Laws of Utah 2011, Chapter 278
31A-23a-402, as last amended by Laws of Utah 2013, Chapter 319
31A-30-102, as last amended by Laws of Utah 2014, Chapters 290 and 300
31A-30-116, as enacted by Laws of Utah 2012, Chapter 279
31A-30-117, as last amended by Laws of Utah 2014, Chapter 425
31A-30-202, as last amended by Laws of Utah 2010, Chapter 68
31A-30-204, as last amended by Laws of Utah 2010, Chapter 68
31A-30-208, as last amended by Laws of Utah 2013, Chapters 319 and 341
31A-30-302, as enacted by Laws of Utah 2014, Chapter 425
35A-1-104.5, as last amended by Laws of Utah 2012, Chapter 119
53A-1-410, as last amended by Laws of Utah 2014, Chapter 372
59-7-610, as last amended by Laws of Utah 2008, Chapter 382
59-7-614.2, as last amended by Laws of Utah 2012, Chapters 246 and 410
59-7-614.5, as last amended by Laws of Utah 2012, Chapter 246
59-7-614.6, as last amended by Laws of Utah 2012, Chapter 423
59-7-614.8, as enacted by Laws of Utah 2012, Chapter 410
59-7-616, as enacted by Laws of Utah 2014, Chapter 429
59-10-210, as last amended by Laws of Utah 2008, Chapters 382 and 389
59-10-1007, as last amended by Laws of Utah 2008, Chapter 382
59-10-1025, as last amended by Laws of Utah 2012, Chapter 423
59-10-1030, as enacted by Laws of Utah 2012, Chapter 410
59-10-1107, as last amended by Laws of Utah 2012, Chapters 246 and 410
59-10-1108, as last amended by Laws of Utah 2012, Chapter 246
59-10-1109, as last amended by Laws of Utah 2012, Chapter 423
58 59-10-1110, as enacted by Laws of Utah 2014, Chapter 429
59 59-12-103, as last amended by Laws of Utah 2014, Chapters 380 and 429
60 59-12-301, as last amended by Laws of Utah 2012, Chapter 369
61 63A-3-402, as last amended by Laws of Utah 2014, Chapters 64 and 185
62 63E-1-102, as last amended by Laws of Utah 2014, Chapters 320, 426, and 426
63 63F-1-205, as last amended by Laws of Utah 2014, Chapter 196
64 63G-2-305, as last amended by Laws of Utah 2014, Chapters 90 and 320
65 63G-6a-303, as last amended by Laws of Utah 2014, Chapter 196
66 63G-6a-304, as renumbered and amended by Laws of Utah 2012, Chapter 347
67 63G-6a-305, as last amended by Laws of Utah 2013, Chapter 445
68 63G-6a-711, as last amended by Laws of Utah 2013, Chapter 445
69 63I-1-263, as last amended by Laws of Utah 2014, Chapters 113, 189, 195, 211, 419, 429, and 435
70 63I-2-263, as last amended by Laws of Utah 2014, Chapters 172, 423, and 427
71 63I-4a-102, as last amended by Laws of Utah 2014, Chapter 320
72 63J-1-315, as enacted by Laws of Utah 2011, Chapter 211
73 63J-1-602.4, as last amended by Laws of Utah 2014, Chapters 37, 186, and 189
74 63J-4-603, as last amended by Laws of Utah 2013, Chapters 101 and 337
75 63J-7-102, as last amended by Laws of Utah 2014, Chapter 320
76 63M-2-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
77 79-4-1103, as enacted by Laws of Utah 2014, Chapter 313
79 ENACTS:
80 63N-2-301, Utah Code Annotated 1953
81 63N-5-110, Utah Code Annotated 1953
82 63N-12-201, Utah Code Annotated 1953
83 RENUMBERS AND AMENDS:
84 63G-19-101, (Renumbered from 63M-1-1001, as renumbered and amended by Laws of
85 Utah 2008, Chapter 382)
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63G-19-102, (Renumbered from 63M-1-1002, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63G-19-103, (Renumbered from 63M-1-1003, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-101, (Renumbered from 63M-1-101, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-102, (Renumbered from 63M-1-102, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-201, (Renumbered from 63M-1-201, as last amended by Laws of Utah 2014, Chapter 371)

63N-1-202, (Renumbered from 63M-1-202, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-203, (Renumbered from 63M-1-203, as last amended by Laws of Utah 2008, Chapter 352 and renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-204, (Renumbered from 63M-1-205, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-1-301, (Renumbered from 63M-1-206, as enacted by Laws of Utah 2014, Chapter 371)

63N-1-401, (Renumbered from 63M-1-302, as last amended by Laws of Utah 2010, Chapter 286)

63N-1-402, (Renumbered from 63M-1-303, as last amended by Laws of Utah 2014, Chapter 173)

63N-1-501, (Renumbered from 63M-1-1303, as enacted by Laws of Utah 2011, Chapter 236)

63N-1-502, (Renumbered from 63M-1-1304, as last amended by Laws of Utah 2014, Chapter 371)

63N-2-101, (Renumbered from 63M-1-2401, as enacted by Laws of Utah 2008, Chapter 372)
63N-2-102, (Renumbered from 63M-1-2402, as enacted by Laws of Utah 2008, Chapter 372)
63N-2-103, (Renumbered from 63M-1-2403, as last amended by Laws of Utah 2010, Chapters 104 and 164)
63N-2-104, (Renumbered from 63M-1-2404, as last amended by Laws of Utah 2013, Chapter 392)
63N-2-105, (Renumbered from 63M-1-2405, as last amended by Laws of Utah 2013, Chapter 392)
63N-2-106, (Renumbered from 63M-1-2406, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-107, (Renumbered from 63M-1-2407, as last amended by Laws of Utah 2013, Chapter 310)
63N-2-108, (Renumbered from 63M-1-2409, as enacted by Laws of Utah 2010, Chapter 164)
63N-2-201, (Renumbered from 63M-1-401, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-2-202, (Renumbered from 63M-1-402, as last amended by Laws of Utah 2011, Chapter 84)
63N-2-203, (Renumbered from 63M-1-403, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-204, (Renumbered from 63M-1-404, as last amended by Laws of Utah 2013, Chapter 358)
63N-2-205, (Renumbered from 63M-1-405, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-2-206, (Renumbered from 63M-1-406, as last amended by Laws of Utah 2011, Chapter 84)
63N-2-207, (Renumbered from 63M-1-407, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-2-208, (Renumbered from 63M-1-408, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-209, (Renumbered from 63M-1-409, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-210, (Renumbered from 63M-1-410, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-211, (Renumbered from 63M-1-411, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-212, (Renumbered from 63M-1-412, as last amended by Laws of Utah 2011, Chapter 84)

63N-2-213, (Renumbered from 63M-1-413, as last amended by Laws of Utah 2014, Chapter 259)

63N-2-214, (Renumbered from 63M-1-414, as last amended by Laws of Utah 2011, Chapter 84)

63N-2-215, (Renumbered from 63M-1-415, as last amended by Laws of Utah 2008, Chapter 114 and renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-302, (Renumbered from 63M-1-501, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-303, (Renumbered from 63M-1-502, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-304, (Renumbered from 63M-1-503, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-305, (Renumbered from 63M-1-504, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-401, (Renumbered from 63M-1-1101, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-402, (Renumbered from 63M-1-1102, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-2-403, (Renumbered from 63M-1-1103, as last amended by Laws of Utah 2014, Chapter 371)

63N-2-404, (Renumbered from 63M-1-1104, as last amended by Laws of Utah 2009, Chapter 183)

63N-2-405, (Renumbered from 63M-1-1105, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-406, (Renumbered from 63M-1-1106, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-407, (Renumbered from 63M-1-1107, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-408, (Renumbered from 63M-1-1108, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-409, (Renumbered from 63M-1-1109, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-410, (Renumbered from 63M-1-1110, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-411, (Renumbered from 63M-1-1111, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-2-412, (Renumbered from 63M-1-1112, as last amended by Laws of Utah 2011, Chapter 392)

63N-2-501, (Renumbered from 63M-1-3401, as enacted by Laws of Utah 2014, Chapter 429)

63N-2-502, (Renumbered from 63M-1-3402, as enacted by Laws of Utah 2014, Chapter 429)

63N-2-503, (Renumbered from 63M-1-3403, as enacted by Laws of Utah 2014, Chapter 429)

63N-2-504, (Renumbered from 63M-1-3404, as enacted by Laws of Utah 2014, Chapter 429)
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63N-2-606, (Renumbered from 63M-1-3506, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-607, (Renumbered from 63M-1-3507, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-608, (Renumbered from 63M-1-3508, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-609, (Renumbered from 63M-1-3509, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-610, (Renumbered from 63M-1-3510, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-611, (Renumbered from 63M-1-3511, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-612, (Renumbered from 63M-1-3512, as enacted by Laws of Utah 2014, Chapter 435)
63N-2-701, (Renumbered from 63M-1-3101, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-702, (Renumbered from 63M-1-3102, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-703, (Renumbered from 63M-1-3103, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-704, (Renumbered from 63M-1-3104, as enacted by Laws of Utah 2012, Chapter 410)
63N-2-705, (Renumbered from 63M-1-3105, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-801, (Renumbered from 63M-1-2901, as enacted by Laws of Utah 2011, Chapter 306)
63N-2-802, (Renumbered from 63M-1-2902, as last amended by Laws of Utah 2012, Chapter 423)
63N-2-803, (Renumbered from 63M-1-2903, as last amended by Laws of Utah 2012, Chapter 423)
63N-2-804, (Renumbered from 63M-1-2904, as enacted by Laws of Utah 2011, Chapter 306)
63N-2-805, (Renumbered from 63M-1-2905, as last amended by Laws of Utah 2012, Chapter 423)
63N-2-806, (Renumbered from 63M-1-2906, as enacted by Laws of Utah 2011, Chapter 306)
63N-2-807, (Renumbered from 63M-1-2907, as enacted by Laws of Utah 2011, Chapter 306)
63N-2-808, (Renumbered from 63M-1-2908, as last amended by Laws of Utah 2012, Chapter 423)
63N-2-809, (Renumbered from 63M-1-2909, as last amended by Laws of Utah 2012, Chapter 423)
63N-2-810, (Renumbered from 63M-1-2910, as last amended by Laws of Utah 2014, Chapter 371)
63N-2-811, (Renumbered from 63M-1-2911, as last amended by Laws of Utah 2013, Chapter 310)
63N-3-101, (Renumbered from 63M-1-901, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-102, (Renumbered from 63M-1-902, as last amended by Laws of Utah 2010, Chapters 245 and 278)
63N-3-103, (Renumbered from 63M-1-903, as last amended by Laws of Utah 2014, Chapter 435)
63N-3-104, (Renumbered from 63M-1-904, as last amended by Laws of Utah 2014, Chapter 371)
63N-3-105, (Renumbered from 63M-1-906, as last amended by Laws of Utah 2012, Chapter 208)
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282 63N-3-106, (Renumbered from 63M-1-905, as last amended by Laws of Utah 2011, Chapters 211 and 303)
283 63N-3-107, (Renumbered from 63M-1-907, as renumbered and amended by Laws of Utah 2008, Chapter 382)
284 63N-3-108, (Renumbered from 63M-1-908, as last amended by Laws of Utah 2010, Chapter 278)
285 63N-3-109, (Renumbered from 63M-1-909, as last amended by Laws of Utah 2013, Chapter 173)
286 63N-3-110, (Renumbered from 63M-1-909.5, as last amended by Laws of Utah 2013, Chapter 173)
287 63N-3-111, (Renumbered from 63M-1-910, as last amended by Laws of Utah 2013, Chapter 310)
288 63N-3-201, (Renumbered from 63M-1-701, as last amended by Laws of Utah 2011, Chapter 392)
289 63N-3-202, (Renumbered from 63M-1-702, as last amended by Laws of Utah 2014, Chapter 418)
290 63N-3-203, (Renumbered from 63M-1-703, as last amended by Laws of Utah 2014, Chapter 418)
291 63N-3-204, (Renumbered from 63M-1-704, as last amended by Laws of Utah 2014, Chapters 371, 418 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 418)
292 63N-3-205, (Renumbered from 63M-1-705, as last amended by Laws of Utah 2011, Chapter 392)
293 63N-3-301, (Renumbered from 63M-1-2701, as enacted by Laws of Utah 2008, Chapter 50)
294 63N-3-302, (Renumbered from 63M-1-2702, as enacted by Laws of Utah 2008, Chapter 50)
295 63N-3-303, (Renumbered from 63M-1-2703, as enacted by Laws of Utah 2008, Chapter ...
63N-3-304, (Renumbered from 63M-1-2704, as last amended by Laws of Utah 2014, Chapter 371)
63N-3-305, (Renumbered from 63M-1-2705, as enacted by Laws of Utah 2008, Chapter 50)
63N-3-306, (Renumbered from 63M-1-2706, as last amended by Laws of Utah 2011, Chapter 112)
63N-3-307, (Renumbered from 63M-1-2707, as last amended by Laws of Utah 2011, Chapter 112)
63N-3-401, (Renumbered from 63M-1-2201, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-402, (Renumbered from 63M-1-2202, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-3-403, (Renumbered from 63M-1-2203, as last amended by Laws of Utah 2013, Chapter 400)
63N-4-101, (Renumbered from 63M-1-1601, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-4-102, (Renumbered from 63M-1-1602, as last amended by Laws of Utah 2008, Chapter 381 and renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-4-103, (Renumbered from 63M-1-1603, as last amended by Laws of Utah 2014, Chapter 259)
63N-4-104, (Renumbered from 63M-1-1604, as last amended by Laws of Utah 2014, Chapter 259)
63N-4-105, (Renumbered from 63M-1-1605, as last amended by Laws of Utah 2014, Chapter 259)
63N-4-106, (Renumbered from 63M-1-1606, as last amended by Laws of Utah 2014, Chapter 371)
63N-4-201, (Renumbered from 63M-1-2001, as renumbered and amended by Laws of
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Utah 2008, Chapter 382)

63N-4-202, (Renumbered from 63M-1-2002, as last amended by Laws of Utah 2014,
Chapter 203)

63N-4-203, (Renumbered from 63M-1-2004, as last amended by Laws of
Chapter 203)

63N-4-204, (Renumbered from 63M-1-2005, as renumbered and amended by Laws of
Utah 2008, Chapter 382)

63N-4-205, (Renumbered from 63M-1-2006, as last amended by Laws of Utah 2014,
Chapter 371)

63N-5-101, (Renumbered from 63M-1-3001, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-102, (Renumbered from 63M-1-3002, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-103, (Renumbered from 63M-1-3003, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-104, (Renumbered from 63M-1-3004, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-105, (Renumbered from 63M-1-3005, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-106, (Renumbered from 63M-1-3006, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-107, (Renumbered from 63M-1-3007, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-108, (Renumbered from 63M-1-3008, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-5-109, (Renumbered from 63M-1-3009, as renumbered and amended by Laws of
Utah 2011, Chapter 370)

63N-6-101, (Renumbered from 63M-1-1201, as renumbered and amended by Laws of
Utah 2008, Chapter 382)
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Utah 2008, Chapter 382)

63N-6-102, (Renumbered from 63M-1-1202, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-103, (Renumbered from 63M-1-1203, as last amended by Laws of Utah 2014, Chapter 334)

63N-6-201, (Renumbered from 63M-1-1204, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-202, (Renumbered from 63M-1-1205, as last amended by Laws of Utah 2014, Chapter 334)

63N-6-203, (Renumbered from 63M-1-1206, as last amended by Laws of Utah 2014, Chapters 334, 371 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 334)

63N-6-301, (Renumbered from 63M-1-1207, as last amended by Laws of Utah 2011, Chapter 342)

63N-6-302, (Renumbered from 63M-1-1208, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-303, (Renumbered from 63M-1-1209, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-304, (Renumbered from 63M-1-1210, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-305, (Renumbered from 63M-1-1211, as last amended by Laws of Utah 2010, Chapter 278)

63N-6-306, (Renumbered from 63M-1-1212, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-401, (Renumbered from 63M-1-1213, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-6-402, (Renumbered from 63M-1-1214, as last amended by Laws of Utah 2014, Chapter 334)
63N-6-403, (Renumbered from 63M-1-1215, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-404, (Renumbered from 63M-1-1216, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-405, (Renumbered from 63M-1-1217, as last amended by Laws of Utah 2014, Chapter 334)
63N-6-406, (Renumbered from 63M-1-1218, as last amended by Laws of Utah 2014, Chapter 334)
63N-6-407, (Renumbered from 63M-1-1219, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-408, (Renumbered from 63M-1-1220, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-409, (Renumbered from 63M-1-1221, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-410, (Renumbered from 63M-1-1222, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-6-411, (Renumbered from 63M-1-1223, as last amended by Laws of Utah 2013, Chapter 73)
63N-6-412, (Renumbered from 63M-1-1224, as last amended by Laws of Utah 2008, Chapter 18 and renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-7-101, (Renumbered from 63M-1-1401, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-7-102, (Renumbered from 63M-1-1402, as last amended by Laws of Utah 2010, Chapter 286)
63N-7-103, (Renumbered from 63M-1-1403, as last amended by Laws of Utah 2014, Chapter 429)
63N-7-201, (Renumbered from 63M-1-1404, as last amended by Laws of Utah 2014, Chapter 371)
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63N-7-202, (Renumbered from 63M-1-1405, as renumbered and amended by Laws of Utah 2008, Chapter 382)

63N-7-301, (Renumbered from 63M-1-1406, as last amended by Laws of Utah 2014, Chapter 423)

63N-8-101, (Renumbered from 63M-1-1801, as last amended by Laws of Utah 2009, Chapter 135)

63N-8-102, (Renumbered from 63M-1-1802, as last amended by Laws of Utah 2011, Chapter 338)

63N-8-103, (Renumbered from 63M-1-1803, as last amended by Laws of Utah 2011, Chapter 338)

63N-8-104, (Renumbered from 63M-1-1804, as last amended by Laws of Utah 2011, Chapter 338)

63N-8-105, (Renumbered from 63M-1-1805, as last amended by Laws of Utah 2014, Chapter 371)

63N-9-101, (Renumbered from 63M-1-3301, as enacted by Laws of Utah 2013, Chapter 25)

63N-9-102, (Renumbered from 63M-1-3302, as enacted by Laws of Utah 2013, Chapter 25)

63N-9-103, (Renumbered from 63M-1-3303, as enacted by Laws of Utah 2013, Chapter 25)

63N-9-104, (Renumbered from 63M-1-3304, as enacted by Laws of Utah 2013, Chapter 25)

63N-9-105, (Renumbered from 63M-1-3305, as enacted by Laws of Utah 2013, Chapter 25)

63N-9-106, (Renumbered from 63M-1-3306, as repealed and reenacted by Laws of Utah 2014, Chapter 371)

63N-10-101, (Renumbered from 63C-11-101, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
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450 63N-10-102, (Renumbered from 63C-11-102, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
451
452 63N-10-201, (Renumbered from 63C-11-201, as last amended by Laws of Utah 2010, Chapter 286)
453
454 63N-10-202, (Renumbered from 63C-11-202, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
455
456 63N-10-203, (Renumbered from 63C-11-203, as enacted by Laws of Utah 2009, Chapter 369)
457
458 63N-10-204, (Renumbered from 63C-11-204, as enacted by Laws of Utah 2009, Chapter 369)
459
460 63N-10-205, (Renumbered from 63C-11-205, as enacted by Laws of Utah 2009, Chapter 369)
461
462 63N-10-301, (Renumbered from 63C-11-301, as last amended by Laws of Utah 2011, Chapter 342)
463
464 63N-10-302, (Renumbered from 63C-11-302, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
465
466 63N-10-303, (Renumbered from 63C-11-303, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
467
468 63N-10-304, (Renumbered from 63C-11-304, as last amended by Laws of Utah 2011, Chapter 342)
469
470 63N-10-305, (Renumbered from 63C-11-305, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
471
472 63N-10-306, (Renumbered from 63C-11-306, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
473
474 63N-10-307, (Renumbered from 63C-11-307, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
475
476 63N-10-308, (Renumbered from 63C-11-308, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-309, (Renumbered from 63C-11-309, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-310, (Renumbered from 63C-11-310, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-311, (Renumbered from 63C-11-311, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-312, (Renumbered from 63C-11-312, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-313, (Renumbered from 63C-11-313, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-314, (Renumbered from 63C-11-314, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-315, (Renumbered from 63C-11-315, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-316, (Renumbered from 63C-11-316, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-317, (Renumbered from 63C-11-317, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-10-318, (Renumbered from 63C-11-318, as repealed and reenacted by Laws of Utah 2009, Chapter 369)
63N-11-101, (Renumbered from 63M-1-2501, as enacted by Laws of Utah 2008, Chapter 383)
63N-11-102, (Renumbered from 63M-1-2502, as enacted by Laws of Utah 2008, Chapter 383)
63N-11-103, (Renumbered from 63M-1-2503, as enacted by Laws of Utah 2008, Chapter 383)
63N-11-104, (Renumbered from 63M-1-2504, as last amended by Laws of Utah 2014, Chapters 371 and 425)
63N-11-105, (Renumbered from 63M-1-2505, as enacted by Laws of Utah 2008, Chapter 383)
63N-11-106, (Renumbered from 63M-1-2505.5, as last amended by Laws of Utah 2013, Chapter 341)
63N-11-107, (Renumbered from 63M-1-2506, as last amended by Laws of Utah 2011, Chapter 400)
63N-12-101, (Renumbered from 63M-1-601, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-12-102, (Renumbered from 63M-1-602, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-12-103, (Renumbered from 63M-1-603, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-12-104, (Renumbered from 63M-1-604, as last amended by Laws of Utah 2012, Chapter 212)
63N-12-105, (Renumbered from 63M-1-605, as last amended by Laws of Utah 2014, Chapter 371)
63N-12-106, (Renumbered from 63M-1-606, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-12-107, (Renumbered from 63M-1-607, as renumbered and amended by Laws of Utah 2008, Chapter 382)
63N-12-108, (Renumbered from 63M-1-608, as last amended by Laws of Utah 2013, Chapter 336)
63N-12-202, (Renumbered from 63M-1-3201, as last amended by Laws of Utah 2014, Chapter 318)
63N-12-203, (Renumbered from 63M-1-3202, as last amended by Laws of Utah 2014, Chapter 318)
63N-12-204, (Renumbered from 63M-1-3203, as last amended by Laws of Utah 2014, Chapters 189 and 318)
562 63N-13-206, (Renumbered from 63M-1-2606, as last amended by Laws of Utah 2013, Chapters 310 and 310)
564 63N-13-207, (Renumbered from 63M-1-2607, as last amended by Laws of Utah 2013, Chapters 310 and 310)
566 63N-13-208, (Renumbered from 63M-1-2608, as last amended by Laws of Utah 2012, Chapter 347)
568 63N-13-209, (Renumbered from 63M-1-2609, as last amended by Laws of Utah 2013, Chapter 310)
570 63N-13-210, (Renumbered from 63M-1-2610, as last amended by Laws of Utah 2012, Chapter 347)
572 63N-13-211, (Renumbered from 63M-1-2611, as last amended by Laws of Utah 2010, Chapter 286)
574 63N-13-212, (Renumbered from 63M-1-2612, as last amended by Laws of Utah 2013, Chapters 310 and 400)
576 REPEALS:
577 63M-1-204, as renumbered and amended by Laws of Utah 2008, Chapter 382
578 63M-1-207, as enacted by Laws of Utah 2014, Chapter 427
579 63M-1-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
580 63M-1-304, as renumbered and amended by Laws of Utah 2008, Chapter 382
581 63M-1-801, as renumbered and amended by Laws of Utah 2008, Chapter 382
582 63M-1-802, as renumbered and amended by Laws of Utah 2008, Chapter 382
583 63M-1-1301, as enacted by Laws of Utah 2011, Chapter 236
584 63M-1-1302, as enacted by Laws of Utah 2011, Chapter 236
585 63M-1-1901, as last amended by Laws of Utah 2014, Chapter 371
586 63M-1-2408, as last amended by Laws of Utah 2010, Chapters 164, 323, and 391

588 Be it enacted by the Legislature of the state of Utah:
589 Section 1. Section 17-31-9 is amended to read:

A county in which a qualified hotel, as defined in Section [63M-1-3402] 63N-2-502, is located shall:

1. make an annual payment to the Division of Finance:
   a. for deposit into the Stay Another Day and Bounce Back Fund, established in Section [63M-1-3411] 63N-2-511;
   b. for any year in which the Governor's Office of Economic Development issues a tax credit certificate, as defined in Section [63M-1-3402] 63N-2-502; and
   c. in the amount of 5% of the state portion, as defined in Section [63M-1-3402] 63N-2-502; and
2. make payments to the Division of Finance:
   a. for deposit into the Hotel Impact Mitigation Fund, created in Section [63M-1-3412] 63N-2-512;
   b. for each year described in Subsection [63M-1-3412] 63N-2-512(5)(a)(ii) during which the balance of the Hotel Impact Mitigation Fund, defined in Section [63M-1-3412] 63N-2-512, is less than $2,100,000 before any payment for that year under Subsection [63M-1-3412] 63N-2-512(5)(a); and
   c. in the amount of the difference between $2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section [63M-1-3412] 63N-2-512, before any payment for that year under Subsection [63M-1-3412] 63N-2-512(5)(a).

Section 2. Section 26-18-14 is amended to read:


The department, including the Division of Health Care Financing within the department, shall:

1. work with the Governor's Office of Economic Development, the Insurance Department, the Department of Workforce Services, and the Legislature to develop health system reform in accordance with the strategic plan described in Title [63M] 63N, Chapter [†]
11. [Part 25,] Health System Reform Act;

(2) develop and submit amendments and waivers for the state's Medicaid plan as necessary to carry out the provisions of the Health System Reform Act;

(3) seek federal approval of an amendment to Utah's Premium Partnership for Health Insurance that would allow the state's Medicaid program to subsidize the purchase of health insurance by an individual who does not have access to employer sponsored health insurance;

(4) in coordination with the Department of Workforce Services:

(a) establish a Children's Health Insurance Program eligibility policy, consistent with federal requirements and Subsection 26-40-105(1)(d), that prohibits enrollment of a child in the program if the child's parent qualifies for assistance under Utah's Premium Partnership for Health Insurance; and

(b) involve community partners, insurance agents and producers, community based service organizations, and the education community to increase enrollment of eligible employees and individuals in Utah's Premium Partnership for Health Insurance and the Children's Health Insurance Program; and

(5) as funding permits, and in coordination with the department's adoption of standards for the electronic exchange of clinical health data, help the private sector form an alliance of employers, hospitals and other health care providers, patients, and health insurers to develop and use evidence-based health care quality measures for the purpose of improving health care decision making by health care providers, consumers, and third party payers.

Section 3. Section 26-18-18 is amended to read:


(1) For purposes of this section PPACA is as defined in Section 31A-1-301.

(2) The department and the governor shall not expand the state's Medicaid program to the optional population under PPACA unless:

(a) the Health Reform Task Force has completed a thorough analysis of a statewide charity care system;

(b) the department and its contractors have:
completed a thorough analysis of the impact to the state of expanding the state's Medicaid program to optional populations under PPACA; and
(ii) made the analysis conducted under Subsection (2)(b)(i) available to the public;
(c) the governor or the governor's designee has reported the intention to expand the state Medicaid program under PPACA to the Legislature in compliance with the legislative review process in Sections [63M-1-2505.5] 63N-11-106 and 26-18-3; and
(d) notwithstanding Subsection 63J-5-103(2), the governor submits the request for expansion of the Medicaid program for optional populations to the Legislature under the high impact federal funds request process required by Section 63J-5-204, Legislative review and approval of certain federal funds request.

Section 4. Section 31A-2-201.2 is amended to read:

31A-2-201.2. Evaluation of health insurance market.

(1) Each year the commissioner shall:
(a) conduct an evaluation of the state's health insurance market;
(b) report the findings of the evaluation to the Health and Human Services Interim Committee before October 1 of each year; and
(c) publish the findings of the evaluation on the department website.
(2) The evaluation required by this section shall:
(a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the state, and includes an analysis of:
(i) the availability and marketing of individual and group products;
(ii) rate changes;
(iii) coverage and demographic changes;
(iv) benefit trends;
(v) market share changes; and
(vi) accessibility;
(b) assess complaint ratios and trends within the health insurance market, which
assessment shall include complaint data from the Office of Consumer Health Assistance within the department;

(c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes; and

(d) include claims loss ratio data for each health insurance company doing business in the state.

(3) When preparing the evaluation required by this section, the commissioner shall include a report of:

(a) the types of health benefit plans sold in the Health Insurance Exchange created in Section 63M-1-2504; 63N-11-104;

(b) the number of insurers participating in the defined contribution arrangement health benefit plans in the Health Insurance Exchange; and

(c) the number of employers and covered lives in the defined contribution arrangement market in the Health Insurance Exchange.

(4) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured persons, providers, and others with an interest in the health insurance market.

(5) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.

(6) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 5. Section 31A-2-212 is amended to read:

31A-2-212. Miscellaneous duties.

(1) Upon issuance of an order limiting, suspending, or revoking a person's authority to do business in Utah, and when the commissioner begins a proceeding against an insurer under Chapter 27a, Insurer Receivership Act, the commissioner:

(a) shall notify by mail the producers of the person or insurer of whom the
702 commissioner has record; and
703 (b) may publish notice of the order or proceeding in any manner the commissioner
704 considers necessary to protect the rights of the public.
705 (2) When required for evidence in a legal proceeding, the commissioner shall furnish a
706 certificate of authority of a licensee to transact the business of insurance in Utah on any
707 particular date. The court or other officer shall receive the certificate of authority in lieu of the
708 commissioner's testimony.
709 (3) (a) On the request of an insurer authorized to do a surety business, the
710 commissioner shall furnish a copy of the insurer's certificate of authority to a designated public
711 officer in this state who requires that certificate of authority before accepting a bond.
712 (b) The public officer described in Subsection (3)(a) shall file the certificate of
713 authority furnished under Subsection (3)(a).
714 (c) After a certified copy of a certificate of authority is furnished to a public officer, it
715 is not necessary, while the certificate of authority remains effective, to attach a copy of it to any
716 instrument of suretyship filed with that public officer.
717 (d) Whenever the commissioner revokes the certificate of authority or begins a
718 proceeding under Chapter 27a, Insurer Receivership Act, against an insurer authorized to do a
719 surety business, the commissioner shall immediately give notice of that action to each public
720 officer who is sent a certified copy under this Subsection (3).
721 (4) (a) The commissioner shall immediately notify every judge and clerk of the courts
722 of record in the state when:
723 (i) an authorized insurer doing a surety business:
724 (A) files a petition for receivership; or
725 (B) is in receivership; or
726 (ii) the commissioner has reason to believe that the authorized insurer doing surety
727 business:
728 (A) is in financial difficulty; or
729 (B) has unreasonably failed to carry out any of its contracts.
(b) Upon the receipt of the notice required by this Subsection (4), it is the duty of the judges and clerks to notify and require a person that files with the court a bond on which the authorized insurer doing surety business is surety to immediately file a new bond with a new surety.

(5) (a) The commissioner shall report to the Legislature in accordance with Section [63-1-2505.5] prior to adopting a rule authorized by Subsection (5)(b).

(b) The commissioner shall require an insurer that issues, sells, renews, or offers health insurance coverage in this state to comply with the provisions of PPACA and administrative rules adopted by the commissioner related to regulation of health benefit plans, including:

(i) lifetime and annual limits;
(ii) prohibition of rescissions;
(iii) coverage of preventive health services;
(iv) coverage for a child or dependent;
(v) pre-existing condition coverage for children;
(vi) insurer transparency of consumer information including plan disclosures, uniform coverage documents, and standard definitions;
(vii) premium rate reviews;
(viii) essential health benefits;
(ix) provider choice;
(x) waiting periods;
(xi) appeals processes;
(xii) rating restrictions;
(xiii) uniform applications and notice provisions; and
(xiv) certification and regulation of qualified health plans.

(c) The commissioner shall preserve state control over:

(i) the health insurance market in the state;
(ii) qualified health plans offered in the state; and
(iii) the conduct of navigators, producers, and in-person assisters operating in the state.
(d) If the state enters into an agreement with the United States Department of Health and Human Services in which the state operates health insurance plan management, the commissioner may:

(i) for fiscal year 2014, hire one temporary and two permanent full-time employees to be funded through the department's existing budget; and

(ii) for fiscal year 2015, hire two permanent full-time employees funded through the Insurance Department Restricted Account, subject to appropriations from the Legislature and approval by the governor.

Section 6. Section 31A-2-218 is amended to read:

31A-2-218. Strategic plan for health system reform.

The commissioner and the department shall:

(1) work with the Governor's Office of Economic Development, the Department of Health, the Department of Workforce Services, and the Legislature to develop health system reform in accordance with the strategic plan described in Title 63N, Chapter 11, Part 25, Health System Reform Act;

(2) work with health insurers in accordance with Section 31A-22-635 to develop standards for health insurance applications and compatible electronic systems;

(3) facilitate a private sector method for the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others by educating employers and insurers about collection services available through private vendors, including financial institutions;

(4) encourage health insurers to develop products that:

(a) encourage health care providers to follow best practice protocols;

(b) incorporate other health care quality improvement mechanisms; and

(c) incorporate rewards and incentives for healthy lifestyles and behaviors as permitted by the Health Insurance Portability and Accountability Act;

(5) involve the Office of Consumer Health Assistance created in Section 31A-2-216, as
necessary, to accomplish the requirements of this section; and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as necessary, to implement Subsections (2), (3), and (4).

Section 7. Section 31A-22-613.5 is amended to read:

31A-22-613.5. Price and value comparisons of health insurance.

(1) (a) This section applies to all health benefit plans.

(b) Subsection (2) applies to:

(i) all health benefit plans; and

(ii) coverage offered to state employees under Subsection 49-20-202(1)(a).

(2) (a) The commissioner shall promote informed consumer behavior and responsible health benefit plans by requiring an insurer issuing a health benefit plan to:

(i) provide to all enrollees, prior to enrollment in the health benefit plan written disclosure of:

(A) restrictions or limitations on prescription drugs and biologics including:

(I) the use of a formulary;

(II) co-payments and deductibles for prescription drugs; and

(III) requirements for generic substitution;

(B) coverage limits under the plan; and

(C) any limitation or exclusion of coverage including:

(I) a limitation or exclusion for a secondary medical condition related to a limitation or exclusion from coverage; and

(II) easily understood examples of a limitation or exclusion of coverage for a secondary medical condition; and

(ii) provide the commissioner with:

(A) the information described in Subsections 31A-22-635(5) through (7) in the standardized electronic format required by Subsection 63M-1-2506(1); and

(B) information regarding insurer transparency in accordance with Subsection (4).

(b) An insurer shall provide the disclosure required by Subsection (2)(a)(i) in writing to
the commissioner:

(i) upon commencement of operations in the state; and

(ii) anytime the insurer amends any of the following described in Subsection (2)(a)(i):

(A) treatment policies;

(B) practice standards;

(C) restrictions;

(D) coverage limits of the insurer's health benefit plan or health insurance policy; or

(E) limitations or exclusions of coverage including a limitation or exclusion for a secondary medical condition related to a limitation or exclusion of the insurer's health insurance plan.

(c) An insurer shall provide the enrollee with notice of an increase in costs for prescription drug coverage due to a change in benefit design under Subsection (2)(a)(i)(A):

(i) either:

(A) in writing; or

(B) on the insurer's website; and

(ii) at least 30 days prior to the date of the implementation of the increase in cost, or as soon as reasonably possible.

(d) If under Subsection (2)(a)(i)(A) a formulary is used, the insurer shall make available to prospective enrollees and maintain evidence of the fact of the disclosure of:

(i) the drugs included;

(ii) the patented drugs not included;

(iii) any conditions that exist as a precedent to coverage; and

(iv) any exclusion from coverage for secondary medical conditions that may result from the use of an excluded drug.

(e) (i) The commissioner shall develop examples of limitations or exclusions of a secondary medical condition that an insurer may use under Subsection (2)(a)(i)(C).

(ii) Examples of a limitation or exclusion of coverage provided under Subsection (2)(a)(i)(C) or otherwise are for illustrative purposes only, and the failure of a particular fact
842 situation to fall within the description of an example does not, by itself, support a finding of
843 coverage.
844 (3) The commissioner:
845 (a) shall forward the information submitted by an insurer under Subsection (2)(a)(ii) to
846 the Health Insurance Exchange created under Section [63M-1-2504] 63N-11-104; and
847 (b) may request information from an insurer to verify the information submitted by the
848 insurer under this section.
849 (4) The commissioner shall:
850 (a) convene a group of insurers, a member representing the Public Employees' Benefit
851 and Insurance Program, consumers, and an organization that provides multipayer and
852 multiprovider quality assurance and data collection, to develop information for consumers to
853 compare health insurers and health benefit plans on the Health Insurance Exchange, which
854 shall include consideration of:
855 (i) the number and cost of an insurer's denied health claims;
856 (ii) the cost of denied claims that is transferred to providers;
857 (iii) the average out-of-pocket expenses incurred by participants in each health benefit
858 plan that is offered by an insurer in the Health Insurance Exchange;
859 (iv) the relative efficiency and quality of claims administration and other administrative
860 processes for each insurer offering plans in the Health Insurance Exchange; and
861 (v) consumer assessment of each insurer or health benefit plan;
862 (b) adopt an administrative rule that establishes:
863 (i) definition of terms;
864 (ii) the methodology for determining and comparing the insurer transparency
865 information;
866 (iii) the data, and format of the data, that an insurer shall submit to the commissioner in
867 order to facilitate the consumer comparison on the Health Insurance Exchange in accordance
868 with Section [63M-1-2506] 63N-11-107; and
869 (iv) the dates on which the insurer shall submit the data to the commissioner in order
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for the commissioner to transmit the data to the Health Insurance Exchange in accordance with Section [63M-1-2506] [63N-11-107]; and

(c) implement the rules adopted under Subsection (4)(b) in a manner that protects the business confidentiality of the insurer.

Section 8. Section 31A-22-635 is amended to read:

31A-22-635. Uniform application -- Uniform waiver of coverage -- Information on Health Insurance Exchange.

(1) For purposes of this section, "insurer":

(a) is defined in Subsection 31A-22-634(1); and

(b) includes the state employee's risk pool under Section 49-20-202.

(2) (a) Insurers offering a health benefit plan to an individual or small employer shall use a uniform application form.

(b) The uniform application form:

(i) may not include questions about an applicant's health history; and

(ii) shall be shortened and simplified in accordance with rules adopted by the commissioner.

(c) Insurers offering a health benefit plan to a small employer shall use a uniform waiver of coverage form, which may not include health status related questions, and is limited to:

(i) information that identifies the employee;

(ii) proof of the employee's insurance coverage; and

(iii) a statement that the employee declines coverage with a particular employer group.

(3) Notwithstanding the requirements of Subsection (2)(a), the uniform application and uniform waiver of coverage forms may, if the combination or modification is approved by the commissioner, be combined or modified to facilitate a more efficient and consumer friendly experience for:

(a) enrollees using the Health Insurance Exchange; or

(b) insurers using electronic applications.
(4) The uniform application form, and uniform waiver form, shall be adopted and approved by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) An insurer who offers a health benefit plan on the Health Insurance Exchange created in Section [63M-1-2504] 63N-11-104, shall:

(i) accept and process an electronic submission of the uniform application or uniform waiver from the Health Insurance Exchange using the electronic standards adopted pursuant to Section [63M-1-2506] 63N-11-107;

(ii) if requested, provide the applicant with a copy of the completed application either by mail or electronically;

(iii) post all health benefit plans offered by the insurer in the defined contribution arrangement market on the Health Insurance Exchange; and

(iv) post the information required by Subsection (6) on the Health Insurance Exchange for every health benefit plan the insurer offers on the Health Insurance Exchange.

(b) Except as provided in Subsection (5)(c), an insurer who posts health benefit plans on the Health Insurance Exchange may not directly or indirectly offer products on the Health Insurance Exchange that are not health benefit plans.

(c) Notwithstanding Subsection (5)(b):

(i) an insurer may offer a health savings account on the Health Insurance Exchange;

(ii) an insurer may offer dental plans on the Health Insurance Exchange; and

(iii) the department may make administrative rules to regulate the offer of dental plans on the Health Insurance Exchange.

(6) An insurer shall provide the commissioner and the Health Insurance Exchange with the following information for each health benefit plan submitted to the Health Insurance Exchange, in the electronic format required by Subsection [63M-1-2506] 63N-11-107(1):

(a) plan design, benefits, and options offered by the health benefit plan including state mandates the plan does not cover;

(b) information and Internet address to online provider networks;
(c) wellness programs and incentives;
(d) descriptions of prescription drug benefits, exclusions, or limitations;
(e) the percentage of claims paid by the insurer within 30 days of the date a claim is submitted to the insurer for the prior year; and
(f) the claims denial and insurer transparency information developed in accordance with Subsection 31A-22-613.5(4).

(7) The department shall post on the Health Insurance Exchange the department's solvency rating for each insurer who posts a health benefit plan on the Health Insurance Exchange. The solvency rating for each insurer shall be based on methodology established by the department by administrative rule and shall be updated each calendar year.

(8) (a) The commissioner may request information from an insurer under Section 31A-22-613.5 to verify the data submitted to the department and to the Health Insurance Exchange.
(b) The commissioner shall regulate the fees charged by insurers to an enrollee for a uniform application form or electronic submission of the application forms.

Section 9. Section 31A-22-726 is amended to read:

31A-22-726. Abortion coverage restriction in health benefit plan and on health insurance exchange.

(1) As used in this section, "permitted abortion coverage" means coverage for abortion:
(a) that is necessary to avert:
(i) the death of the woman on whom the abortion is performed; or
(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;
(b) of a fetus that has a defect that is documented by a physician or physicians to be uniformly diagnosable and uniformly lethal; or
(c) where the woman is pregnant as a result of:
(i) rape, as described in Section 76-5-402;
(ii) rape of a child, as described in Section 76-5-402.1; or
(iii) incest, as described in Subsection 76-5-406(10) or Section 76-7-102.

(2) A person may not offer coverage for an abortion in a health benefit plan, unless the coverage is a type of permitted abortion coverage.

(3) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under Title 63M, Chapter 11, Part 25, Health System Reform Act, unless the coverage is a type of permitted abortion coverage.

(4) A person may not offer a health benefit plan that provides coverage for an abortion in a health insurance exchange created under the federal Patient Protection and Affordable Care Act, 111 P.L. 148, unless the coverage is a type of permitted abortion coverage.

Section 10. Section 31A-23a-402 is amended to read:

31A-23a-402. Unfair marketing practices -- Communication -- Unfair discrimination -- Coercion or intimidation -- Restriction on choice.

(1) (a) (i) Any of the following may not make or cause to be made any communication that contains false or misleading information, relating to an insurance product or contract, any insurer, or any licensee under this title, including information that is false or misleading because it is incomplete:

(A) a person who is or should be licensed under this title;

(B) an employee or producer of a person described in Subsection (1)(a)(i)(A);

(C) a person whose primary interest is as a competitor of a person licensed under this title; and

(D) a person on behalf of any of the persons listed in this Subsection (1)(a)(i).

(ii) As used in this Subsection (1), "false or misleading information" includes:

(A) assuring the nonobligatory payment of future dividends or refunds of unused premiums in any specific or approximate amounts, but reporting fully and accurately past experience is not false or misleading information; and

(B) with intent to deceive a person examining it:

(I) filing a report;

(II) making a false entry in a record; or
(III) wilfully refraining from making a proper entry in a record.

(iii) A licensee under this title may not:

(A) use any business name, slogan, emblem, or related device that is misleading or likely to cause the insurer or other licensee to be mistaken for another insurer or other licensee already in business; or

(B) use any advertisement or other insurance promotional material that would cause a reasonable person to mistakenly believe that a state or federal government agency, including the Health Insurance Exchange, also called the "Utah Health Exchange," created in Section [63M-1-2504] 63N-11-104, the Comprehensive Health Insurance Pool created in Chapter 29, Comprehensive Health Insurance Pool Act, and the Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act:

(I) is responsible for the insurance sales activities of the person;

(II) stands behind the credit of the person;

(III) guarantees any returns on insurance products of or sold by the person; or

(IV) is a source of payment of any insurance obligation of or sold by the person.

(iv) A person who is not an insurer may not assume or use any name that deceptively implies or suggests that person is an insurer.

(v) A person other than persons licensed as health maintenance organizations under Chapter 8 may not use the term "Health Maintenance Organization" or "HMO" in referring to itself.

(b) A licensee's violation creates a rebuttable presumption that the violation was also committed by the insurer if:

(i) the licensee under this title distributes cards or documents, exhibits a sign, or publishes an advertisement that violates Subsection (1)(a), with reference to a particular insurer:

(A) that the licensee represents; or

(B) for whom the licensee processes claims; and

(ii) the cards, documents, signs, or advertisements are supplied or approved by that
(2) (a) A title insurer, individual title insurance producer, or agency title insurance producer or any officer or employee of the title insurer, individual title insurance producer, or agency title insurance producer may not pay, allow, give, or offer to pay, allow, or give, directly or indirectly, as an inducement to obtaining any title insurance business:

(i) any rebate, reduction, or abatement of any rate or charge made incident to the issuance of the title insurance;

(ii) any special favor or advantage not generally available to others;

(iii) any money or other consideration, except if approved under Section 31A-2-405; or

(iv) material inducement.

(b) "Charge made incident to the issuance of the title insurance" includes escrow charges, and any other services that are prescribed in rule by the Title and Escrow Commission after consultation with the commissioner and subject to Section 31A-2-404.

(c) An insured or any other person connected, directly or indirectly, with the transaction may not knowingly receive or accept, directly or indirectly, any benefit referred to in Subsection (2)(a), including:

(i) a person licensed under Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act;

(ii) a person licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act;

(iii) a builder;

(iv) an attorney; or

(v) an officer, employee, or agent of a person listed in this Subsection (2)(c)(iii).

(3) (a) An insurer may not unfairly discriminate among policyholders by charging different premiums or by offering different terms of coverage, except on the basis of classifications related to the nature and the degree of the risk covered or the expenses involved.

(b) Rates are not unfairly discriminatory if they are averaged broadly among persons insured under a group, blanket, or franchise policy, and the terms of those policies are not
unfairly discriminatory merely because they are more favorable than in similar individual
policies.

(4) (a) This Subsection (4) applies to:

(i) a person who is or should be licensed under this title;

(ii) an employee of that licensee or person who should be licensed;

(iii) a person whose primary interest is as a competitor of a person licensed under this
title; and

(iv) one acting on behalf of any person described in Subsections (4)(a)(i) through (iii).

(b) A person described in Subsection (4)(a) may not commit or enter into any
agreement to participate in any act of boycott, coercion, or intimidation that:

(i) tends to produce:

(A) an unreasonable restraint of the business of insurance; or

(B) a monopoly in that business; or

(ii) results in an applicant purchasing or replacing an insurance contract.

(5) (a) (i) Subject to Subsection (5)(a)(ii), a person may not restrict in the choice of an
insurer or licensee under this chapter, another person who is required to pay for insurance as a
condition for the conclusion of a contract or other transaction or for the exercise of any right
under a contract.

(ii) A person requiring coverage may reserve the right to disapprove the insurer or the
coverage selected on reasonable grounds.

(b) The form of corporate organization of an insurer authorized to do business in this
state is not a reasonable ground for disapproval, and the commissioner may by rule specify
additional grounds that are not reasonable. This Subsection (5) does not bar an insurer from
descending an application for insurance.

(6) A person may not make any charge other than insurance premiums and premium
financing charges for the protection of property or of a security interest in property, as a
condition for obtaining, renewing, or continuing the financing of a purchase of the property or
the lending of money on the security of an interest in the property.
1066 (7) (a) A licensee under this title may not refuse or fail to return promptly all indicia of agency to the principal on demand.
1068 (b) A licensee whose license is suspended, limited, or revoked under Section 31A-2-308, 31A-23a-111, or 31A-23a-112 may not refuse or fail to return the license to the commissioner on demand.
1071 (8) (a) A person may not engage in an unfair method of competition or any other unfair or deceptive act or practice in the business of insurance, as defined by the commissioner by rule, after a finding that the method of competition, the act, or the practice:
1074 (i) is misleading;
1075 (ii) is deceptive;
1076 (iii) is unfairly discriminatory;
1077 (iv) provides an unfair inducement; or
1078 (v) unreasonably restrains competition.
1079 (b) Notwithstanding Subsection (8)(a), for purpose of the title insurance industry, the Title and Escrow Commission shall make rules, subject to Section 31A-2-404, that define an unfair method of competition or unfair or deceptive act or practice after a finding that the method of competition, the act, or the practice:
1083 (i) is misleading;
1084 (ii) is deceptive;
1085 (iii) is unfairly discriminatory;
1086 (iv) provides an unfair inducement; or
1087 (v) unreasonably restrains competition.
1088 Section 11. Section 31A-30-102 is amended to read:
1089 31A-30-102. Purpose statement.
1090 The purpose of this chapter is to:
1091 (1) prevent abusive rating practices;
1092 (2) require disclosure of rating practices to purchasers;
1093 (3) establish rules regarding:
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(a) a universal individual and small group application; and

(b) renewability of coverage;

(4) improve the overall fairness and efficiency of the individual and small group insurance market;

(5) provide increased access for individuals and small employers to health insurance;

and

(6) provide an employer with the opportunity to establish a defined contribution arrangement for an employee to purchase a health benefit plan through the Health Insurance Exchange created by Section 63M-1-2504, 63N-11-104.

Section 12. Section 31A-30-116 is amended to read:


(1) For purposes of this section, the "Affordable Care Act" is as defined in Section 31A-2-212 and includes federal rules related to the offering of essential health benefits.

(2) The state chooses to designate its own essential health benefits rather than accept a federal determination of the essential health benefits required to be offered in the individual and small group market for plans renewed or offered on or after January 1, 2014.

(3) (a) Subject to Subsections (3)(b) and (c), to the extent required by the Affordable Care Act, and after considering public testimony, the Legislature's Health System Reform Task Force shall recommend to the commissioner, no later than September 1, 2012, a benchmark plan for the state's essential health benefits based on:

(i) the largest plan by enrollment in any of the three largest small employer group insurance products in the state's small employer group market;

(ii) any of the largest three state employee health benefit plans by enrollment;

(iii) the largest insured commercial non-Medicaid health maintenance organization operating in the state; or

(iv) other benchmarks required or permitted by the Affordable Care Act.

(b) Notwithstanding the provisions of Subsection 63M-1-2505.5, 63N-11-106(2), based on the recommendation of the task force under Subsection (3)(a), and within 30 days of
the task force recommendation, the commissioner shall adopt an emergency administrative rule
that designates the essential health benefits that shall be included in a plan offered or renewed
on or after January 1, 2014, in the small employer group and individual markets.

(c) The essential health benefit plan:
(i) shall not include a state mandate if the inclusion of the state mandate would require
the state to contribute to premium subsidies under the Affordable Care Act; and
(ii) may add benefits in addition to the benefits included in a benchmark plan described
in Subsection (3)(b) if the additional benefits are mandated under the Affordable Care Act.

Section 13. Section 31A-30-117 is amended to read:

31A-30-117. Patient Protection and Affordable Care Act -- Market transition.
(1) (a) After complying with the reporting requirements of Section [63M-1-2505.5]
63N-11-106, the commissioner may adopt administrative rules that change the rating and
underwriting requirements of this chapter as necessary to transition the insurance market to
meet federal qualified health plan standards and rating practices under PPACA.
(b) Administrative rules adopted by the commissioner under this section may include:
(i) the regulation of health benefit plans as described in Subsections 31A-2-212(5)(a)
and (b); and
(ii) disclosure of records and information required by PPACA and state law.
(c) (i) The commissioner shall establish by administrative rule one statewide open
enrollment period that applies to the individual insurance market that is not on the PPACA
certified individual exchange.
(ii) The statewide open enrollment period:
(A) may be shorter, but no longer than the open enrollment period established for the
individual insurance market offered in the PPACA certified exchange; and
(B) may not be extended beyond the dates of the open enrollment period established
for the individual insurance market offered in the PPACA certified exchange.
(2) A carrier that offers health benefit plans in the individual market that is not part of
the individual PPACA certified exchange:
(a) shall open enrollment:

(i) during the statewide open enrollment period established in Subsection (1)(c); and

(ii) at other times, for qualifying events, as determined by administrative rule adopted by the commissioner; and

(b) may open enrollment at any time.

(3) To the extent permitted by the Centers for Medicare and Medicaid Services policy, or federal regulation, the commissioner shall allow a health insurer to choose to continue coverage and individuals and small employers to choose to re-enroll in coverage in nongrandfathered health coverage that is not in compliance with market reforms required by PPACA.

Section 14. Section 31A-30-202 is amended to read:


For purposes of this part:

(1) "Defined benefit plan" means an employer group health benefit plan in which:

(a) the employer selects the health benefit plan or plans from a single insurer;

(b) employees are not provided a choice of health benefit plans on the Health Insurance Exchange; and

(c) the employer is subject to contribution requirements in Section 31A-30-112.

(2) "Defined contribution arrangement":

(a) means a defined contribution arrangement employer group health benefit plan that:

(i) complies with this part; and

(ii) is sold through the Health Insurance Exchange in accordance with Title 63M, Chapter 11, Part 25, Health System Reform Act; and

(b) beginning January 1, 2011, includes an employer choice of either a defined contribution arrangement health benefit plan or a defined benefit plan offered through the Health Insurance Exchange.

(3) "Health reimbursement arrangement" means an employer provided health reimbursement arrangement in which reimbursements for medical care expenses are excluded...
1178 from an employee's gross income under the Internal Revenue Code.
1179
(4) "Producer" is as defined in Subsection 31A-23a-501(4)(a).
1180
(5) "Section 125 Cafeteria plan" means a flexible spending arrangement that qualifies
1181 under Section 125, Internal Revenue Code, which permits an employee to contribute pre-tax
1182 dollars to a health benefit plan.
1183
(6) "Small employer" is defined in Section 31A-1-301.
1184
Section 15. Section 31A-30-204 is amended to read:
1185
31A-30-204. Employer election -- Defined benefit -- Defined contribution
1186 arrangements -- Responsibilities.
1187
(1) (a) An employer participating in the defined contribution arrangement market on
1188 the Health Insurance Exchange shall make an initial election to offer its employees either a
1189 defined benefit plan or a defined contribution arrangement health benefit plan.
1190
(b) If an employer elects to offer a defined benefit plan:
1191
(i) the employer or the employer's producer shall enroll the employer in the Health
1192 Insurance Exchange;
1193
(ii) the employees shall submit the uniform application required for the Health
1194 Insurance Exchange; and
1195 (iii) the employer shall select the defined benefit plan in accordance with Section
1196 31A-30-208.
1197
(c) When an employer makes an election under Subsections (1)(a) and (b):
1198
(i) the employer may not offer its employees a defined contribution arrangement health
1199 benefit plan; and
1200
(ii) the employees may not select a defined contribution arrangement health benefit
1201 plan in the Health Insurance Exchange.
1202
(d) If an employer elects to offer its employees a defined contribution arrangement
1203 health benefit plan, the employer shall comply with the provisions of Subsections (2) through
1204 (5).
1205 (2) (a) (i) An employer that chooses to participate in a defined contribution
arrangement health benefit plan may not offer to an employee a health benefit plan that is not a
defined contribution arrangement health benefit plan in the Health Insurance Exchange.

(ii) Subsection (2)(a)(i) does not prohibit the offer of supplemental or limited benefit
policies such as dental or vision coverage, or other types of federally qualified savings accounts
for health care expenses.

(b) (i) To the extent permitted by Sections 31A-1-301, 31A-30-112, and 31A-30-206,
and the risk adjustment plan adopted under Section 31A-42-204, the employer reserves the
right to determine:

(A) the criteria for employee eligibility, enrollment, and participation in the employer's
health benefit plan; and

(B) the amount of the employer's contribution to that plan.

(ii) The determinations made under Subsection (2)(b) may only be changed during
periods of open enrollment.

(3) An employer that chooses to establish a defined contribution arrangement health
benefit plan to provide a health benefit plan for its employees shall:

(a) establish a mechanism for its employees to use pre-tax dollars to purchase a health
benefit plan from the defined contribution arrangement market on the Health Insurance
Exchange created in Section [63M-1-2504] [63N-11-104], which may include:

(i) a health reimbursement arrangement;

(ii) a Section 125 Cafeteria plan; or

(iii) another plan or arrangement similar to Subsection (3)(a)(i) or (ii) which is
excluded or deducted from gross income under the Internal Revenue Code;

(b) before the employee's health benefit plan selection period:

(i) inform each employee of the health benefit plan the employer has selected as the
default health benefit plan for the employer group;

(ii) offer each employee a choice of any of the defined contribution arrangement health
benefit plans available through the defined contribution arrangement market on the Health
Insurance Exchange; and
(iii) notify the employee that the employee will be enrolled in the default health benefit plan selected by the employer and payroll deductions initiated for premium payments, unless the employee, before the employee's selection period ends:
  (A) selects a different defined contribution arrangement health benefit plan available in the Health Insurance Exchange;
  (B) provides proof of coverage from another health benefit plan; or
  (C) specifically declines coverage in a health benefit plan.

(4) An employer shall enroll an employee in the default defined contribution arrangement health benefit plan selected by the employer if the employee does not make one of the choices described in Subsection (3)(b)(iii) before the end of the employee selection period, which may not be less than 14 calendar days.

(5) The employer's notice to the employee under Subsection (3)(b)(iii) shall inform the employee that the failure to act under Subsections (3)(b)(iii)(A) through (C) is considered an affirmative election under pre-tax payroll deductions for the employer to begin payroll deductions for health benefit plan premiums.

Section 16. Section 31A-30-208 is amended to read:

31A-30-208. Enrollment for defined contribution arrangements.

(1) An insurer offering a health benefit plan in the defined contribution arrangement market:
  (a) shall allow an employer to enroll in a small employer defined contribution arrangement plan; and
  (b) shall otherwise comply with the requirements of this part, Chapter 42, Defined Contribution Risk Adjuster Act, and Title 63M, Chapter 11, Health System Reform Act.

(2) (a) An insurer may enter or exit the defined contribution arrangement market on January 1 of each year.
  (b) An insurer may offer new or modify existing products in the defined contribution arrangement market:
on January 1 of each year;
(ii) when required by changes in other law; and
(iii) at other times as established by the risk adjuster board created in Section
31A-42-201.
(c) An insurer shall give the department, the Health Insurance Exchange, and the risk
adjuster board 90 days' advance written notice of any event described in Subsection (2)(a) or
(b).
Section 17. Section 31A-30-302 is amended to read:
31A-30-302. Creation of state risk adjustment program.
(1) The commissioner shall convene a group of stakeholders and actuaries to assist the
commissioner with the evaluation or the risk adjustment options described in Subsection (2). If
the commissioner determines that a state-based risk adjustment program is in the best interest
of the state, the commissioner shall establish an individual and small employer market risk
adjustment program in accordance with 42 U.S.C. 18063 and this section.
(2) The risk adjustment program adopted by the commissioner may include one of the
following models:
(a) continue the United States Department of Health and Human Services
administration of the federal model for risk adjustment for the individual and small employer
market in the state;
(b) have the state administer the federal model for risk adjustment for the individual
and small employer market in the state;
(c) establish and operate a state-based risk adjustment program for the individual and
small employer market in the state; or
(d) another risk adjustment model developed by the commissioner under Subsection
(1).
(3) Before adopting one of the models described in Subsection (2), the commissioner:
(a) may enter into contracts to carry out the services needed to evaluate and establish
one of the risk adjustment options described in Subsection (2); and
shall, prior to October 30, 2014, comply with the reporting requirements of Section 63N-11-106 regarding the commissioner's evaluation of the risk adjustment options described in Subsection (2).

(4) The commissioner may:

(a) adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require an insurer that is subject to the state-based risk adjustment program to submit data to the all payers claims database created under Section 26-33a-106.1; and

(b) establish fees in accordance with Title 63J, Chapter 1, Budgetary Procedures Act, to cover the ongoing administrative cost of running the state-based risk adjustment program.

Section 18. Section 35A-1-104.5 is amended to read:

35A-1-104.5. Other department duties -- Strategic plan for health system reform

-- Reporting suspected misuse of a Social Security number.

(1) The department shall work with the Department of Health, the Insurance Department, the Governor's Office of Economic Development, and the Legislature to develop the health system reform in accordance with Title 63N, Chapter 11, Health System Reform Act.

(2) In the process of determining an individual's eligibility for a public benefit or service under this title or under federal law, if the department determines that a valid Social Security number is being used by an unauthorized individual, the department shall:

(a) inform the individual who the department determines to be the likely actual owner of the Social Security number or, if the likely actual owner is a minor, the minor's parent or guardian, of the suspected misuse; and

(b) subject to federal law, provide information of the suspected misuse to an appropriate law enforcement agency responsible for investigating identity fraud.

(3) If the department learns or determines that providing information under Subsection (2) is prohibited by federal law, the department shall notify the Legislative Management Committee.
Section 19. Section 53A-1-410 is amended to read:

53A-1-410. Utah Futures.

(1) As used in this section:

(a) "Education provider" means:

(i) a Utah institution of higher education as defined in Section 53B-2-101; or

(ii) a Utah provider of postsecondary education.

(b) "Student user" means:

(i) a Utah student in kindergarten through grade 12;

(ii) a Utah post secondary education student;

(iii) a parent or guardian of a Utah public education student; or

(iv) a Utah potential post secondary education student.

(c) "Utah Futures" means a career planning program developed and administered by the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(d) "Utah Futures Steering Committee" means a committee of members designated by the governor to administer and manage Utah Futures in collaboration with the Department of Workforce Services, the State Board of Regents, and the State Board of Education.

(2) The Utah Futures Steering Committee shall ensure, as funding allows and is feasible, that Utah Futures will:

(a) allow a student user to:

(i) access the student user's full academic record;

(ii) electronically allow the student user to give access to the student user's academic record and related information to an education provider as allowed by law;

(iii) access information about different career opportunities and understand the related educational requirements to enter that career;

(iv) access information about education providers;

(v) access up to date information about entrance requirements to education providers;

(vi) apply for entrance to multiple schools without having to fully replicate the
application process;
  (vii) apply for loans, scholarships, or grants from multiple education providers in one
location without having to fully replicate the application process for multiple education
providers; and
  (viii) research open jobs from different companies within the user's career interest and
apply for those jobs without having to leave the website to do so;

(b) allow all users to:
  (i) access information about different career opportunities and understand the related
educational requirements to enter that career;
  (ii) access information about education providers;
  (iii) access up-to-date information about entrance requirements to education providers;
  (iv) apply for entrance to multiple schools without having to fully replicate the
application process;
  (v) apply for loans, scholarships, or grants from multiple education providers in one
location without having to fully replicate the application process for multiple education
providers; and
  (vi) research open jobs from different companies within the user's career interest and
apply for those jobs without having to leave the website to do so;

(c) allow an education provider to:
  (i) research and find student users who are interested in various educational outcomes;
  (ii) promote the education provider's programs and schools to student users; and
  (iii) connect with student users within the Utah Futures website;

(d) allow a Utah business to:
  (i) research and find student users who are pursuing educational outcomes that are
consistent with jobs the Utah business is trying to fill now or in the future; and
  (ii) market jobs and communicate with student users through the Utah Futures website
as allowed by law;

(e) allow the Department of Workforce Services to analyze and report on student user
interests, education paths, and behaviors within the education system so as to predictively
determine appropriate career and educational outcomes and results; and
(f) allow all users of the Utah Futures' system to communicate and interact through
social networking tools within the Utah Futures website as allowed by law.

(3) On or before October 1, 2014, the State Board of Education, after consulting with
the Board of Business and Economic Development created in Section [63M-1-301][63N-1-401],
may select a technology provider, through a request for proposals process, to provide
technology and support for Utah Futures.

(4) In evaluating proposals under Subsection (3) in consultation with the Board of
Business and Economic Development, the State Board of Education shall ensure that the
technology provided by a proposer:
(a) allows Utah Futures to license the selected service oriented architecture
technologies;
(b) allows Utah Futures to protect all user data within the system by leveraging role
architecture;
(c) allows Utah Futures to update the user interface, APIs, and web services software
layers as needed;
(d) provides the ability for a student user to have a secure profile and login to access
and to store personal information related to the services listed in Subsection (2) via the
Internet;
(e) protects all user data within Utah Futures;
(f) allows the State Board of Education to license the technology of the selected
technology provider; and
(g) provides technology able to support application programming interfaces to integrate
technology of other third party providers, which may include cloud-based technology.

(5) (a) On or before August 1, 2014, the evaluation panel described in Subsection
(b), using the criteria described in Subsection (5)(c), shall evaluate Utah Futures and
determine whether any or all components of Utah Futures, as described in this section, should
be outsourced to a private provider or built in-house by the participating state agencies.

(b) The evaluation panel described in Subsection (5)(a) shall consist of the following members, appointed by the governor after consulting with the State Board of Education:

(i) five members who represent business, including:
   (A) one member who has extensive knowledge and experience in information technology; and
   (B) one member who has extensive knowledge and experience in human resources;
(ii) one member who is a user of the information provided by Utah Futures;
(iii) one member who is a parent of a student who uses Utah Futures;
(iv) one member who:
   (A) is an educator as defined in Section 53A-6-103; and
   (B) teaches students who use Utah Futures; and
(v) one member who is a high school counselor licensed under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.

(c) The evaluation panel described in Subsections (5)(a) and (b) shall consider at least the following criteria to make the determination described in Subsection (5)(a):

(i) the complete functional capabilities of a private technology provider versus an in-house version;
(ii) the cost of purchasing privately developed technology versus continuing to develop or build an in-house version;
(iii) the data and security capabilities of a private technology provider versus an in-house version;
(iv) the time frames to implementation; and
(v) the best practices and examples of other states who have implemented a tool similar to Utah Futures.

(d) On or before September 30, 2014, the evaluation panel shall report the determination to:

(i) the State Board of Education;
(ii) the Executive Appropriations Committee; and
(iii) the Education Interim Committee.

Section 20. Section 59-7-610 is amended to read:

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

(1) For taxable years beginning on or after January 1, 1996, a business operating in a recycling market development zone as defined in Section [63M-1-402] 63N-2-402 may claim a tax credit as provided in this section.

(a) (i) There shall be allowed a nonrefundable tax credit of 5% of the purchase price paid for machinery and equipment used directly in:
(A) commercial composting; or
(B) manufacturing facilities or plant units that:
(I) manufacture, process, compound, or produce recycled items of tangible personal property for sale; or
(II) reduce or reuse postconsumer waste material.
(ii) The Governor's Office of Economic Development shall certify that the machinery and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling process:
(A) on a form provided by the commission; and
(B) before a taxpayer is allowed a tax credit under this section.
(iii) The Governor's Office of Economic Development shall provide a taxpayer seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).
(iv) The taxpayer described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a nonrefundable tax credit equal to 20% of net expenditures up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the taxpayer for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of $2,000.
(2) The total nonrefundable tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the taxpayer prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

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

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

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

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [63M-1-413] 63N-2-213.

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

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

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

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a taxpayer may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the taxpayer claims or carries forward a tax credit under Section [63M-1-413] 63N-2-213.

(7) A taxpayer may not claim or carry forward a tax credit available under this section for a taxable year during which the taxpayer has claimed the targeted business income tax credit available under Section [63M-1-504] 63N-2-305.
Section 21. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section [63M-1-2403] 63N-2-103.

(b) "Community development and renewal agency" is as defined in Section 17C-1-102.

(c) "Local government entity" is as defined in Section [63M-1-2403] 63N-2-103.

(d) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity, local government entity, or community development and renewal agency may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity, local government entity, or community development and renewal agency for the taxable year.

(4) A community development and renewal agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community development and renewal agency in accordance with Section [63M-1-2404] 63N-2-104.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:

(i) a local government entity;

(ii) a community development and renewal agency; or

(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community development and renewal agency as required by Subsection (5)(a).
(6) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (6), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each business entity, local government entity, or community development and renewal agency for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

(iii) (A) for a business entity, the new state revenues generated by the business entity for the calendar year; or

(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section [63M-1-2404] 63N-2-104, the new state revenues generated as a result of a new commercial project within the local government entity for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-2406] 63N-2-106; and

(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (6)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 22. Section 59-7-614.5 is amended to read:

59-7-614.5. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a taxpayer that meets the definition of a motion picture company under Section [63M-1-1802] 63N-8-102.
(b) "Office" means the Governor's Office of Economic Development.

c) "State-approved production" has the same meaning as defined in Section

[63M-1-1802] 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company
may claim a refundable tax credit for a state-approved production.

(3) The tax credit under this section is the amount listed as the tax credit amount on the
tax credit certificate that the office issues to a motion picture company under Section

[63M-1-1803] 63N-8-103 for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection

(4)(b), the commission shall make a refund to a motion picture company that claims a tax
credit under this section if the amount of the tax credit exceeds the motion picture company's
tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
commission may make rules providing procedures for making a refund to a motion picture
company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the
Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and
make recommendations to the Legislative Management Committee concerning whether the tax
credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide
the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each motion picture company for
each calendar year;

(ii) the criteria that the office uses in granting the tax credit;

(iii) the dollars left in the state, as defined in Section [63M-1-1802] 63N-8-102, by
each motion picture company for each calendar year;

(iv) the information contained in the office's latest report to the Legislature under
Section [63M-1-1805] 63N-8-105; and
(v) any other information requested by the Revenue and Taxation Interim Committee.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 23. Section 59-7-614.6 is amended to read:

59-7-614.6. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section 63M-1-2902.

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" means an agreement under 63M-1-2908 that includes a provision for an eligible business entity to make new capital expenditures of at least $1,000,000,000 in the state.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3)(a) Except as provided in Subsection (3)(b), the amount of the tax credit an eligible business entity may claim or pass through is the amount listed on the tax credit certificate that the office issues to the eligible business entity for a taxable year in accordance with Section
(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a qualifying agreement may not exceed:

(i) for the taxable year in which the eligible business entity first generates eligible new state tax revenues and the two following years, the amount of eligible new state tax revenues generated by the eligible business entity; and

(ii) for the seven taxable years following the last of the three taxable years described in Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the eligible business entity.

(4) An eligible business entity may only claim or pass through a tax credit under this section for a taxable year for which the eligible business entity holds a tax credit certificate issued in accordance with Section [63M-1-2908] 63N-2-808.

(5) An eligible business entity may not:

(a) carry forward or carry back a tax credit under this section; or

(b) claim or pass through a tax credit in an amount greater than the amount listed on a tax credit certificate issued in accordance with Section [63M-1-2908] 63N-2-808 for a taxable year.

Section 24. Section 59-7-614.8 is amended to read:

59-7-614.8. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section [63M-1-3102] 63N-2-702.

(b) "Alternative energy manufacturing project" is as defined in Section [63M-1-3102] 63N-2-702.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may
claim a nonrefundable tax credit for alternative energy manufacturing as provided in this 
section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a 
tax credit certificate that the office issues under Title [63M] 63N, Chapter [1] 2, Part [31] 7, 
Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the 
taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a 
period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a 
taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability 
under this chapter for that taxable year.

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the 
Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and 
make recommendations to the Legislative Management Committee concerning whether the tax 
credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide 
the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for 
each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office's latest report to the Legislature under 
Section [63M-1-3105] 63N-2-705; and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its 
recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and
Section 25. Section 59-7-616 is amended to read:

59-7-616. Refundable tax credit for certain business entities.

(1) As used in this section:

(a) "Office" means the Governor's Office of Economic Development.

(b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

(c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.

(d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402

(e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

(2) (a) Subject to the other provisions of this section, a tax credit recipient that is a corporation may claim a refundable tax credit as provided in Subsection (3).

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-10-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 26. Section 59-10-210 is amended to read:


(1) A share of the fiduciary adjustments described in Subsection (2) shall be added to or subtracted from unadjusted income:

(a) of:

(i) a resident or nonresident estate or trust; or

(ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

(b) as provided in this section.

(2) For purposes of Subsection (1), the fiduciary adjustments are the following amounts:

(a) the additions to and subtractions from unadjusted income of a resident or nonresident estate or trust required by Section 59-10-202; and

(b) a tax credit claimed by a resident or nonresident estate or trust as allowed by:

(i) Section 59-6-102;

(ii) Part 10, Nonrefundable Tax Credit Act;

(iii) Part 11, Refundable Tax Credit Act;

(iv) Section 59-13-202;

(v) Section 63M-1-413 63N-2-213; or

(vi) Section 63M-1-504 63N-2-305.
(3) (a) The respective shares of an estate or trust and its beneficiaries, including for the purpose of this allocation a nonresident beneficiary, in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of federal distributable net income of the estate or trust.

(b) If the estate or trust described in Subsection (3)(a) has no federal distributable net income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be allocated in proportion to that beneficiary’s share of the estate or trust income for the taxable year that is, under state law or the governing instrument, required to be distributed currently plus any other amounts of that income distributed in that taxable year.

(c) After making the allocations required by Subsections (3)(a) and (b), any balance of the fiduciary adjustments shall be allocated to the estate or trust.

(4) (a) The commission shall allow a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and

(B) in relation to the total amount of the fiduciary adjustments described in Subsection (2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules authorizing a fiduciary to use a method for determining the allocation of the fiduciary adjustments described in Subsection (2) other than the method described in Subsection (3) if using the method described in Subsection (3) results in an inequity:

(i) in allocating the fiduciary adjustments described in Subsection (2); and

(ii) if the inequity is substantial:

(A) in amount; and
Section 27. Section 59-10-1007 is amended to read:

59-10-1007. Recycling market development zones tax credit.

(1) For taxable years beginning on or after January 1, 1996, a claimant, estate, or trust in a recycling market development zone as defined in Section 63M-1-1102 or 63N-2-402 may claim a nonrefundable tax credit as provided in this section.

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

(A) commercial composting; or

(B) manufacturing facilities or plant units that:

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

(II) reduce or reuse postconsumer waste material.

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

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

(B) before a claimant, estate, or trust is allowed a tax credit under this section.

(iii) The Governor's Office of Economic Development shall provide a claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form described in Subsection (1)(a)(ii).

(iv) The claimant, estate, or trust described in Subsection (1)(a)(iii) shall retain a copy of the form received under Subsection (1)(a)(iii).

(b) There shall be allowed a tax credit equal to 20% of net expenditures up to $10,000 to third parties for rent, wages, supplies, tools, test inventory, and utilities made by the claimant, estate, or trust for establishing and operating recycling or composting technology in Utah, with an annual maximum tax credit of $2,000.
(2) The total tax credit allowed under this section may not exceed 40% of the Utah income tax liability of the claimant, estate, or trust prior to any tax credits in the taxable year of purchase prior to claiming the tax credit authorized by this section.

(3) (a) Any tax credit not used for the taxable year in which the purchase price on composting or recycling machinery and equipment was paid may be carried forward against the claimant's, estate's, or trusts's tax liability under this chapter in the three succeeding taxable years until the total tax credit amount is used.

(b) Tax credits not claimed by a claimant, estate, or trust on the claimant's, estate's, or trust's tax return under this chapter within three years are forfeited.

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

(5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim or carry forward a tax credit described in Subsection (1)(a) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63M-1-413.

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

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

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

(6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January 1, 2001, a claimant, estate, or trust may not claim a tax credit described in Subsection (1)(b) in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 63M-1-413.

(7) A claimant, estate, or trust may not claim or carry forward a tax credit available under this section for a taxable year during which the claimant, estate, or trust has claimed the targeted business income tax credit available under Section 63M-1-504.
Section 28. Section 59-10-1025 is amended to read:


(1) As used in this section:

(a) "Commercial domicile" means the principal place from which the trade or business of a Utah small business corporation is directed or managed.

(b) "Eligible claimant, estate, or trust" is as defined in Section 63N-2-802.

(c) "Life science establishment" means an establishment described in one of the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(ii) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(iii) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(d) "Office" means the Governor's Office of Economic Development.

(e) "Pass-through entity" is as defined in Section 59-10-1402.

(f) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(g) "Qualifying ownership interest" means an ownership interest that is:

(i) (A) common stock;

(B) preferred stock; or

(C) an ownership interest in a pass-through entity;

(ii) originally issued to:

(A) an eligible claimant, estate, or trust; or

(B) a pass-through entity if the eligible claimant, estate, or trust that claims a tax credit under this section was a pass-through entity taxpayer of the pass-through entity on the day on which the qualifying ownership interest was issued and remains a pass-through entity taxpayer of the pass-through entity until the last day of the taxable year for which the eligible claimant,
estate, or trust claims a tax credit under this section; and

(iii) issued:

(A) by a Utah small business corporation;

(B) on or after January 1, 2011; and

(C) for money or other property, except for stock or securities.

(h) (i) Except as provided in Subsection (1)(h)(ii), "Utah small business corporation" is as defined in Section 59-10-1022.

(ii) For purposes of this section, a corporation under Section 1244(c)(3)(A), Internal Revenue Code, is considered to include a pass-through entity.

(2) Subject to the other provisions of this section, for a taxable year beginning on or after January 1, 2011, an eligible claimant, estate, or trust that holds a tax credit certificate issued to the eligible claimant, estate, or trust in accordance with Section 63M-1-2908 for that taxable year may claim a nonrefundable tax credit in an amount up to 35% of the purchase price of a qualifying ownership interest in a Utah small business corporation by the claimant, estate, or trust if:

(a) the qualifying ownership interest is issued by a Utah small business corporation that is a life science establishment;

(b) the qualifying ownership interest in the Utah small business corporation is purchased for at least $25,000;

(c) the eligible claimant, estate, or trust owned less than 30% of the qualifying ownership interest of the Utah small business corporation at the time of the purchase of the qualifying ownership interest; and

(d) on each day of the taxable year of the purchase of the qualifying ownership interest, the Utah small business corporation described in Subsection (2)(a) has at least 50% of its employees in the state.

(3) Subject to Subsection (4), the tax credit under Subsection (2):

(a) may only be claimed by the eligible claimant, estate, or trust:

(i) for a taxable year for which the eligible claimant, estate, or trust holds a tax credit
An eligible claimant, estate, or trust may not claim a tax credit under this section for a taxable year if the eligible claimant, estate, or trust:

(a) has sold any of the qualifying ownership interest during the taxable year; or

(b) does not hold a tax credit certificate for that taxable year that is issued to the eligible claimant, estate, or trust by the office in accordance with Section [63M-1-2908] 63N-2-808.

(5) If a Utah small business corporation in which an eligible claimant, estate, or trust purchases a qualifying ownership interest fails, dissolves, or otherwise goes out of business, the eligible claimant, estate, or trust may not claim both the tax credit provided in this section and a capital loss on the qualifying ownership interest.

(6) If an eligible claimant is a pass-through entity taxpayer that files a return under Chapter 7, Corporate Franchise and Income Taxes, the eligible claimant may claim the tax credit under this section on the return filed under Chapter 7, Corporate Franchise and Income Taxes.
(7) A claimant, estate, or trust may not carry forward or carry back a tax credit under this section.

Section 29. Section 59-10-1030 is amended to read:

59-10-1030. Nonrefundable alternative energy manufacturing tax credit.

(1) As used in this section:

(a) "Alternative energy entity" is as defined in Section 63M-1-3102.

(b) "Alternative energy manufacturing project" is as defined in Section 63M-1-3102.

(c) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, an alternative energy entity may claim a nonrefundable tax credit for alternative energy manufacturing as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63M, Chapter 2, Part 7, Alternative Energy Manufacturing Tax Credit Act, to the alternative energy entity for the taxable year.

(4) An alternative energy entity may carry forward a tax credit under this section for a period that does not exceed the next seven taxable years if:

(a) the alternative energy entity is allowed to claim a tax credit under this section for a taxable year; and

(b) the amount of the tax credit exceeds the alternative energy entity's tax liability

(5) (a) On or before October 1, 2017, and every five years after October 1, 2017, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide
the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit that the office grants to each alternative energy entity for each taxable year;

(ii) the new state revenues generated by each alternative energy manufacturing project;

(iii) the information contained in the office’s latest report to the Legislature under Section \[63M-1-3105\] and

(iv) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 30. Section \[59-10-1107\] is amended to read:

59-10-1107. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a claimant, estate, or trust that meets the definition of "business entity" as defined in Section \[63M-1-2403\] and

(b) "Office" means the Governor's Office of Economic Development.

(2) Subject to the other provisions of this section, a business entity may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the business entity for the taxable year.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as
required by Subsection (4)(a).

(5) (a) On or before October 1, 2013, and every five years after October 1, 2013, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

(b) For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;
(ii) the criteria the office uses in granting a tax credit;
(iii) the new state revenues generated by each taxpayer for each calendar year;
(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-2406] 63N-2-106; and
(v) any other information that the Revenue and Taxation Interim Committee requests.

(c) The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;
(ii) the purpose and effectiveness of the tax credit; and
(iii) the extent to which the state benefits from the tax credit.

Section 31. Section 59-10-1108 is amended to read:

59-10-1108. Refundable motion picture tax credit.

(1) As used in this section:

(a) "Motion picture company" means a claimant, estate, or trust that meets the definition of a motion picture company under Section [63M-1-1802] 63N-8-102.

(b) "Office" means the Governor's Office of Economic Development.

(c) "State-approved production" has the same meaning as defined in Section [63M-1-1802] 63N-8-102.

(2) For taxable years beginning on or after January 1, 2009, a motion picture company may claim a refundable tax credit for a state-approved production.
The tax credit under this section is the amount listed as the tax credit amount on the tax credit certificate that the office issues to a motion picture company under Section [63M-1-1803] 63N-8-103 for the taxable year.

In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a motion picture company that claims a tax credit under this section if the amount of the tax credit exceeds the motion picture company's tax liability for the taxable year.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a motion picture company as required by Subsection (4)(a).

(5) (a) On or before October 1, 2014, and every five years after October 1, 2014, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations to the Legislative Management Committee concerning whether the tax credit should be continued, modified, or repealed.

For purposes of the study required by this Subsection (5), the office shall provide the following information to the Revenue and Taxation Interim Committee:

(i) the amount of tax credit the office grants to each taxpayer for each calendar year;
(ii) the criteria the office uses in granting a tax credit;
(iii) the dollars left in the state, as defined in Section [63M-1-1802] 63N-8-102, by each motion picture company for each calendar year;
(iv) the information contained in the office's latest report to the Legislature under Section [63M-1-1805] 63N-8-105; and
(v) any other information requested by the Revenue and Taxation Interim Committee.

The Revenue and Taxation Interim Committee shall ensure that its recommendations under Subsection (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;
(ii) the effectiveness of the tax credit; and
(iii) the extent to which the state benefits from the tax credit.
Section 32. Section 59-10-1109 is amended to read:

59-10-1109. Refundable tax credit for certain business entities generating state tax revenue increases.

(1) As used in this section:

(a) "Eligible business entity" is as defined in Section 63M-1-2902.

(b) "Eligible new state tax revenues" is as defined in Section 63M-1-2902.

(c) "Office" means the Governor's Office of Economic Development.

(d) "Pass-through entity" is as defined in Section 59-10-1402.

(e) "Pass-through entity taxpayer" is as defined in Section 59-10-1402.

(f) "Qualifying agreement" is as defined in Section 59-7-614.6.

(2) Subject to the other provisions of this section, an eligible business entity may:

(a) claim a refundable tax credit as provided in Subsection (3); or

(b) if the eligible business entity is a pass-through entity, pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-through Entities and Pass-through Entity Taxpayers Act, a refundable tax credit that the eligible business entity could otherwise claim under this section.

(3) (a) Except as provided in Subsection (3)(b), the amount of the tax credit is:

(i) for an eligible business entity, an amount up to the amount listed on the tax credit certificate that the office issues to the eligible business entity for the taxable year in accordance with Section 63M-1-2908; or

(ii) for a pass-through entity taxpayer, an amount up to the amount of a tax credit that an eligible business entity passes through to the pass-through entity taxpayer of the pass-through entity in accordance with Subsection (2)(b) or Subsection 59-7-614.6(2)(b).

(b) Subject to Subsection (3)(c), a tax credit under this section may not exceed the amount of eligible new state tax revenues generated by an eligible business entity for the taxable year for which the eligible business entity claims a tax credit under this section.

(c) A tax credit under this section for an eligible business entity that enters into a
2018 qualifying agreement may not exceed:
2019 (i) for the taxable year in which the eligible business entity first generates eligible new
2020 state tax revenues and the two following years, the amount of eligible new state tax revenues
2021 generated by the eligible business entity; and
2022 (ii) for the seven taxable years following the last of the three taxable years described in
2023 Subsection (3)(c)(i), 75% of the amount of eligible new state tax revenues generated by the
2024 eligible business entity.
2025 (4) An eligible business entity or pass-through entity taxpayer to which an eligible
2026 business entity passes through a tax credit in accordance with Subsection (2)(b) or Subsection
2027 59-7-614.6(2)(b) may only claim or pass through a tax credit under this section for a taxable
2028 year for which the eligible business entity holds a tax credit certificate issued in accordance
2029 with Section [63M-1-2908] 63N-2-808.
2030 (5) An eligible business entity or a pass-through entity taxpayer may not:
2031 (a) carry forward or carry back a tax credit under this section; or
2032 (b) claim a tax credit under both this section and Section 59-7-614.6.
2033 Section 33. Section 59-10-1110 is amended to read:
2034 59-10-1110. Refundable tax credit for certain business entities.
2035 (1) As used in this section:
2036 (a) "Office" means the Governor's Office of Economic Development.
2037 (b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.
2038 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
2039 59-10-1402.
2040 (d) "Tax credit certificate" has the same meaning as defined in Section [63M-1-3402] 63N-2-502.
2041 63N-2-502.
2042 (e) "Tax credit recipient" has the same meaning as defined in Section [63M-1-3402] 63N-2-502.
2043 63N-2-502.
2044 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
2045 refundable tax credit as provided in Subsection (3).
(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a refundable tax credit that the tax credit recipient could otherwise claim under this section.

(3) The amount of a tax credit is the amount listed as the tax credit amount on the tax credit certificate that the office issues to the tax credit recipient for the taxable year.

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-7-616.

(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall:

(i) make a refund to a tax credit recipient that claims a tax credit under this section if the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter; and

(ii) transfer at least annually from the General Fund into the Education Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a tax credit recipient or pass-through entity taxpayer as required by Subsection (5)(a)(i); or

(ii) transfers from the General Fund into the Education Fund as required by Subsection (5)(a)(ii).

Section 34. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:
(a) retail sales of tangible personal property made within the state;
(b) amounts paid for:
(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;
(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
(iii) an ancillary service associated with a:
(A) telecommunications service described in Subsection (1)(b)(i); or
(B) mobile telecommunications service described in Subsection (1)(b)(ii);
(c) sales of the following for commercial use:
(i) gas;
(ii) electricity;
(iii) heat;
(iv) coal;
(v) fuel oil; or
(vi) other fuels;
(d) sales of the following for residential use:
(i) gas;
(ii) electricity;
(iii) heat;
(iv) coal;
(v) fuel oil; or
(vi) other fuels;
(e) sales of prepared food;
(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
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2102 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
2103 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
2104 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
2105 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
2106 horseback rides, sports activities, or any other amusement, entertainment, recreation,
2107 exhibition, cultural, or athletic activity;
2108 (g) amounts paid or charged for services for repairs or renovations of tangible personal
2109 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
2110 (i) the tangible personal property; and
2111 (ii) parts used in the repairs or renovations of the tangible personal property described
2112 in Subsection (1)(g)(i), regardless of whether:
2113 (A) any parts are actually used in the repairs or renovations of that tangible personal
2114 property; or
2115 (B) the particular parts used in the repairs or renovations of that tangible personal
2116 property are exempt from a tax under this chapter;
2117 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
2118 assisted cleaning or washing of tangible personal property;
2119 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
2120 accommodations and services that are regularly rented for less than 30 consecutive days;
2121 (j) amounts paid or charged for laundry or dry cleaning services;
2122 (k) amounts paid or charged for leases or rentals of tangible personal property if within
2123 this state the tangible personal property is:
2124 (i) stored;
2125 (ii) used; or
2126 (iii) otherwise consumed;
2127 (l) amounts paid or charged for tangible personal property if within this state the
2128 tangible personal property is:
2129 (i) stored;
(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):
(A) if the sales price of the bundled transaction is attributable to tangible personal
property, a product, or a service that is subject to taxation under this chapter and tangible
personal property, a product, or service that is not subject to taxation under this chapter, the
entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible
personal property, product, or service that is not subject to taxation under this chapter from the
books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of
tangible personal property, products, or services that are subject to taxation under this chapter
at different rates, the entire bundled transaction is subject to taxation under this chapter at the
higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible
personal property, product, or service that is subject to taxation under this chapter at the lower
tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
seller's regular course of business includes books and records the seller keeps in the regular
course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
of tangible personal property, other property, a product, or a service that is not subject to
taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under
this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and
records the seller keeps in the seller's regular course of business, the portion of the transaction
that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of
the transaction that is not subject to taxation under this chapter was not separately stated on an
invoice, bill of sale, or similar document provided to the purchaser because of an error or
ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books
and records the seller keeps in the seller's regular course of business, the portion of the
transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
in the seller's regular course of business includes books and records the seller keeps in the
regular course of business for nontax purposes.

(f) (i) If the sales price of a transaction is attributable to two or more items of tangible
personal property, products, or services that are subject to taxation under this chapter at
different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the
different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal
property, product, or service that is subject to taxation under this chapter at the lower tax rate
from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
seller's regular course of business includes books and records the seller keeps in the regular
course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);
(ii) Subsection (2)(b)(i);
(iii) Subsection (2)(c)(i); or

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:
(A) Subsection (2)(a)(i)(A);
(B) Subsection (2)(b)(i);
(C) Subsection (2)(c)(i); or

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:
(A) Subsection (2)(a)(i)(A);
(B) Subsection (2)(b)(i);
(C) Subsection (2)(c)(i); or

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:
(A) on the first day of a calendar quarter; and
(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
(A) Subsection (2)(a)(i)(A);
(B) Subsection (2)(b)(i);
(C) Subsection (2)(c)(i); or

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:
   (i) the tax imposed by Subsection (2)(a)(i)(A);
   (ii) the tax imposed by Subsection (2)(b)(i);
   (iii) the tax imposed by Subsection (2)(c)(i); or
   (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:
   (i) the tax imposed by Subsection (2)(a)(ii);
   (ii) the tax imposed by Subsection (2)(b)(ii);
   (iii) the tax imposed by Subsection (2)(c)(ii); and
   (iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):
   (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
      (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
      (B) for the fiscal year; or
   (ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:
   (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or
   (B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection
(4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
person to list or attempt to have listed a species as threatened or endangered under the

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and
Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated
credits; and
(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:
(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and
(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:
(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and
(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;
(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and
(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).
(e) After making the transfers required by Subsections (5)(b) and (c) and subject to
Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
transferred each year as dedicated credits to the Division of Water Rights to cover the costs
incurred for employing additional technical staff for the administration of water rights.
(f) At the end of each fiscal year, any unexpended dedicated credits described in
Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development
Fund created in Section 73-10-24.
(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
the Transportation Fund created by Section 72-2-102.
(7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
by a 1/64% tax rate on the taxable transactions under Subsection (1).
(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
created by Section 72-2-124:
(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
the revenues collected from the following taxes, which represents a portion of the
approximately 17% of sales and use tax revenues generated annually by the sales and use tax
on vehicles and vehicle-related products:
(A) the tax imposed by Subsection (2)(a)(i)(A);
(B) the tax imposed by Subsection (2)(b)(i);
(C) the tax imposed by Subsection (2)(c)(i); and
(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus
(ii) an amount equal to 30% of the growth in the amount of revenues collected in the
current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year under Subsection (8)(a).

(9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall annually deposit $90,000,000 of the revenues generated by the taxes listed under
2438 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.
2439
2440 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2441 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund 2442 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.
2443
2444 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b), and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July 2445 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 2446 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the 2447 transactions described in Subsection (1).
2448 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into 2449 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or 2450 charged for food and food ingredients, except for tax revenue generated by a bundled 2451 transaction attributable to food and food ingredients and tangible personal property other than 2452 food and food ingredients described in Subsection (2)(d).
2453
2454 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection 2455 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the 2456 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a 2457 .025% tax rate on the transactions described in Subsection (1) to be expended to address 2458 chokepoints in construction management.
2459 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into 2460 the Transportation Fund any tax revenue generated by amounts paid or charged for food and 2461 food ingredients, except for tax revenue generated by a bundled transaction attributable to food 2462 and food ingredients and tangible personal property other than food and food ingredients 2463 described in Subsection (2)(d).
2464
2465 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the 2466 fiscal year during which the Division of Finance receives notice under Subsection 2467 [63M-1-3410] 63N-2-510(3) that construction on a qualified hotel, as defined in Section
has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(14) Notwithstanding Subsections (4) through (13), an amount required to be expended or deposited in accordance with Subsections (4) through (13) may not include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

Section 35. Section 59-12-301 is amended to read:

59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after October 1, 2006.

(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

(2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

(a) deposited into the Transient Room Tax Fund created by Section 63N-3-403; and

(b) expended as provided in Section 63N-3-403.

(3) Subject to Subsection (4), a county legislative body:

(a) may increase or decrease the tax authorized under this part; and

(b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection (4):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
Consolidations and Annexations.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting
the requirements of Subsection (4)(b)(ii) from the county.

(ii) The notice described in Subsection (4)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection
(4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
(4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate
increase; and

(B) if the billing period for the transaction begins before the effective date of the
enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
(4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;

and

(B) if the billing period for the transaction begins before the effective date of the repeal
of the tax or the tax rate decrease imposed under this section.
(iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (4)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (4)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (4)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal
of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 36. Section 63A-3-402 is amended to read:

63A-3-402. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) There is created the Utah Public Finance Website to be administered by the Division of Finance with the technical assistance of the Department of Technology Services.

(2) The Utah Public Finance Website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, and participating local entities, using the Utah Public Finance Website; and

(ii) link to websites administered by participating local entities or independent entities that do not use the Utah Public Finance Website for the purpose of providing participating local entities' or independent entities' public financial information as required by this part and by rule under Section 63A-3-404;

(b) allow a person who has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the Utah Public Finance Website using criteria established by the board;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule under Section 63A-3-404;

(e) have a unique and simplified website address;

(f) be directly accessible via a link from the main page of the official state website;

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule under Section 63A-3-404; and
include a link to school report cards published on the State Board of Education's website pursuant to Section 53A-1-1112.

The division shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities;

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities; and

(e) provide staff support for the advisory committee.

(4) (a) A participating state entity and each independent entity shall permit the public to view the entity's public financial information via the website, beginning with information that is generated not later than the fiscal year that begins July 1, 2008, except that public financial information for an:

(i) institution of higher education shall be provided beginning with information generated for the fiscal year beginning July 1, 2009; and

(ii) independent entity shall be provided beginning with information generated for the entity's fiscal year beginning in 2014.

(b) No later than May 15, 2009, the website shall:

(i) be operational; and

(ii) permit public access to participating state entities' public financial information, except as provided in Subsections (4)(c) and (d).

(c) An institution of higher education that is a participating state entity shall submit the entity's public financial information at a time allowing for inclusion on the website no later than May 15, 2010.

(d) No later than the first full quarter after July 1, 2014, an independent entity shall submit the entity's public financial information for inclusion on the Utah Public Finance
(5) (a) The Utah Educational Savings Plan, created in Section 53B-8a-103, shall provide the following financial information to the division for posting on the Utah Public Finance Website:

(i) administrative fund expense transactions from its general ledger accounting system; and

(ii) employee compensation information.

(b) The plan is not required to submit other financial information to the division, including:

(i) revenue transactions;

(ii) account owner transactions; and

(iii) fiduciary or commercial information, as defined in Section 53B-12-102.

(6) (a) The following independent entities shall each provide administrative expense transactions from its general ledger accounting system and employee compensation information to the division for posting on the Utah Public Finance Website or via a link to a website administered by the independent entity:

(i) the Utah Capital Investment Corporation, created in Section 63M-1-1207; 63M-1-1207;

(ii) the Utah Housing Corporation, created in Section 35A-8-704; and

(iii) the School and Institutional Trust Lands Administration, created in Section 53C-1-201.

(b) For purposes of this part, an independent entity described in Subsection (6)(a) is not required to submit to the division, or provide a link to, other financial information, including:

(i) revenue transactions of a fund or account created in its enabling statute;

(ii) fiduciary or commercial information related to any subject if the disclosure of the information:

(A) would conflict with fiduciary obligations; or

(B) is prohibited by insider trading provisions;
(iii) information of a commercial nature, including information related to:

(A) account owners, borrowers, and dependents;
(B) demographic data;
(C) contracts and related payments;
(D) negotiations;
(E) proposals or bids;
(F) investments;
(G) the investment and management of funds;
(H) fees and charges;
(I) plan and program design;
(J) investment options and underlying investments offered to account owners;
(K) marketing and outreach efforts;
(L) lending criteria;
(M) the structure and terms of bonding; and
(N) financial plans or strategies; and
(iv) information protected from public disclosure by federal law.

(7) (a) As used in this Subsection (7):

(i) "Local education agency" means a school district or a charter school.

(ii) "New school building project" means the construction of a school that did not previously exist in a local education agency.

(iii) "Significant school remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of an existing school in a local education agency with a project cost equal to or in excess of $2,000,000.

(b) For each new school building project or significant school remodel, the local education agency shall:

(i) prepare an annual school plant capital outlay report; and

(ii) submit the report:

(A) to the division for publication on the Utah Public Finance Website; and
(B) in a format, including any raw data or electronic formatting, prescribed by applicable division policy.

(c) The local education agency shall include in the capital outlay report described in Subsection (7)(b)(i) the following information as applicable to each new school building project or significant school remodel:

(i) the name and location of the project or remodel;

(ii) construction and design costs, including:

(A) the purchase price or lease terms of any real property acquired or leased for the project or remodel;

(B) facility construction;

(C) facility and landscape design;

(D) applicable impact fees; and

(E) furnishings and equipment;

(iii) the gross square footage of the project or remodel;

(iv) the year construction was completed; and

(v) the final student capacity of the new school building project or, for a significant school remodel, the increase or decrease in student capacity created by the remodel.

(d) (i) For a cost, fee, or other expense required to be reported under Subsection (7)(c), the local education agency shall report the actual cost, fee, or other expense.

(ii) The division may require that a local education agency provide further itemized data on information listed in Subsection (7)(c).

(e) (i) No later than May 15, 2015, a local education agency shall provide the division a school plant capital outlay report for each new school building project and significant school remodel completed on or after July 1, 2004, and before May 13, 2014.

(ii) For a new school building project or significant school remodel completed after May 13, 2014, the local education agency shall provide the school plant capital outlay report described in this Subsection (7) to the division annually by a date designated by the division.

(8) A person who negligently discloses a record that is classified as private, protected,
or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the record if the record is disclosed solely as a result of the preparation or publication of the Utah Public Finance Website.

Section 37. Section 63E-1-102 is amended to read:

**63E-1-102. Definitions -- List of independent entities.**

As used in this title:

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

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

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

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

   (i) independent state agency; or

   (ii) independent corporation.

   (b) "Independent entity" includes the:

      (i) Utah Dairy Commission created by Section 4-22-2;

      (ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

      (iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

      (iv) Utah Science Center Authority created by Section 63H-3-103;

      (v) Utah Housing Corporation created by Section 35A-8-704;

      (vi) Utah State Fair Corporation created by Section 63H-6-103;

      (vii) Workers' Compensation Fund created by Section 31A-33-102;

      (viii) Utah State Retirement Office created by Section 49-11-201;

      (ix) School and Institutional Trust Lands Administration created by Section 53C-1-201;

      (x) School and Institutional Trust Fund Office created by Section 53D-1-201;
(xi) Utah Communications Authority created in Section 63H-7-201;
(xii) Utah Energy Infrastructure Authority created by Section 63H-2-201;
(xiii) Utah Capital Investment Corporation created by Section [62M-1-1207]; and
(xiv) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:
(i) the Public Service Commission of Utah created by Section 54-1-1;
(ii) an institution within the state system of higher education;
(iii) a city, county, or town;
(iv) a local school district;
(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or
(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

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

(6) "Money held in trust" means money maintained for the benefit of:
(a) one or more private individuals, including public employees;
(b) one or more public or private entities; or
(c) the owners of a quasi-public corporation.

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

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

Section 38. Section 63F-1-205 is amended to read:

63F-1-205. Approval of acquisitions of information technology.
(1) (a) Except as provided in Title 63M, Chapter 13, Part 2, Government Procurement Private Proposal Program, in accordance with Subsection (2), the chief information officer shall approve the acquisition by an executive branch agency of:

(i) information technology equipment;
(ii) telecommunications equipment;
(iii) software;
(iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and
(v) data acquisition.

(b) The chief information officer may negotiate the purchase, lease, or rental of private or public information technology or telecommunication services or facilities in accordance with this section.

(c) Where practical, efficient, and economically beneficial, the chief information officer shall use existing private and public information technology or telecommunication resources.

(d) Notwithstanding another provision of this section, an acquisition authorized by this section shall comply with rules made by the applicable rulemaking authority under Title 63G, Chapter 6a, Utah Procurement Code.

(2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount that exceeds the value established by the chief information officer by rule in accordance with Section 63F-1-206, the chief information officer shall:

(a) conduct an analysis of the needs of executive branch agencies and subscribers of services and the ability of the proposed information technology or telecommunications services or supplies to meet those needs; and
(b) for purchases, leases, or rentals not covered by an existing statewide contract, provide in writing to the chief procurement officer in the Division of Purchasing and General Services that:

(i) the analysis required in Subsection (2)(a) was completed; and
(ii) based on the analysis, the proposed purchase, lease, rental, or master contract of
services, products, or supplies is practical, efficient, and economically beneficial to the state
and the executive branch agency or subscriber of services.

(3) In approving an acquisition described in Subsections (1) and (2), the chief
information officer shall:

(a) establish by administrative rule, in accordance with Section 63F-1-206, standards
under which an agency must obtain approval from the chief information officer before
acquiring the items listed in Subsections (1) and (2);

(b) for those acquisitions requiring approval, determine whether the acquisition is in
compliance with:

(i) the executive branch strategic plan;

(ii) the applicable agency information technology plan;

(iii) the budget for the executive branch agency or department as adopted by the
Legislature; and

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(c) in accordance with Section 63F-1-207, require coordination of acquisitions between
two or more executive branch agencies if it is in the best interests of the state.

(4) (a) Each executive branch agency shall provide the chief information officer with
complete access to all information technology records, documents, and reports:

(i) at the request of the chief information officer; and

(ii) related to the executive branch agency's acquisition of any item listed in Subsection
(1).

(b) Beginning July 1, 2006 and in accordance with administrative rules established by
the department under Section 63F-1-206, no new technology projects may be initiated by an
executive branch agency or the department unless the technology project is described in a
formal project plan and the business case analysis has been approved by the chief information
officer and agency head. The project plan and business case analysis required by this
Subsection (4) shall be in the form required by the chief information officer, and shall include:

(i) a statement of work to be done and existing work to be modified or displaced;
(ii) total cost of system development and conversion effort, including system analysis and programming costs, establishment of master files, testing, documentation, special equipment cost and all other costs, including overhead;

(iii) savings or added operating costs that will result after conversion;

(iv) other advantages or reasons that justify the work;

(v) source of funding of the work, including ongoing costs;

(vi) consistency with budget submissions and planning components of budgets; and

(vii) whether the work is within the scope of projects or initiatives envisioned when the current fiscal year budget was approved.

(5) (a) The chief information officer and the Division of Purchasing and General Services shall work cooperatively to establish procedures under which the chief information officer shall monitor and approve acquisitions as provided in this section.

(b) The procedures established under this section shall include at least the written certification required by Subsection 63G-6a-303(1)(e).

Section 39. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;
(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(a) an invitation for bids;

(b) a request for proposals;

(c) a request for quotes;

(d) a grant; or

(e) other similar document;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is
issued;

(8) records that would identify real property or the appraisal or estimated value of real
or personal property, including intellectual property, under consideration for public acquisition
before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the
governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a
duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described
property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of
property, the potential sellers have already learned of the governmental entity's estimated value
of the property; or

(e) the property under consideration for public acquisition is a single family residence
and the governmental entity seeking to acquire the property has initiated negotiations to acquire
the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other
compensated transaction of real or personal property including intellectual property, which, if
disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting
access, including the governmental entity's interest in maximizing the financial benefit of the
transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
the value of the subject property have already been disclosed to persons not employed by or
under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement
purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational
procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and
General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:
(a) collective bargaining; or
(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be
classified protected by the governmental entity under this Subsection (37); and
(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;
(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;
(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:
(i) unpublished lecture notes;
(ii) unpublished notes, data, and information:
(A) relating to research; and
(B) of:
(I) the institution within the state system of higher education defined in Section 53B-1-102; or
(II) a sponsor of sponsored research;
(iii) unpublished manuscripts;
(iv) creative works in process;
(v) scholarly correspondence; and
(vi) confidential information contained in research proposals;
(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
(c) Subsection (40)(a) may not be construed to affect the ownership of a record;
(41) (a) records in the custody or control of the Office of Legislative Auditor General
that would reveal the name of a particular legislator who requests a legislative audit prior to the
date that audit is completed and made public; and
(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
Office of the Legislative Auditor General is a public document unless the legislator asks that
the records in the custody or control of the Office of Legislative Auditor General that would
reveal the name of a particular legislator who requests a legislative audit be maintained as
protected records until the audit is completed and made public;
(42) records that provide detail as to the location of an explosive, including a map or
other document that indicates the location of:
(a) a production facility; or
(b) a magazine;
(43) information:
(a) contained in the statewide database of the Division of Aging and Adult Services
created by Section 62A-3-311.1; or
(b) received or maintained in relation to the Identity Theft Reporting Information
System (IRIS) established under Section 67-5-22;
(44) information contained in the Management Information System and Licensing
Information System described in Title 62A, Chapter 4a, Child and Family Services;
(45) information regarding National Guard operations or activities in support of the
National Guard's federal mission;
(46) records provided by any pawn or secondhand business to a law enforcement
agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
Secondhand Merchandise Transaction Information Act;
(47) information regarding food security, risk, and vulnerability assessments performed
by the Department of Agriculture and Food;
(48) except to the extent that the record is exempt from this chapter pursuant to Section
63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
prepared or maintained by the Division of Emergency Management, and the disclosure of
which would jeopardize:

(a) the safety of the general public; or
(b) the security of:
(i) governmental property;
(ii) governmental programs; or
(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:
(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and
(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:
(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and
(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:
(i) the nature of the law, ordinance, rule, or order; and
(ii) the individual complying with the law, ordinance, rule, or order;

(52) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is: 
(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
(b) conducted using animals;
(53) an initial proposal under Title 63M, Chapter 13, Part 26, Government Procurement Private Proposal Program, to the extent not made public by rules made under that chapter;
(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge;
(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;
(56) records contained in the Management Information System created in Section 62A-4a-1003;
(57) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63J-4-603;
(58) information requested by and provided to the Utah State 911 Committee under Section 63H-7-303;
(59) in accordance with Section 73-10-33:
(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or
(b) an outline of an emergency response plan in possession of the state or a county or municipality;
(60) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:
(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or
allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(61) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(62) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsection 58-68-304(3) or (4);

(63) a record described in Section 63G-12-210; and

(64) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003.

Section 40. Section 63G-6a-303 is amended to read:

63G-6a-303. Duties and authority of chief procurement officer.

(1) Except as otherwise specifically provided in this chapter, the chief procurement
officer serves as the central procurement officer of the state and shall:

(a) adopt office policies governing the internal functions of the division;

(b) procure or supervise each procurement over which the chief procurement officer has authority;

(c) establish and maintain programs for the inspection, testing, and acceptance of each procurement item over which the chief procurement officer has authority;

(d) prepare statistical data concerning each procurement and procurement usage of a state procurement unit;

(e) ensure that:

(i) before approving a procurement not covered by an existing statewide contract for information technology or telecommunications supplies or services, the chief information officer and the agency have stated in writing to the division that the needs analysis required in Section 63F-1-205 was completed, unless the procurement is approved in accordance with Title [63M] 63N, Chapter [1] 13, Part [26] 2, Government Procurement Private Proposal Program; and

(ii) the oversight authority required by Subsection (5)(a) is not delegated outside the division;

(f) provide training to procurement units and to persons who do business with procurement units;

(g) if the chief procurement officer determines that a procurement over which the chief procurement officer has authority is out of compliance with this chapter or board rules:

(i) correct or amend the procurement to bring it into compliance; or

(ii) cancel the procurement, if:

(A) it is not feasible to bring the procurement into compliance; or

(B) the chief procurement officer determines that it is in the best interest of the state to cancel the procurement; and

(h) if the chief procurement officer determines that a contract over which the chief procurement officer has authority is out of compliance with this chapter or board rules, correct
or amend the contract to bring it into compliance or cancel the contract:

(i) if the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(ii) after consultation with the attorney general's office.

(2) The chief procurement officer may:

(a) correct, amend, or cancel a procurement as provided in Subsection (1)(g) at any stage of the procurement process; and

(b) correct, amend, or cancel a contract as provided in Subsection (1)(h) at any time during the term of the contract.

Section 41. Section 63G-6a-304 is amended to read:

63G-6a-304. Delegation of authority.

(1) In accordance with rules made by the board, the chief procurement officer may delegate authority to designees or to any department, agency, or official.

(2) For a procurement under Title 63M, Chapter 13, Part 26, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.

Section 42. Section 63G-6a-305 is amended to read:

63G-6a-305. Duty of chief procurement officer in maintaining specifications.

(1) The chief procurement officer may prepare, issue, revise, maintain, and monitor the use of specifications for each procurement over which the chief procurement officer has authority.

(2) The chief procurement officer shall obtain expert advice and assistance from personnel of procurement units in the development of specifications and may delegate in writing to a procurement unit the authority to prepare and utilize its own specifications.

(3) For a procurement under Title 63M, Chapter 13, Part 26, Government Procurement Private Proposal Program, any delegation by the chief procurement officer under this section shall be made to the Governor's Office of Economic Development.

Section 43. Section 63G-6a-711 is amended to read:
3194 63G-6a-711. Procurement for submitted proposal.
3195 (1) As used in this section:
3196 (a) "Committee" is as defined in Section 63M-1-2602 63N-13-202.
3197 (b) "Initial proposal" is a proposal submitted by a private entity under Section
3198 63M-1-2605 63N-13-205.
3199 (2) After receipt by the chief procurement officer of a copy of an initial proposal from
3200 the committee in accordance with Subsection 63M-1-2606 63N-13-206(5), including any
3201 comment, suggestion, or modification to the initial proposal, the chief procurement officer
3202 shall initiate a standard procurement process in compliance with this chapter.
3203 (3) The chief procurement officer or designee shall:
3204 (a) review each detailed proposal received in accordance with Title 63M 63N,
3205 Chapter 13, Part 26, Government Procurement Private Proposal Program; and
3206 (b) submit all detailed proposals that meet the guidelines established under Subsection
3207 63M-1-2608 63N-13-208(1) to the committee for review under Section 63M-1-2609
3208 63N-13-209.
3209 (4) For purposes of this chapter, the Governor's Office of Economic Development is
3210 considered a procurement unit with independent procurement authority for a procurement
3211 under Title 63M 63N, Chapter 13, Part 26, Government Procurement Private Proposal
3212 Program.
3213 Section 44. Section 63G-19-101, which is renumbered from Section 63M-1-1001 is
3214 renumbered and amended to read:
3215 CHAPTER 19. BIOTECHNOLOGY PROVISIONS
3218 (1) This chapter is known as "Biotechnology Provisions."
3219 (2) As used in this part, "biotechnology" is:
3220 [(1)] (a) the modification of living organisms by recombinant DNA techniques; and
3221 [(2)] (b) a means to accomplish, through genetic engineering, the same kinds of
modifications accomplished through traditional genetic techniques such as crossbreeding.

Section 45. Section 63G-19-102, which is renumbered from Section 63M-1-1002 is renumbered and amended to read:


(1) A state agency having access under federal law to biotechnology trade secrets and related confidential information shall manage the trade secrets and related confidential records as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

(2) The records described in this section may be disclosed under the balancing provisions of Title 63G, Chapter 2, Government Records Access and Management Act, when a determination is made that disclosure is essential for the protection of the public's health or environment.

Section 46. Section 63G-19-103, which is renumbered from Section 63M-1-1003 is renumbered and amended to read:


(1) A county, city, town, or other political subdivision may not regulate the technological processes relating to the development and use of biotechnologically created materials and organisms.

(2) This preemption does not affect the powers of a county, city, town, or other political subdivision, including the power to regulate land use, business, industry, construction, and public utilities, to protect the public health or environment, or to provide fire protection and other public safety services.

Section 47. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

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

(2) Subsection 63A-5-104(4)(h) is repealed on July 1, 2024.

(3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.
(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2018.

(5) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

(6) Title 63C, Chapter 15, Prison Relocation Commission, is repealed July 1, 2017.

(7) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1, 2015.

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

(9) The Resource Development Coordinating Committee, created in Section 63J-4-501, is repealed July 1, 2015.

(10) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

(11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2017.

(12) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2018.

(13) (a) Title 63N, Chapter 2, Part 4, Recycling Market Development Zone Act, is repealed January 1, 2021.

(b) Subject to Subsection (13)(c), Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in recycling market development zones, are repealed for taxable years beginning on or after January 1, 2021.

(c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

(i) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

(ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if the expenditure is made on or after January 1, 2021.

(d) Notwithstanding Subsections (13)(b) and (c), a person may carry forward a
tax credit in accordance with Section 59-7-610 or 59-10-1007 if:

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

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

(B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the expenditure is made on or before December 31, 2020.

[(12)] (14) Section [63M-1-3412] 63N-2-512 is repealed on July 1, 2021.

[(13) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.]

[(b) (i) The Legislature shall, before reauthorizing the Health Care Compact:]

[(A) direct the Health System Reform Task Force to evaluate the issues listed in Subsection (13)(b)(ii), and by January 1, 2013, develop and recommend criteria for the Legislature to use to negotiate the terms of the Health Care Compact; and]

[(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.]

[(ii) The Health System Reform Task Force shall evaluate and develop criteria for the Legislature regarding:]

[(A) the impact of the Supreme Court ruling on the Affordable Care Act;]

[(B) whether Utah is likely to be required to implement any part of the Affordable Care Act prior to negotiating the compact with the federal government, such as Medicaid expansion in 2014;]

[(C) whether the compact's current funding formula, based on adjusted 2010 state expenditures, is the best formula for Utah and other state compact members to use for establishing the block grants from the federal government;]

[(D) whether the compact's calculation of current year inflation adjustment factor, without consideration of the regional medical inflation rate in the current year, is adequate to protect the state from increased costs associated with administering a state based Medicaid and ]
[(E) whether the state has the flexibility it needs under the compact to implement and 
fund state based initiatives, or whether the compact requires uniformity across member states 
that does not benefit Utah;]

[(F) whether the state has the option under the compact to refuse to take over the 
federal Medicare program;]

[(G) whether a state based Medicare program would provide better benefits to the 
elderly and disabled citizens of the state than a federally run Medicare program;]

[(H) whether the state has the infrastructure necessary to implement and administer a 
better state based Medicare program;]

[(I) whether the compact appropriately delegates policy decisions between the 
legislative and executive branches of government regarding the development and 
implementation of the compact with other states and the federal government; and]

[(J) the impact on public health activities, including communicable disease 
surveillance and epidemiology.]

Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for 
calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [(14)] (15)(b), an entity may carry forward a tax credit 
in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 
31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under 
Section [63M-1-3503] 63N-2-603 on or before December 31, 2023.

Section 48. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

[(I) Section 63A-1-115 is repealed on July 1, 2014.]
Section 63C-9-501.1 is repealed on July 1, 2015.

Subsection 63J-1-218(2) is repealed on December 1, 2013.

Subsection 63J-1-218(4) is repealed on December 1, 2013.

Section 63M-1-207 is repealed on December 1, 2014.

Subsection 63M-1-903(1)(d) is repealed on July 1, 2015.

Subsection 63M-1-1406(9) is repealed on January 1, 2015.

Section 49. Section 63I-4a-102 is amended to read:

63I-4a-102. Definitions.

(1) (a) "Activity" means to provide a good or service.

(b) "Activity" includes to:

(i) manufacture a good or service;

(ii) process a good or service;

(iii) sell a good or service;

(iv) offer for sale a good or service;

(v) rent a good or service;

(vi) lease a good or service;

(vii) deliver a good or service;

(viii) distribute a good or service; or

(ix) advertise a good or service.

(2) (a) Except as provided in Subsection (2)(b), "agency" means:

(i) the state; or

(ii) an entity of the state including a department, office, division, authority, commission, or board.

(b) "Agency" does not include:

(i) the Legislature;

(ii) an entity or agency of the Legislature;

(iii) the state auditor;

(iv) the state treasurer;
(v) the Office of the Attorney General;
(vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
(vii) the Utah Science Center Authority created in Title 63H, Chapter 3, Utah Science Center Authority;
(viii) the Heber Valley Railroad Authority created in Title 63H, Chapter 4, Heber Valley Historic Railroad Authority;
(ix) the Utah State Railroad Museum Authority created in Title 63H, Chapter 5, Utah State Railroad Museum Authority;
(x) the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7, Utah Housing Corporation Act;
(xi) the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah State Fair Corporation Act;
(xii) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers' Compensation Fund;
(xiii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State Retirement Systems Administration;
(xiv) a charter school chartered by the State Charter School Board or a board of trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act;
(xv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b, Utah Schools for the Deaf and the Blind;
(xvi) an institution of higher education as defined in Section 53B-3-102;
(xvii) the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
(xviii) the Utah Communications Authority created in Title 63H, Chapter 7, Utah Communications Authority Act; or
3390 (3) "Agency head" means the chief administrative officer of an agency.
3391 (4) "Board" means the Free Market Protection and Privatization Board created in
3392 Section 63I-4a-202.
3393 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
3394 or in part from a private enterprise.
3395 (6) "Local entity" means:
3396 (a) a political subdivision of the state, including a:
3397 (i) county;
3398 (ii) city;
3399 (iii) town;
3400 (iv) local school district;
3401 (v) local district; or
3402 (vi) special service district;
3403 (b) an agency of an entity described in this Subsection (6), including a department,
3404 office, division, authority, commission, or board; or
3405 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
3406 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
3407 (7) "Private enterprise" means a person that engages in an activity for profit.
3408 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
3409 private enterprise engages in the activity, including a transfer by:
3410 (a) contract;
3411 (b) transfer of property; or
3412 (c) another arrangement.
3413 (9) "Special district" means:
3414 (a) a local district, as defined in Section 17B-1-102;
3415 (b) a special service district, as defined in Section 17D-1-102; or
3416 (c) a conservation district, as defined in Section 17D-3-102.
3417 Section 50. Section 63J-1-315 is amended to read:
Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health created in Section 26-1-4.

(b) "Division" means the Division of Health Care Financing created within the department under Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106;

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay
additional debt service for any bonded debt authorized by the Legislature, the Division of
Finance may hold back from any General Fund revenue surplus money sufficient to pay the
additional debt service requirements resulting from issuance of bonded debt that was
authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service
under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining
General Fund revenue surplus is insufficient to cover the hold back for debt service required by
Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth
Reduction and Budget Stabilization Account by the amount necessary to cover the debt service
hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
the General Fund balance for debt service authorized by this Subsection (5) before making any
transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division
of Finance determines that an operating deficit exists and that holding back earmarks to the
Industrial Assistance Account under Section [63M-1-905] 63N-3-106, transfers to the State
Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund
Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one
of those accounts, in that order, does not eliminate the operating deficit, the Division of
Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization
Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and
Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is
made are estimated to be 108% or more of Medicaid program expenditures for the previous
year; and
(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 51. Section 63J-1-602.4 is amended to read:

63J-1-602.4. List of nonlapsing funds and accounts -- Title 61 through Title 63N.

(1) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(2) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(3) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.


(5) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(6) Appropriations from the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(7) Appropriations to the Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(8) A portion of the funds appropriated to the Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(9) Funds appropriated or collected for publishing the Division of Administrative Rules' publications, as provided in Section 63G-3-402.

(10) The Immigration Act Restricted Account created in Section 63G-12-103.

(11) Money received by the military installation development authority, as provided in Section 63H-1-504.
Enrolled Copy


[(13)] The Motion Picture Incentive Account created in Section [63M-1-1803]

[(14)] Certain money payable for commission expenses of the Pete Suazo Utah Athletic Commission, as provided under Section [63C-11-301] 63N-10-301.

Section 52. Section 63J-4-603 is amended to read:

63J-4-603. Powers and duties of coordinator and office.

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:
3558 (A) prepare coordinated public lands policies;
3559 (B) develop consistency reviews and responses to public lands policies;
3560 (C) develop management plans that relate to public lands policies; and
3561 (D) develop and maintain a statewide land use plan that is based on cooperation and in
3562 conjunction with political subdivisions; and
3563 (v) providing other information or services related to public lands policies as requested
3564 by the state planning coordinator;
3565 (e) facilitate and coordinate the exchange of information, comments, and
3566 recommendations on public lands policies between and among:
3567 (i) state agencies;
3568 (ii) political subdivisions;
3569 (iii) the Office of Rural Development created under Section [63M-1-1602] 63N-4-102;
3570 (iv) the Resource Development Coordinating Committee created under Section
3571 63J-4-501;
3572 (v) School and Institutional Trust Lands Administration created under Section
3573 53C-1-201;
3574 (vi) the committee created under Section 63F-1-508 to award grants to counties to
3575 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
3576 (vii) the Constitutional Defense Council created under Section 63C-4a-202;
3577 (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
3578 Chapter 8, Part 4, Historic Sites;
3579 (g) consistent with other statutory duties, encourage agencies to responsibly preserve
3580 archaeological resources;
3581 (h) maintain information concerning grants made under Subsection (1)(j), if available;
3582 (i) report annually, or more often if necessary or requested, concerning the office's
3583 activities and expenditures to:
3584 (i) the Constitutional Defense Council; and
3585 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim
Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107; and

(m) conduct the public lands transfer study and economic analysis required by Section 63J-4-606.

(2) The coordinator and office shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) if the governor were submitting the material.

(3) The office may enter into a contract or other agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

Section 53. Section 63J-7-102 is amended to read:

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

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

(2) This chapter does not govern:
(a) a grant deposited into a General Fund restricted account;
(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
(d) a grant made to the state without a restriction or other designated purpose that is
deposited into the General Fund as free revenue;
(e) a grant made to the state that is restricted only to "education" and that is deposited
into the Education Fund or Uniform School Fund as free revenue;
(f) in-kind donations;
(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
when required by state law or application of state law;
(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
Contribution Act;
(i) a grant received by an agency from another agency or political subdivision;
(j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
Act;
(k) a grant to the Utah Science Center Authority created in Title 63H, Chapter 3, Utah
Science Center Authority;
(l) a grant to the Heber Valley Railroad Authority created in Title 63H, Chapter 4,
Heber Valley Historic Railroad Authority;
(m) a grant to the Utah State Railroad Museum Authority created in Title 63H, Chapter
5, Utah State Railroad Museum Authority;
(n) a grant to the Utah Housing Corporation created in Title 35A, Chapter 8, Part 7,
Utah Housing Corporation Act;
(o) a grant to the Utah State Fair Corporation created in Title 63H, Chapter 6, Utah
State Fair Corporation Act;
(p) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
Workers' Compensation Fund;
(q) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
(r) a grant to the School and Institutional Trust Lands Administration created in Title 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;

(s) a grant to the Utah Communications Authority created in Title 63H, Chapter 7, Utah Communications Authority Act;

(t) a grant to the Medical Education Program created in Section 53B-24-202;

(u) a grant to the Utah Capital Investment Corporation created in Title 63N, Chapter 6, Part 3, Utah Capital Investment Corporation;

(v) a grant to the Utah Charter School Finance Authority created in Section 53A-20b-103;

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

(x) a grant to the Utah Comprehensive Health Insurance Pool created in Section 31A-29-104; or

(y) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

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

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 54. Section 63M-2-101 is amended to read:

TITLE 63M. GOVERNOR'S PROGRAMS

CHAPTER 2. UTAH SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY ACT

63M-2-101. Title.

(1) This title is known as "Governor's Programs."

(2) This chapter is known as the "Utah Science Technology and Research Governing Authority Act."
TITLE 63N. GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT

CHAPTER 1. GOED GENERAL PROVISIONS


[63M-1-101].
63N-1-101. Title.
(1) This title is known as "Governor's Programs." the "Governor's Office of Economic Development."
(2) This chapter is known as "GOED General Provisions."

Section 56. Section 63N-1-102, which is renumbered from Section 63M-1-102 is renumbered and amended to read:

[63M-1-102].
63N-1-102. Definitions.
As used in this [chapter] title:
(1) "Board" means the Board of Business and Economic Development created in Section 63N-1-401.
(2) "Council" means the Governor's Economic Development Coordinating Council created in Section 63N-1-501.
[(2) "Director"] (3) "Executive director" means the executive director of the office.
[(3)] (4) "Office" or "GOED" means the Governor's Office of Economic Development.

Part 2. Creation of GOED

[63M-1-201].
63N-1-201. Creation of office -- Responsibilities.
(1) There is created the Governor's Office of Economic Development.
(2) The office [shall] is:
(a) [be] responsible for economic development [within] and economic development

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planning in the state; and
[(b) perform economic development planning for the state;]
(b) the industrial promotion authority of the state.

(3) The office shall:
[(e) (a) administer and coordinate [all] state [or] and federal economic development
grant programs [which are, or become available, for economic development];
(b) promote and encourage the economic, commercial, financial, industrial,
agricultural, and civic welfare of the state;
(c) act to create, develop, attract, and retain business, industry, and commerce in the
state;
(d) act to enhance the state's economy;
[(d) (e) administer [any other] programs over which the office is given administrative
supervision by the governor;
[(e) (f) submit an annual written report as described in Section [63M-1-206]
63N-1-301; and
[(f) (g) perform [any] other duties as provided by the Legislature.
(4) In order to perform its duties under this title, the office may:
(a) enter into a contract or agreement with, or make a grant to, a public or private
entity, including a municipality, if the contract or agreement is not in violation of state statute
or other applicable law;
(b) except as provided in Subsection (4)(c), receive and expend funds from a public or
private source for any lawful purpose that is in the state's best interest; and
[(3) The office may] (c) solicit and accept [contributions] a contribution of money,
services, [and] or facilities from [any other source,] a public or private donor, but may not use
the [money] contribution for publicizing the exclusive interest of the donor.
[(4)] (5) Money received under Subsection [(3)] (4)(c) shall be deposited in the
General Fund as dedicated credits of the office.
[(5) (a) The office is recognized as an issuing authority as defined in Subsection]
(7), entitled to issue bonds from the Small Issue Bond Account created in Subsection 63M-1-3006(1)(c) as a part of the state's private activity bond volume cap authorized by the Internal Revenue Code of 1986 and computed under Section 146 of the code.]

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

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

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

[(iii) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide their services at a reduced rate when the division can provide them with a high volume of applicants or issues:]

(6) (a) The office shall obtain the advice of the board before implementing a change to a policy, priority, or objective under which the office operates.

(b) Subsection (6)(a) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 58. Section 63N-1-202, which is renumbered from Section 63M-1-202 is renumbered and amended to read:


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

(2) The executive director serves at the pleasure of the governor.

(3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
Section 59. Section 63N-1-203, which is renumbered from Section 63M-1-203 is renumbered and amended to read:

63N-1-203. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor, may:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, and a private entity pursuant to Section 63M-1-2610 or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

Section 60. Section 63N-1-204, which is renumbered from Section 63M-1-205 is renumbered and amended to read:

63N-1-204. Executive director and the Public Service Commission.

(1) The executive director or the executive director's designee shall:

(a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and
monitor and study the potential economic development impact of these proceedings [before the Public Service Commission].

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

Section 61. Section 63N-1-301, which is renumbered from Section 63M-1-206 is renumbered and amended to read:

**Part 3. GOED Annual Report**

[63M-1-206]. 63N-1-301. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this [chapter] title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;
(b) data selected and used by the office to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;
(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);
(e) goals, challenges, and achievements related to the operation, activity, program, or service;
(f) relevant federal and state statutory references and requirements;
(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
(h) other information determined by the office that:
(i) may be needed, useful, or of historical significance; or
(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:
(a) submit the annual report in accordance with Section 68-3-14; and
(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website.

Section 62. Section 63N-1-401, which is renumbered from Section 63M-1-302 is renumbered and amended to read:

**Part 4. Board of Business and Economic Development**

63N-1-401. Board of Business and Economic Development -- Membership -- Expenses.

(1) (a) There is created within the office the Board of Business and Economic Development, consisting of 15 members appointed by the governor to four-year terms of office with the consent of the Senate.

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

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

(2) In appointing members of the committee, the governor shall ensure that:

[(2) Not] (a) no more than eight members of the board [may be] are from one political party[:]; and

[(3) The members shall be representative of all areas of the state:]
members represent a variety of geographic areas and economic interests of the state.

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

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

The governor shall select one [of the board members as its] board member as the board's chair.

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

(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

Section 63. Section 63N-1-402, which is renumbered from Section 63M-1-303 is renumbered and amended to read:

[63M-1-303]. 63N-1-402. Board duties and powers.

(1) The board shall advise and assist the office to:

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

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

[(c)] (b) promote and encourage the [expansion and retention] development, attraction, expansion, and retention of businesses, industries, and commerce [located] in the state;

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

[(e)] (d) do other acts not specifically enumerated in this chapter, if the acts are for the betterment of the economy of the state;]
(d) act to enhance the state's economy;

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

(i) railroad;

(ii) motor carrier; or

(iii) other common carriers;

(f) recommend policies, priorities, and objectives to the office regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

(g) recommend how any money or program administered by the office or its divisions the office should administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state shall be administered, so that the money or program is equitably available;

(h) help ensure that economic-development programs are available to all areas of the state unless in accordance with federal or state law requires or authorizes the geographic location of a recipient of the money or program to be considered in the distribution of the money or administration of the program; and

(i) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) The board may:

(a) in accordance with Subsection (1), appear as a party litigant on behalf of an individual or a company located or doing business within the state in proceedings a proceeding before a regulatory commission of the state, another state, or the federal government [having jurisdiction over such matters]; and

(b) in consultation with the executive director, make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
Section 64. Section 63N-1-501, which is renumbered from Section 63M-1-1303 is
renumbered and amended to read:

Part 5. Governor's Economic Development Coordinating Council

[63M-1-1303]. 63N-1-501. Governor's Economic Development

Coordinating Council -- Membership -- Expenses.
(1) There is created in the office the Governor's Economic Development Coordinating
Council, [hereafter referred to in this part as the "council",] consisting of the following 11
members:
(a) the executive director, who shall serve as chair of the council;
(b) the chair of the board or the chair's designee;
(c) the chair of the Utah Science Technology and Research Governing Authority
created in Section 63M-2-301 or the chair's designee;
(d) the chair of the [Utah Rural Development Council] Governor's Rural Partnership
Board created in Section 63C-10-102 or the chair's designee;
(e) the chair of the board of directors of the Utah Capital Investment Corporation
created in Section 63N-6-301 or the chair's designee;
(f) the chair of the Economic Development Corporation of Utah or its successor
organization or the chair's designee;
(g) the chair of the World Trade Center Utah or its successor organization or the chair's
designee; and
(h) four members appointed by the governor, with the [advice and] consent of the
Senate, who have expertise in [the area of] business [or], economic development,
entrepreneurship, or the raising of venture or seed capital for research and business growth.
(2) (a) The four members appointed by the governor may serve for no more than two
consecutive two-year terms.
(b) The governor shall appoint a replacement if a vacancy occurs from the membership
[described] appointed under Subsection (1)(h).
(3) Six members of the council constitute a quorum for the purpose of conducting
council business and the action of a majority of a quorum constitutes the action of the council.

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

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

(5) The office shall provide office space and administrative staff support for the council.

(6) The council, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and its meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 65. Section 63N-1-502, which is renumbered from Section 63M-1-1304 is renumbered and amended to read:


(1) The council shall:

(a) [coordinate and advise] make recommendations to the governor, the office, and the board on policies and objectives related to economic development and growth [within] in the state;

(b) coordinate with state and private entities, including private venture capital and seed capital firms, to avoid duplication of programs and to increase the availability of venture and seed capital for research and for the development and growth of new and existing businesses in the state;

(c) [focus on] give priority to technologies, industries, and geographical areas of the state in which the state can expand investment and entrepreneurship and stimulate job growth;

(d) [coordinate] develop ideas and strategies to increase national and international business activities for both the urban and rural areas of the state; and

(e) plan, coordinate, [advise] or recommend [any other] action that would better the state's economy.
The council shall annually report its activities to the office for inclusion in the office's annual written report described in Section [63M-1-206] 63N-1-301. Section 66. Section 63N-2-101, which is renumbered from Section 63M-1-2401 is renumbered and amended to read:

CHAPTER 2. TAX CREDIT INCENTIVES FOR ECONOMIC DEVELOPMENT
Part 1. Economic Development Tax Increment Financing
[63M-1-2401]. 63N-2-101. Title.
(1) This [part] chapter is known as [the] "Tax Credit Incentives for Economic Development [Incentives Act]."
(2) This part is known as "Economic Development Tax Increment Financing."

Section 67. Section 63N-2-102, which is renumbered from Section 63M-1-2402 is renumbered and amended to read:

[63M-1-2402]. 63N-2-102. Purpose.
(1) The Legislature finds that:
(a) to foster and develop industry in Utah is a public purpose necessary to assure adequate employment for, and the welfare of, Utah's citizens and the growth of the state's economy;
(b) Utah loses prospective high paying jobs, new economic growth, and corresponding incremental new state and local revenues to competing states because of a wide variety of competing economic incentives offered by those states; and
(c) economic development initiatives and interests of state and local economic development officials should be aligned and united in the creation of higher paying jobs that will lift the wage levels of the communities in which those jobs will be created.
(2) This part is enacted to:
(a) foster and develop industry in the state, to provide additional employment opportunities for Utah's citizens, and to improve the state's economy;
(b) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues [by providing]
to competing states caused by economic incentives offered by those states; 

(c) provide tax credits to attract new commercial projects in economic development 

zones in the state; and 

[(b)] (d) provide a cooperative and unified working relationship between state and 

local economic development efforts. 

Section 68. Section 63N-2-103, which is renumbered from Section 63M-1-2403 is 

renumbered and amended to read: 

63M-1-2403. Definitions. 

As used in this part: 

(1) "Business entity" means a person that enters into an agreement with the office to 

initiate a new commercial project in Utah that will qualify the person to receive a tax credit 

under Section 59-7-614.2 or 59-10-1107. 

(2) "Community development and renewal agency" [is] has the same meaning as 

defined in Section 17C-1-102. 

(3) "Development zone" means an economic development zone created under Section 

63M-1-2404. 

(4) "High paying jobs" means: 

(a) with respect to a business entity, the annual wages of employment positions in a 

business entity that compare favorably against the average wage of a community in which the 

employment positions will exist; 

(b) with respect to a county, the annual wages of employment positions in a new 

commercial project within the county that compare favorably against the average wage of the 

county in which the employment positions will exist; or 

(c) with respect to a city or town, the annual wages of employment positions in a new 

commercial project within the city or town that compare favorably against the average wages of 

the city or town in which the employment positions will exist. 

(5) "Local government entity" means a county, city, or town that enters into an 

agreement with the office to have a new commercial project that:
4006 (a) is initiated within the county's, city's, or town's boundaries; and
4007 (b) qualifies the county, city, or town to receive a tax credit under Section 59-7-614.2.
4008 (6) (a) "New commercial project" means an economic development opportunity that
4009 involves new or expanded industrial, manufacturing, distribution, or business services in Utah.
4010 (b) "New commercial project" does not include retail business.
4011 (7) (a) "New incremental jobs" means employment positions that are:
4012 [(a) not shifted from one jurisdiction in the state to another jurisdiction in the state; and]
4013 [(b)] (i) with respect to a business entity, created in addition to the baseline count of
4014 employment positions that existed within the business entity before the new commercial
4015 project;
4016 (ii) with respect to a county, created as a result of a new commercial project with
4017 respect to which the county or a community development and renewal agency seeks to claim a
4018 tax credit under Section 59-7-614.2; or
4019 (iii) with respect to a city or town, created as a result of a new commercial project with
4020 respect to which the city, town, or a community development and renewal agency seeks to
4021 claim a tax credit under Section 59-7-614.2.
4022 (b) "New incremental jobs" does not include jobs that are shifted from one jurisdiction
4023 in the state to another jurisdiction in the state.
4024 (8) "New state revenues" means:
4025 (a) with respect to a business entity:
4026 (i) incremental new state sales and use tax revenues that a business entity pays under
4027 Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a
4028 development zone;
4029 (ii) incremental new state tax revenues[if any] that a business entity pays as a result
4030 of a new commercial project in a development zone under:
4031 (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
4032 (B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and
(C) Title 59, Chapter 10, Part 2, Trusts and Estates;
(D) Title 59, Chapter 10, Part 4, Withholding of Tax; [or] and
(E) a combination of Subsections (8)(a)(ii)(A) through (D);
(iii) incremental new state tax revenues paid as individual income taxes under Title 59,
Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or
(iv) a combination of Subsections (8)(a)(i) through (iii); or
(b) with respect to a local government entity:
(i) incremental new state sales and use tax revenues that are collected under Title 59, Chapter 12, Sales and Use Tax Act, as a result of a new commercial project in a development zone;
(ii) incremental new state tax revenues[—if any—] that are collected as a result of a new commercial project in a development zone under:
(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
(B) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;
(C) Title 59, Chapter 10, Part 2, Trusts and Estates;
(D) Title 59, Chapter 10, Part 4, Withholding of Tax; [or] and
(E) a combination of Subsections (8)(b)(ii)(A) through (D);
(iii) incremental new state tax revenues paid as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, by employees of a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project as evidenced by payroll records that indicate the amount of
employee income taxes withheld and transmitted to the State Tax Commission by the new or expanded industrial, manufacturing, distribution, or business service within the new commercial project; or

(iv) a combination of Subsections (8)(b)(i) through (iii).

[(9) "Office" means the Governor's Office of Economic Development.]

[(10)] (9) "Significant capital investment" means an amount of at least $10,000,000 to purchase a capital asset or a fixed asset:

(a) with the primary purpose of the investment to increase a business entity's rate at which it produces goods based on output per unit of labor;

(b) that represents an expansion of existing [Utah] operations in the state; and

(c) that maintains or increases the business entity's existing [Utah] work force in the state.

[(11)] (10) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

[(12)] (11) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

[(13)] (12) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;

(b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and

(d) may include other information as determined by the office.

Section 69. Section 63N-2-104, which is renumbered from Section 63M-1-2404 is renumbered and amended to read:

[63M-1-2404]. 63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.
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4090 (1) The office, with advice from the board, may create an economic development zone
in the state [that satisfies all of] if the following requirements are satisfied:
4091 (a) the area is zoned commercial, industrial, manufacturing, business park, research
park, or other appropriate use in a community-approved master plan;
4092 (b) the request to create a development zone has [been forwarded to the office after]
4093 first [being] been approved by an appropriate local government entity; and
4094 (c) local incentives have been [committed] or will be committed to be provided within
4095 the area.
4096 (2) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, the office shall make rules establishing the [conditions that]
requirements for a business entity or local government entity [shall meet] to qualify for a tax
credit for a new commercial project in a development zone under this part.
4099 (b) The office shall ensure that the [conditions] requirements described in Subsection
4100 (2)(a) include the following [requirements]:
4104 (i) the new commercial project [must be] is within the development zone;
4105 (ii) the new commercial project includes direct investment within the geographic
boundaries of the development zone;
4107 (iii) the new commercial project brings new incremental jobs to Utah;
4108 (iv) the new commercial project includes significant capital investment, the creation of
high paying jobs, [or] significant purchases from Utah vendors and providers, or [any] a
combination of these [three] economic factors;
4111 (v) the new commercial project generates new state revenues; and
4112 (vi) [(A)] a business entity [or], a local government entity [qualifying for the tax
credit], or a community development and renewal agency to which a local government entity
assigns a tax credit under this section, meets the requirements of Section [63M-1-2405; or]

[(B) a community development and renewal agency to which a local government entity
assigns a tax credit under this section meets the requirements of Section 63M-1-2405.]
(3) (a) [Subject to the other provisions of this Subsection (3), the office, with advice from] The office, after consultation with the board, may enter into [an] a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the [standards established under Subsection (2)] requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) [The] Except as provided in Subsection (3)(c)(ii), the office may not authorize or commit to authorize a tax credit [if that tax credit] that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year;

or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years, whichever is less.

(ii) [Notwithstanding Subsection (3)(c)(i), the] The office may authorize or commit to authorize a tax credit not exceeding 60% of new state revenues from the new commercial project in any given year, if the eligible business entity:

(A) creates a significant number of high paying jobs; and

(B) makes capital expenditures in the state of at least $1,000,000,000.

d (i) A local government entity may by resolution assign a tax credit that the office authorizes to the local government entity to a community development and renewal agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community development and renewal agency[... (A)], the written agreement described in [this section] Subsection (3)(a) shall:
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[(A) be among the office, the local government entity, and the community
development and renewal agency; [and]

[(B) establish[+] the obligations of the local government entity and the
community development and renewal agency; and

[(C) establish the extent to which any of the local government entity's obligations
are transferred to the community development and renewal agency.]

(iv) If a local government entity assigns a tax credit to a community development and
renewal agency:

[(A) the community development and renewal agency shall retain records as
described in Subsection (4)(d); and

[(B) a tax credit certificate issued in accordance with Section [63M-1-2406]
63N-2-106 shall list the community development and renewal agency as the name of the
applicant.

(4) [Subject to Subsection (3), the] The office shall ensure that the written agreement
described in Subsection (3):

(a) specifies the requirements that the business entity or local government
entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local
government entity may be authorized for a taxable year and over the life of the new commercial
project;

(c) establishes the length of time the business entity or local government entity may
claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a
claim for a tax credit for at least four years after the business entity or local government entity
claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for
verification of the tax credit claimed.

Section 70. Section 63N-2-105, which is renumbered from Section 63M-1-2405 is
renumbered and amended to read:


(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this [section] part.

(2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during the preceding calendar year; or

(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during the preceding calendar year;

(c) known or expected detriments to the state or existing businesses in the state;

(d) if a local government entity seeks to assign the tax credit to a community development and renewal agency [in accordance with] as described in Section [63M-1-2404]

63N-2-104, a statement providing the name and taxpayer identification number of the community development and renewal agency to which the local government entity seeks to assign the tax credit;

(e) (i) with respect to a business entity, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[→ to the office];

(ii) with respect to a local government entity that seeks to claim the tax credit:

(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[→ to the office]; and
(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of [that] the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[, to the office]; and

(II) lists the taxpayer identification number of [that] the new or expanded industrial, manufacturing, distribution, or business service; or

(iii) with respect to a local government entity that seeks to assign the tax credit to a community development and renewal agency:

(A) a document signed by the members of the governing body of the community development and renewal agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community development and renewal agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[, to the office]; and

(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, distribution, or business service within a new commercial project within the community development and renewal agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, distribution, or business service that:

(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of [that] the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[, to the office]; and

(II) lists the taxpayer identification number of [that] the new or expanded industrial,
manufacturing, distribution, or business service; and

(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection [63M-1-2404(3)(a) 63N-2-104(3)], including:

(i) significant capital investment;
(ii) the creation of high paying jobs;
(iii) significant purchases from Utah vendors and providers; or
(iv) any combination of Subsections (2)(f)(i), (ii), and (iii) a combination of these benchmarks.

(3) (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) (i) deny the tax credit; or
(ii) terminate the agreement described in Subsection [63M-1-2404(3)(a) 63N-2-104(3)] for failure to meet the performance standards established in the agreement; or
(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.

(5) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax
credit, the office shall, based upon the returns and other information:

(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit [in accordance with] as described in Section [63M-1-2404] 63N-2-104, to the community development and renewal agency to which the local government entity assigns the tax credit;

(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit [in accordance with] as described in Section [63M-1-2404] 63N-2-104, to the community development and renewal agency to which the local government entity assigns the tax credit; and

(c) provide a duplicate copy of the tax credit certificate to the State Tax Commission.

(6) A business entity, local government entity, or community development and renewal agency may not claim a tax credit unless the business entity, local government entity, or community development and renewal agency has a tax credit certificate issued by the office.

(7) (a) A business entity, local government entity, or community development and renewal agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity, local government entity, or community development and renewal agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Section 71. Section 63N-2-106, which is renumbered from Section 63M-1-2406 is renumbered and amended to read:

[63M-1-2406]. 63N-2-106. Reports -- Posting monthly and annual reports --

Audit and study of tax credits.

(1) The office shall include the following information in the annual written report described in Section [63M-1-206] 63N-1-301:

(a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;

(b) the estimated amount of tax credit commitments made by the office and the period
of time over which tax credits will be paid;

(c) the economic impact on the state from new state revenues and the provision of tax credits under this part;

d) the estimated costs and economic benefits of the tax credit commitments made by the office;

e) the actual costs and economic benefits of the tax credit commitments made by the office; and

(f) tax credit commitments made by the office, with the associated calculation.

(2) Each month, the office shall post on its website and on a state website:

(a) the new tax credit commitments made by the office during the previous month; and

(b) the estimated costs and economic benefits of those tax credit commitments.

(3) (a) On or before November 1, 2014, and every five years after November 1, 2014, the office shall:

(i) conduct an audit of the tax credits allowed under Section 63M-1-2405; 63N-2-105;

(ii) study the tax credits allowed under Section 63M-1-2405; 63N-2-105; and

(iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) The audit shall include an evaluation of:

(i) the cost of the tax credits;

(ii) the purposes and effectiveness of the tax credits; and

(iii) the extent to which the state benefits from the tax credits.

Section 72. Section 63N-2-107, which is renumbered from Section 63M-1-2407 is renumbered and amended to read:

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:
   (a) (i) the total estimated amount of new state revenues created from new commercial projects in [the] development zones; and
   (ii) the estimated amount of new state revenues from new commercial projects in [the] development zones that will be generated from:
       (A) sales tax;
       (B) income tax; and
       (C) corporate franchise and income tax; and
   [b) (i) the total estimated amount of partial rebates as defined in Section 63M-1-2408 that the office projects will be required to be paid in the next fiscal year, and]
   [(ii) the estimated amount of partial rebates as defined in Section 63M-1-2408 that are attributable to:]
       [(A) sales tax;]
       [(B) income tax; and]
       [(C) corporate franchise and income tax; and]
   [e) (b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community development and renewal agencies will qualify to claim under this part.
(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:
   (a) each new agreement entered into by the office since the last report;
   (b) the estimated amount of new state revenues that will be generated under each agreement; and
   (c) the estimated maximum amount of tax credits that a business entity, local government entity, or community development and renewal agency could qualify for under
each agreement.

Section 73. Section 63N-2-108, which is renumbered from Section 63M-1-2409 is
renumbered and amended to read:

[63M-1-2409].  63N-2-108. Expenditure of amounts received by a local
government entity or community development and renewal agency as a tax credit --
Commingling of tax credit amounts with certain other amounts.

(1) Subject to Subsections (2) and (3), a local government entity or community
development and renewal agency may expend amounts the local government entity or
community development and renewal agency receives as a tax credit under Section 59-7-614.2:

(a) for infrastructure, including real property or personal property, if that infrastructure
is related to the new commercial project with respect to which the local government entity or
community development and renewal agency claims the tax credit under Section 59-7-614.2; or

(b) for another economic development purpose related to the new commercial project
with respect to which the local government entity or community development and renewal
agency claims the tax credit under Section 59-7-614.2.

(2) A local government entity may:

(a) commingle amounts the local government entity receives as a tax credit under
Section 59-7-614.2 with amounts the local government entity receives under Title [63M] 63N,
Chapter [3], Part [9] 1, Industrial Assistance [Fund] Account; and

(b) expend the commingled amounts described in Subsection (2)(a) for a purpose
described in Title [63M] 63N, Chapter [3], Part [9] 1, Industrial Assistance [Fund] Account,
if that purpose is related to the new commercial project with respect to which the local
government entity claims the tax credit under Section 59-7-614.2.

(3) A community development and renewal agency may:

(a) commingle amounts the community development and renewal agency receives as a
tax credit under Section 59-7-614.2 with amounts the community development and renewal
agency receives under Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax; and

(b) expend the commingled amounts described in Subsection (3)(a) for a purpose
described in Title 17C, Chapter 1, Part 4, Tax Increment and Sales Tax, if that purpose is related to the new commercial project with respect to which the community development and renewal agency claims the tax credit under Section 59-7-614.2.

Section 74. Section 63N-2-201, which is renumbered from Section 63M-1-401 is renumbered and amended to read:

Part 2. Enterprise Zone Act

[63M-1-401]. 63N-2-201. Title.

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

Section 75. Section 63N-2-202, which is renumbered from Section 63M-1-402 is renumbered and amended to read:


As used in this part:

(1) "Business entity" means an entity, sole proprietorship, or individual:

(a) including a claimant, estate, or trust; and

(b) under which or by whom business is conducted or transacted.

(2) "Claimant" means a resident or nonresident person that has:

(a) Utah taxable income as defined in Section 59-7-101; or

(b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.

(3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section [63M-1-404] 63N-2-204.

(4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

(5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section [63M-1-404] 63N-2-204.

(6) "New full-time employee position" means a position that has been newly created and then filled by an employee working at least 30 hours per week:

(a) for a period of not less than six consecutive months; and
(b) where the period ends in the tax year for which the credit is claimed.

(7) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:

(a) claim:

(i) as provided by statute; and

(ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act; and

(b) carry forward or carry back:

(i) if allowed by statute; and

(ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:

(A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(B) Title 59, Chapter 10, Individual Income Tax Act.

(8) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63M-1-413.

(9) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Section 76. Section 63N-2-203, which is renumbered from Section 63M-1-403 is renumbered and amended to read:


The office shall:

(1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;

(2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;

(3) provide technical assistance to county applicants and municipal applicants in
(4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and

(6) as part of the annual written report described in Section [63M-1-206] 63N-2-301, prepare an annual evaluation based, in part, on data provided by the State Tax Commission that evaluates the effectiveness of the program and any suggestions for legislation.

Section 77. Section 63N-2-204, which is renumbered from Section 63M-1-404 is renumbered and amended to read:

[63M-1-404]. 63N-2-204. Criteria for designation of enterprise zones --

Application.

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

(a) verifies that the county has a population of not more than 50,000; and

(b) provides clear evidence of the need for development in the county.

(2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:

(a) verifies that the municipality has a population that does not exceed 15,000;

(b) verifies that the municipality is within a county that has a population of not more than 50,000; and

(c) provides clear evidence of the need for development in the municipality.

(3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:

(a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section [63M-1-405] 63N-2-205;
(b) the county applicant or municipal applicant has a development plan that outlines:

(i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;

(ii) the specific investment or development reasonably expected to take place;

(iii) any commitments obtained from businesses;

(iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;

(v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and

(vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;

(c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;

(d) any additional information required by the office; and

(e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.

Section 78. Section 63N-2-205, which is renumbered from Section 63M-1-405 is renumbered and amended to read:

[63M-1-405]. 63N-2-205. Qualifying local contributions.

(1) An area may be designated as an enterprise zone only if the county applicant or municipal applicant agrees to make a qualifying local contribution.

(2) The qualifying local contribution may vary depending on available resources, and may include such elements as:

(a) simplified procedures for obtaining permits;

(b) dedication of available government grants;

(c) dedication of training funds;

(d) waiver of business license fees;
(e) infrastructure improvements;
(f) private contributions;
(g) utility rate concessions;
(h) small business incubator programs; or
(i) management assistance programs.

Section 79. Section 63N-2-206, which is renumbered from Section 63M-1-406 is renumbered and amended to read:

(1) The office shall:

(a) review and evaluate the applications submitted under Section 63M-1-404; and

(b) determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.

(2) (a) The office shall designate enterprise zones.

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

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

(ii) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the proposed zone, and the extent of property tax arrearages in the proposed zone;

(iii) the potential for new investment and economic development in the proposed zone;

(iv) the county applicant's or municipal applicant's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;

(v) the extent to which the projected development in the zone will provide employment to residents of the county and particularly individuals who are unemployed or who are economically disadvantaged;

(vi) the degree to which the county applicant's or municipal applicant's application
promotes innovative solutions to economic development problems and demonstrates local
initiative; and
(vii) other relevant factors that the office specifies in its recommendation.
Section 80. Section 63N-2-207, which is renumbered from Section 63M-1-407 is
renumbered and amended to read:

63N-2-207. Quarterly consideration.
The office shall consider designating enterprise zones quarterly.
Section 81. Section 63N-2-208, which is renumbered from Section 63M-1-408 is
renumbered and amended to read:

63N-2-208. Duration of designation.
Each enterprise zone has a duration of five years, at the end of which the county may
reapply for the designation.
Section 82. Section 63N-2-209, which is renumbered from Section 63M-1-409 is
renumbered and amended to read:

63N-2-209. Contingent designations.
(1) The office may accept applications for, and may at any time grant, a contingent
designation of any county as an enterprise zone for purposes of seeking a designation of the
county as a federally designated zone.
(2) This designation does not entitle a business operating in that county to the tax
incentives under this part.
Section 83. Section 63N-2-210, which is renumbered from Section 63M-1-410 is
renumbered and amended to read:

(1) The office may revoke the designation of an enterprise zone, if no businesses utilize
the tax incentives during any calendar year.
(2) Prior to that action, the office shall conduct a public hearing to determine reasons
for inactivity and explore possible alternative actions.
Section 84. Section 63N-2-211, which is renumbered from Section 63M-1-411 is
Except in counties of the first or second class, tax incentives provided by this part are not available to companies that close or permanently curtail operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Section 85. Section 63N-2-212, which is renumbered from Section 63M-1-412 is renumbered and amended to read:

(1) Except as otherwise provided in Subsection (2), the tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in:
   (a) the county in which the enterprise zone is located; or
   (b) an enterprise zone that is immediately adjacent and contiguous to the county in which the enterprise zone is located.

(2) Subsection (1) does not apply to a business entity that has no employees.

Section 86. Section 63N-2-213, which is renumbered from Section 63M-1-413 is renumbered and amended to read:

(1) Subject to the limitations of Subsections (2) through (4), the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:
   (a) a tax credit of $750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;
   (b) an additional $500 tax credit may be claimed if the new full-time employee position
(c) an additional tax credit of $750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;

(d) an additional tax credit of $200 may be claimed for two consecutive years for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;

(e) a tax credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed $100,000:

(i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(ii) whose primary purpose is community and economic development; and

(iii) that has been accredited by the Governor's Rural Partnership Board;

(f) a tax credit of 25% of the first $200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and

(g) an annual investment tax credit of 10% of the first $250,000 in investment, and 5% of the next $1,000,000 qualifying investment in plant, equipment, or other depreciable property.

(2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming tax credits under Subsections (1)(a) through (d) may claim the tax credits for up to 30 full-time employee positions per taxable year.

(b) A business entity that received a tax credit for one or more new full-time employee
positions under Subsections (1)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (1)(a) through (d) if:

(i) the business entity has created a new full-time position within the enterprise zone; and

(ii) the total number of full-time employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the number of full-time employee positions that existed at the business entity at any point during the taxable year immediately preceding the taxable year for which the credit is being claimed.

(c) Construction jobs are not eligible for the tax credits under Subsections (1)(a) through (d).

(3) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.

(4) Tax credits under Subsections (1)(a) through (g) may not be claimed by a business entity primarily engaged in retail trade or by a public utilities business.

(5) A business entity that has no employees:

(a) may not claim tax credits under Subsections (1)(a) through (d); and

(b) may claim tax credits under Subsections (1)(e) through (g).

(6) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63M-1-504.

Section 87. Section 63N-2-214, which is renumbered from Section 63M-1-414 is renumbered and amended to read:


Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the office regarding the economic activity that has occurred in the zone
Section 88. Section 63N-2-215, which is renumbered from Section 63M-1-415 is renumbered and amended to read:


(1) For purposes of this section:

(a) "Indian reservation" [is] has the same meaning as defined in Section 9-9-210.

(b) "Indian tribe" [is] has the same meaning as defined in Subsection 9-9-402(6).

(c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).

(2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.

(3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections 63M-1-404(2)(a) and (b).

Section 89. Section 63N-2-301 is enacted to read:

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

63N-2-301. Title.

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

Section 90. Section 63N-2-302, which is renumbered from Section 63M-1-501 is renumbered and amended to read:


As used in this part:

(1) "Allocated cap amount" means the total amount of the targeted business income tax credit that a business applicant is allowed to claim for a taxable year that represents a pro rata share of the total amount of $300,000 for each fiscal year allowed under Subsection 63M-1-504(2).

(2) "Business applicant" means a business that:

(a) is a:
(i) claimant;
(ii) estate; or
(iii) trust; and
(b) meets the criteria established in Section [63M-1-503] 63N-2-304.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Community investment project" means a project that includes one or more of the
following criteria in addition to the normal operations of the business applicant:

(a) substantial new employment;
(b) new capital development; or
(c) a combination of both Subsections (4)(a) and (b).

(5) "Community investment project period" means the total number of years that the
office determines a business applicant is eligible for a targeted business income tax credit for
each community investment project.

(6) "Enterprise zone" means an area within a county or municipality that has been

(7) "Estate" means a nonresident estate or a resident estate.

(8) "Local zone administrator" means a person:

(a) designated by the governing authority of the county or municipal applicant as the
local zone administrator in an enterprise zone application; and

(b) approved by the office as the local zone administrator.

(9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
trust may claim:

(a) as provided by statute; and

(b) regardless of whether, for the taxable year for which the claimant, estate, or trust
claims the tax credit, the claimant, estate, or trust has a tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
"Targeted business income tax credit" means a refundable tax credit available under Section 63M-1-504 63N-2-305. "Targeted business income tax credit eligibility form" means a document provided annually to the business applicant by the office that complies with the requirements of Subsection 63M-1-504 63N-2-305(8). "Trust" means a nonresident trust or a resident trust. Section 91. Section 63N-2-303, which is renumbered from Section 63M-1-502 is renumbered and amended to read: [63M-1-502. 63N-2-303. Rulemaking authority. In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of this [section] part, the office shall make rules: (1) to determine what constitutes: (a) substantial new employment; (b) new capital development; and (c) a project; and (2) to establish a formula for determining the allocated cap amount for each business applicant. Section 92. Section 63N-2-304, which is renumbered from Section 63M-1-503 is renumbered and amended to read: [63M-1-503. 63N-2-304. Application for targeted business income tax credit. (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant may elect to claim a targeted business income tax credit available under Section 63M-1-504 63N-2-305 if the business applicant: (i) is located in: (A) an enterprise zone; and (B) a county with:
(I) a population of less than 25,000; and
(II) an unemployment rate that for six months or more of each calendar year is at least one percentage point higher than the state average;
(ii) meets the requirements of Section 63M-1-412; 63N-2-212;
(iii) provides:
(A) a community investment project within the enterprise zone; and
(B) a portion of the community investment project during each taxable year for which the business applicant claims the targeted business tax incentive; and
(iv) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is not engaged in the following, as defined by the State Tax Commission by rule:
(A) construction;
(B) retail trade; or
(C) public utility activities.
(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63M-1-413.
(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall file an application as provided in Subsection (2)(b) with the local zone administrator by no later than June 1 of the year in which the business applicant is seeking to claim a targeted business income tax credit.
(b) The application described in Subsection (2)(a) shall include:
(i) any documentation required by the local zone administrator to demonstrate that the business applicant meets the requirements of Subsection (1);
(ii) a plan developed by the business applicant that outlines:
(A) if the community investment project includes substantial new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;
(B) if the community investment project includes new capital development,
description of the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit; and

(C) a description of how the business applicant's plan coordinates with:

(I) the goals of the enterprise zone in which the business applicant is providing a community investment project; and

(II) the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project; and

(iii) any additional information required by the local zone administrator.

(3) (a) The local zone administrator shall:

(i) evaluate an application filed under Subsection (2); and

(ii) determine whether the business applicant is eligible for a targeted business income tax credit.

(b) If the local zone administrator determines that the business applicant is eligible for a targeted business income tax credit, the local zone administrator shall:

(i) certify that the business applicant is eligible for the targeted business income tax credit;

(ii) structure the targeted business income tax credit for the business applicant in accordance with Section 63M-1-504 and

(iii) monitor a business applicant to ensure compliance with this section.

(4) A local zone administrator shall report to the office by no later than June 30 of each year:

(a) (i) any application approved by the local zone administrator during the last fiscal year; and

(ii) the information established in Subsections 63M-1-504 and 63N-2-305 (4)(a) through (d) for each new business applicant; and

(b) (i) the status of any existing business applicants that the local zone administrator monitors; and

(ii) any information required by the office to determine the status of an existing
(5) (a) By July 15 of each year, the department shall notify the local zone administrator of the allocated cap amount that each business applicant that the local zone administrator monitors is eligible to claim.

(b) By September 15 of each year, the local zone administrator shall notify, in writing, each business applicant that the local zone administrator monitors of the allocated cap amount determined by the office under Subsection (5)(a) that the business applicant is eligible to claim for a taxable year.

Section 93. Section 63N-2-305, which is renumbered from Section 63M-1-504 is renumbered and amended to read:

63N-2-305. Targeted business income tax credit structure --

Duties of the local zone administrator -- Duties of the State Tax Commission.

(1) [For taxable years beginning on or after January 1, 2002, a] A business applicant that is certified under Subsection [63M-1-503] 63N-2-304(3) and issued a targeted business tax credit eligibility form by the office under Subsection (8) may claim a refundable tax credit:

(a) against the business applicant's tax liability under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Title 59, Chapter 10, Individual Income Tax Act; and

(b) subject to requirements and limitations provided by this part.

(2) The total amount of the targeted business income tax credits allowed under this part for all business applicants may not exceed $300,000 in any fiscal year.

(3) (a) A targeted business income tax credit allowed under this part for each community investment project provided by a business applicant may not:

(i) be claimed by a business applicant for more than seven consecutive taxable years from the date the business applicant first qualifies for a targeted business income tax credit on the basis of a community investment project;

(ii) be carried forward or carried back;

(iii) exceed $100,000 in total amount for the community investment project period
during which the business applicant is eligible to claim a targeted business income tax credit; or 

(iv) exceed in any year that the targeted business income tax credit is claimed the lesser of:

(A) 50% of the maximum amount allowed by the local zone administrator; or

(B) the allocated cap amount determined by the office under Subsection [63M-1-503] 63N-2-304(5).

(b) A business applicant may apply to the local zone administrator to claim a targeted business income tax credit allowed under this part for each community investment project provided by the business applicant as the basis for its eligibility for a targeted business income tax credit.

(4) Subject to other provisions of this section, the local zone administrator shall establish for each business applicant that qualifies for a targeted business income tax credit:

(a) criteria for maintaining eligibility for the targeted business income tax credit that are reasonably related to the community investment project that is the basis for the business applicant's targeted business income tax credit;

(b) the maximum amount of the targeted business income tax credit the business applicant is allowed for the community investment project period;

(c) the time period over which the total amount of the targeted business income tax credit may be claimed;

(d) the maximum amount of the targeted business income tax credit that the business applicant will be allowed to claim each year; and

(e) requirements for a business applicant to report to the local zone administrator specifying:

(i) the frequency of the business applicant's reports to the local zone administrator, which shall be made at least quarterly; and

(ii) the information needed by the local zone administrator to monitor the business applicant's compliance with this Subsection (4) or Section [63M-1-503] 63N-2-304 that shall
(5) In accordance with Subsection (4)(e), a business applicant allowed a targeted business income tax credit under this part shall report to the local zone administrator.

(6) The amount of a targeted business income tax credit that a business applicant is allowed to claim for a taxable year shall be reduced by 25% for each quarter in which the office or the local zone administrator determines that the business applicant has failed to comply with a requirement of Subsection (3) or Section 63M-1-503 63N-2-304.

(7) The office or local zone administrator may audit a business applicant to ensure:

(a) eligibility for a targeted business income tax credit; or

(b) compliance with Subsection (3) or Section 63M-1-503 63N-2-304.

(8) The office shall issue a targeted business income tax credit eligibility form in a form jointly developed by the State Tax Commission and the office no later than 30 days after the last day of the business applicant's taxable year showing:

(a) the maximum amount of the targeted business income tax credit that the business applicant is eligible for that taxable year;

(b) any reductions in the maximum amount of the targeted business income tax credit because of failure to comply with a requirement of Subsection (3) or Section 63M-1-503 63N-2-304;

(c) the allocated cap amount that the business applicant may claim for that taxable year; and

(d) the actual amount of the targeted business income tax credit that the business applicant may claim for that taxable year.

(9) (a) A business applicant shall retain the targeted business income tax credit eligibility form provided by the office under this Subsection (9).

(b) The State Tax Commission may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; or

(ii) compliance with Subsection (3) or Section 63M-1-503 63N-2-304.

Section 94. Section 63N-2-401, which is renumbered from Section 63M-1-1101 is
Part 4. Recycling Market Development Zone Act

[63M-1-1101]. 63N-2-401. Title.

This part is known as the "Recycling Market Development Zone Act."

Section 95. Section 63N-2-402, which is renumbered from Section 63M-1-1102 is renumbered and amended to read:


As used in this part:

(1) "Composting" means the controlled decay of landscape waste or sewage sludge and organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other organisms.

(2) "Postconsumer waste material" means any product generated by a business or consumer that has served its intended end use, and that has been separated from solid waste for the purposes of collection, recycling, and disposition and that does not include secondary waste material.

(3) (a) "Recovered materials" means waste materials and by-products that have been recovered or diverted from solid waste.

(b) "Recovered materials" does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(4) (a) "Recycling" means the diversion of materials from the solid waste stream and the beneficial use of the materials and includes a series of activities by which materials that would become or otherwise remain waste are diverted from the waste stream for collection, separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of the materials as substitutes for goods made from virgin materials.

(b) "Recycling" does not include burning municipal solid waste for energy recovery.

(5) "Recycling market development zone" or "zone" means an area designated by the office as meeting the requirements of this part.
(6) (a) "Secondary waste material" means industrial by-products that go to disposal facilities and waste generated after completion of a manufacturing process.

(b) "Secondary waste material" does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable tax credits available under Sections 59-7-608 and 59-10-1007.

Section 96. Section 63N-2-403, which is renumbered from Section 63M-1-1103 is renumbered and amended to read:

[63M-1-1103]. 63N-2-403. Duties of the office.

The office shall:

(1) facilitate recycling development zones through state support of county incentives which encourage development of manufacturing enterprises that use recycling materials currently collected;

(2) evaluate an application from a county or municipality executive authority to be designated as a recycling market development zone and determine if the county or municipality qualifies for that designation;

(3) provide technical assistance to municipalities and counties in developing applications for designation as a recycling market development zone;

(4) assist counties and municipalities designated as recycling market development zones in obtaining assistance from the federal government and agencies of the state;

(5) assist a qualified business in obtaining the benefits of an incentive or inducement program authorized by this part;

(6) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the recycling market development zone; and

(7) include in the annual written report described in Section [63M-1-206] 63N-2-301, an evaluation of the effectiveness of the program and recommendations for legislation.

Section 97. Section 63N-2-404, which is renumbered from Section 63M-1-1104 is renumbered and amended to read:
4902 [63M-1-1104]. 63N-2-404. Criteria for recycling market development zone
4903 -- Application process and fees.
4904 (1) An area may be designated as a recycling market development zone only if:
4905 (a) the county or municipality agrees to make a qualifying local contribution under
4906 Section [63M-1-1105] 63N-2-405; and
4907 (b) the county or municipality provides for postconsumer waste collection for recycling
4908 within the county or municipality.
4909 (2) The executive authority of any municipality or county desiring to be designated as a
4910 recycling market development zone shall:
4911 (a) obtain the written approval of the municipality or county's legislative body; and
4912 (b) file an application with the office demonstrating the county or municipality meets
4913 the requirements of this part.
4914 (3) The application shall be in a form prescribed by the office, and shall include:
4915 (a) a plan developed by the county or municipality that identifies local contributions
4916 meeting the requirements of Section [63M-1-1105] 63N-2-405;
4917 (b) a county or municipality development plan that outlines:
4918 (i) the specific investment or development reasonably expected to take place;
4919 (ii) any commitments obtained from businesses to participate, and in what capacities
4920 regarding recycling markets;
4921 (iii) the county's or municipality's economic development plan and demonstration of
4922 coordination between the zone and the county or municipality in overall development goals;
4923 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
4924 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
4925 businesses;
4926 (v) the county's or municipality's long-term waste management plan and evidence that
4927 the zone will be adequately served by the plan; and
4928 (vi) the county or municipality postconsumer waste collection infrastructure;
4929 (c) the county's or municipality's proposed means of assessing the effectiveness of the
development plan or other programs implemented within the zone;

d) state whether within the zone either of the following will be established:

(i) commercial manufacturing or industrial processes that will produce end products
that consist of not less than 50% recovered materials, of which not less than 25% is
postconsumer waste material; or

(ii) commercial composting;

e) any additional information required by the office; and

f) any additional information the county or municipality considers relevant to its
designation as a recycling market development zone.

(4) A county or municipality applying for designation as a recycling market
development zone shall pay to the office an application fee determined under Section
63J-1-504.

Section 98. Section 63N-2-405, which is renumbered from Section 63M-1-1105 is
renumbered and amended to read:

[63M-1-1105]. 63N-2-405. Qualifying local contributions.

Qualifying local contributions to the recycling market development zone may vary
depending on available resources, and may include:

(1) simplified procedures for obtaining permits;

(2) dedication of available government grants;

(3) waiver of business license or permit fees;

(4) infrastructure improvements;

(5) private contributions;

(6) utility rate concessions;

(7) suspension or relaxation of locally originated zoning laws or general plans; and

(8) other proposed local contributions as the office finds promote the purposes of this
part.

Section 99. Section 63N-2-406, which is renumbered from Section 63M-1-1106 is
renumbered and amended to read:
Eligibility review.

(1) The office shall:

(a) review and evaluate an application submitted under Section 63M-1-1104; and

(b) determine whether the municipality or county is eligible for designation as a recycling market development zone.

(2) In designating recycling market development zones, the office shall consider:

(a) whether the current waste management practices and conditions of the county or municipality are favorable to the development of postconsumer waste material markets;

(b) whether the creation of the zone is necessary to assist in attracting private sector recycling investments to the area; and

(c) the amount of available landfill capacity to serve the zone.

Quarterly consideration.

The office shall take action quarterly on any application requesting designation as a recycling market development zone.

Duration of designation.

A recycling market development zone designation ends five years from the date the office designates the area as a recycling market development zone, at the end of which the county or municipality may reapply for the designation.

Revocation of designations.

(1) The office may revoke the designation of a recycling market development zone if no businesses utilize the tax incentives during any calendar year.
(2) Before revocation of the zone, the office shall conduct a public hearing within a reasonable distance of the zone to determine reasons for inactivity and explore possible alternative actions.

Section 103. Section 63N-2-410, which is renumbered from Section 63M-1-1110 is renumbered and amended to read:

[63M-1-1110]. 63N-2-410. Recycling market development zone credit.

For a taxpayer within a recycling market development zone, there are allowed the nonrefundable credits against tax as provided by Sections 59-7-610 and 59-10-1007.

Section 104. Section 63N-2-411, which is renumbered from Section 63M-1-1111 is renumbered and amended to read:

[63M-1-1111]. 63N-2-411. Annual report.

(1) A county or municipality designated as a recycling market development zone shall report by no later than July 31 of each year to the office regarding the economic activity that has occurred in the zone following the designation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules providing for the form and content of the annual reports.

Section 105. Section 63N-2-412, which is renumbered from Section 63M-1-1112 is renumbered and amended to read:

[63M-1-1112]. 63N-2-412. Technology Commercialization and Innovation Program.

In accordance with [Part 6] Chapter 12, Part 1, State Advisory Council on Science and Technology, the office may award grants to the Technology Commercialization and Innovation Program, as defined by Section [63M-1-703] 63N-3-203, to fund development of new technology for recycling if the program funded is a cooperative effort between the Technology Commercialization and Innovation Program and one or more recycling market development zones created under this part.

Section 106. Section 63N-2-501, which is renumbered from Section 63M-1-3401 is renumbered and amended to read:
Part 5. New Convention Facility Development Incentives

63M-1-3401. Title.
This part is known as the "New Convention Facility Development Incentives."

Section 107. Section 63N-2-502, which is renumbered from Section 63M-1-3402 is renumbered and amended to read:

63M-1-3402. Definitions.
As used in this part:

(1) "Agreement" means an agreement described in Section 63M-1-3403.

(2) "Commission" means the Utah State Tax Commission.

(3) "Community development and renewal agency" has the same meaning as defined in Section 17C-1-102.

(4) "Eligibility period" means:

(a) the period that:

(i) begins the date construction of a qualified hotel begins; and

(ii) ends:

(A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or

(B) for purposes of the local portion, 25 years after the date of initial occupancy of that hotel; or

(b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:

(i) begins no earlier than the date construction of a qualified hotel begins; and

(ii) is shorter than the period described in Subsection (4)(a).

(5) "Endorsement letter" means a letter:

(a) from the county in which a qualified hotel is located or is proposed to be located;

(b) signed by the county executive; and

(c) expressing the county's endorsement of a developer of a qualified hotel as meeting
(6) "Host agency" means the community development and renewal agency of the host local government.

(7) "Host local government" means:
   (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
   (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.

(8) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

(9) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
   (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
   (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using a base taxable value of the hotel property as established by the county in which the hotel property is located.

(10) "Local portion" means:
   (a) the portion of new tax revenue that is not the state portion; and
   (b) incremental property tax revenue.

(11) "New tax revenue" means:
   (a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors;
   (b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, on transactions occurring on hotel property during the eligibility period; and
   (c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act...
Act, on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:

(i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(1)(b)(i)(E).

(12) "Public infrastructure" means:

(a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;

(b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and

(c) other buildings, facilities, infrastructure, and improvements that benefit the public.

(13) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

(b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and

(c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.

(14) "Qualified hotel owner" means a person who owns a qualified hotel.

(15) "Review committee" means the independent review committee established under Section 63N-2-205.

(16) "Significant capital investment" means an amount of at least $200,000,000.

(17) "State portion" means the portion of new tax revenue that is attributable to a tax imposed under Subsection 59-12-103(2)(a)(i)(A).

(18) "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.

(19) "Tax credit applicant" means a qualified hotel owner or host local government that:
(a) has entered into an agreement with the office; and
(b) pursuant to that agreement, submits an application for the issuance of a tax credit certificate.

(20) "Tax credit certificate" means a certificate issued by the office that includes:
(a) the name of the tax credit recipient;
(b) the tax credit recipient's taxpayer identification number;
(c) the amount of the tax credit authorized under this part for a taxable year; and
(d) other information as determined by the office.

(21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit certificate.

(22) "Third-party seller" means a person who is a seller in a transaction:
(a) occurring other than on hotel property;
(b) that is:
   (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
   (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (22)(b)(i); and
   (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Section 108. Section 63M-1-3403, which is renumbered from Section 63M-1-3403 is renumbered and amended to read:

  63N-2-503. Agreement for development of new convention hotel -- Tax credit authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:
(a) for the development of a qualified hotel; and
(b) to authorize a tax credit:
(i) to the qualified hotel owner or host local government, but not both;
(ii) for a period not to exceed the eligibility period;

(iii) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(iv) that is reduced by $1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement shall:

(a) specify the requirements for a tax credit recipient to qualify for a tax credit;

(b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;

(c) require the amount of a tax credit listed in a tax credit certificate issued during the first two years of the eligibility period to be reduced by $1,900,000 per year;

(d) with respect to the state portion of any tax credit that the tax credit recipient may receive during the eligibility period:

   (i) specify the maximum dollar amount that the tax credit recipient may receive, subject to a maximum of:

       (A) for any taxable year, the amount of the state portion of new tax revenue in that taxable year; and

       (B) $75,000,000 in the aggregate for any tax credit recipient during an eligibility period, calculated as though the two $1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

   (ii) specify the maximum percentage of the state portion of new tax revenue that may be used in calculating a tax credit that a tax credit recipient may receive during the eligibility period for each taxable year and in the aggregate;

   (e) establish a shorter period of time than the period described in Subsection [63M-1-3402] 63N-2-502(5)(a) during which the tax credit recipient may claim a tax credit or that the host agency may be paid incremental property tax revenue, if the office and qualified
hotel owner or host local government agree to a shorter period of time;
(f) require the tax credit recipient to retain books and records supporting a claim for a tax credit as required by Section 59-1-1406;
(g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;
(h) limit the expenditure of funds received under a tax credit as provided in Section [63M-1-3412] 63N-2-512; and
(i) require the tax credit recipient to submit to any audit the office considers appropriate for verification of any tax credit or claimed tax credit.

Section 109. Section 63N-2-504, which is renumbered from Section 63M-1-3404 is renumbered and amended to read:

[63M-1-3404]. 63N-2-504. Independent review committee.
(1) In accordance with rules adopted by the office under Section [63M-1-3408] 63N-2-508, the board shall establish a separate, independent review committee to:
(a) review each initial tax credit application submitted under this part for compliance with the requirements of this part and the agreement; and
(b) consult with the office, as provided in this part.
(2) The review committee shall consist of:
(a) one member appointed by the director to represent the office;
(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;
(c) two members appointed by:
(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or
(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;
(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the board.

(3) (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 110. Section 63N-2-505, which is renumbered from Section 63M-1-3405 is renumbered and amended to read:

**[63M-1-3405]** 63N-2-505. Submission of written application for tax credit certificate -- Disclosure of tax returns and other information -- Determination of tax credit application.

(1) For each taxable year for which a tax credit applicant seeks the issuance of a tax credit certificate, the tax credit applicant shall submit to the office:

(a) a written application for a tax credit certificate;

(b) (i) for an application submitted by a qualified hotel owner:

(A) a certification by the individual signing the application that the individual is duly authorized to sign the application on behalf of the qualified hotel owner;

(B) documentation of the new tax revenue generated during the preceding year;

(C) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other
information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(E) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(F) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement;

(ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;

(c) if the host local government intends to assign the tax credit sought in the tax credit application to a community development and renewal agency:

(i) the taxpayer identification number of the community development and renewal agency; and

(ii) a document signed by the governing body members of the community development and renewal agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) a statement provided by an independent certified public accountant, at the tax credit applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

(2) (a) The office shall submit to the commission the documents described in Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection (2)(a), the commission shall
provide to the office the tax returns and other information described in those documents.

(3) If the office determines that the tax returns and other information is inadequate to validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the issuance of a tax credit certificate.

(4) If the office determines that the returns and other information, including any additional documentation provided under Subsection (3), provide reasonable justification for the issuance of a tax credit certificate, the office shall:

(a) determine the amount of the tax credit to be listed on the tax credit certificate;

(b) issue a tax credit certificate to the tax credit applicant for the amount of that tax credit; and

(c) provide a copy of the tax credit certificate to the commission.

Section 111. Section 63N-2-506, which is renumbered from Section 63M-1-3406 is renumbered and amended to read:

Effect of tax credit certificate -- Retaining tax credit certificate.

(1) A person may not claim a tax credit unless the office has issued the person a tax credit certificate.

(2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in a tax credit certificate.

(3) A tax credit recipient shall retain the tax credit certificate in accordance with the requirements of Section 59-1-1406 for retaining books and records.

(4) The amount of a tax credit indicated on a tax credit certificate issued during the eligibility period may not exceed the amount of eligible new tax revenue generated during the taxable year preceding the taxable year for which the tax credit certificate is issued.

Section 112. Section 63N-2-507, which is renumbered from Section 63M-1-3407 is renumbered and amended to read:

Assigning tax credit.
(1) A host local government that enters into an agreement with the office may, by resolution, assign a tax credit to a community development and renewal agency, in accordance with rules adopted by the office.

(2) A host local government that adopts a resolution assigning a tax credit under Subsection (1) shall provide a copy of the resolution to the office and the commission.

Section 113. Section 63N-2-508, which is renumbered from Section 63M-1-3408 is renumbered and amended to read:

(1) (a) In accordance with rules adopted by the office, a host agency shall be paid incremental property tax revenue during the eligibility period.

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

(i) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(A) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(B) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(C) any labor and overhead costs associated with the construction described in Subsections (1)(b)(i)(A) and (B);

(ii) public infrastructure; and

(iii) other purposes as approved by the host agency.

(2) A county that collects property tax on hotel property during the eligibility period shall pay and distribute to the host agency the incremental property tax revenue that the host agency is entitled to collect under Subsection (1), in the manner and at the time provided in Section 59-2-1365.

Section 114. Section 63N-2-509, which is renumbered from Section 63M-1-3409 is renumbered and amended to read:

(1) (a) In accordance with rules adopted by the office, a host agency shall be paid incremental property tax revenue during the eligibility period.

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

(i) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(A) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;

(B) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or

(C) any labor and overhead costs associated with the construction described in Subsections (1)(b)(i)(A) and (B);

(ii) public infrastructure; and

(iii) other purposes as approved by the host agency.

(2) A county that collects property tax on hotel property during the eligibility period shall pay and distribute to the host agency the incremental property tax revenue that the host agency is entitled to collect under Subsection (1), in the manner and at the time provided in Section 59-2-1365.

Section 114. Section 63N-2-509, which is renumbered from Section 63M-1-3409 is renumbered and amended to read:
(1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.

(2) The rules the office makes under Subsection (1) shall:
   (a) establish, consistent with this part, the conditions that a tax credit applicant is required to meet to qualify for a tax credit;
   (b) require that a significant capital investment be made in the development of the hotel property;
   (c) require a tax credit applicant to meet all applicable requirements in order to receive a tax credit certificate;
   (d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and
   (e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63M-1-3404.

Section 115. Section 63N-2-510, which is renumbered from Section 63M-1-3410 is renumbered and amended to read:


(1) [Before November 1 of each year, the] The office shall [submit a written report to the Economic Development and Workforce Services Interim Committee of the Legislature, the Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst describing] include the following information in the office's annual written report described in Section 63N-1-301:
   (a) the state's success in attracting new conventions and corresponding new state revenue;
   (b) the estimated amount of tax credit commitments and the associated calculation made by the office and the period of time over which tax credits are expected to be paid;
   (c) the economic impact on the state related to generating new state revenue and providing tax credits; and
(d) the estimated and actual costs and economic benefits of the tax credit commitments that the office made.

[(2) The office shall post the annual report under Subsection (1) on its website and on a state website.]

[(3)] (2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:

(a) referring to the two annual deposits required under Subsection 59-12-103(14); and

(b) notifying the Division of Finance that construction on the qualified hotel has begun.

Section 116. Section 63N-2-511, which is renumbered from Section 63M-1-3411 is renumbered and amended to read:


(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63M-1-1401.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63M-1-3412; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back
(5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 117. Section 63N-2-512, which is renumbered from Section 63M-1-3412 is renumbered and amended to read:


(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(14);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5) (a) In accordance with office rules, the board shall annually pay up to $2,100,000 of money in the mitigation fund:
(i) to affected hotels;
(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and
(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than $2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63M-1-3411, the difference between $2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 118. Section 63N-2-513, which is renumbered from Section 63M-1-3413 is renumbered and amended to read:

(1) A tax credit recipient may spend money received as a direct result of the state portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

(a) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;
(b) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or
(c) any labor and overhead costs associated with the construction described in
Subsections (1)(a) and (b).

(2) A tax credit recipient may spend money received as a direct result of the local portion of a tax credit only for:

(a) a purpose described in Subsection (1);
(b) public infrastructure; and
(c) other purposes as approved by the host agency.

Section 119. Section 63N-2-601, which is renumbered from Section 63M-1-3501 is renumbered and amended to read:

**Part 6. Utah Small Business Jobs Act**

[63M-1-3501]. 63N-2-601. Title.

This part is known as the "Utah Small Business Jobs Act."

Section 120. Section 63N-2-602, which is renumbered from Section 63M-1-3502 is renumbered and amended to read:


As used in this part:

(1) "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the entity specified.

(2) "Applicable percentage" means:

(a) 0% for the first two credit allowance dates;
(b) 12% for the next three credit allowance dates; and
(c) 11% for the next two credit allowance dates.

(3) "Community Development Financial Institutions Fund" means the fund created in 12 U.S.C. Sec. 4703.

(4) "Credit allowance date" means with respect to a qualified equity investment:

(a) the date on which the qualified equity investment is initially made; and
(b) each of the six anniversary dates of the date described in Subsection (4)(a).

(5) "Federal New Markets Tax Credit Program" means the program created under
(6) "Long-term debt security" means a debt instrument issued by a qualified community development entity:
   (a) with an original maturity date of at least seven years from the date of its issuance;
   and
   (b) with no repayment, amortization, or prepayment features before its original maturity date.

(7) "Purchase price" means the amount paid to the qualified community development entity that issues a qualified equity investment for the qualified equity investment that may not exceed the amount of qualified equity investment authority certified pursuant to Section [63M-1-3503] 63N-2-603.

(8) (a) "Qualified active low-income community business" is as defined in Section 45D, Internal Revenue Code, and 26 C.F.R. Sec. 1.45D-1, but is limited to those businesses meeting the United States Small Business Administration size eligibility standards established in 13 C.F.R. Sec. 121.101-201 at the time the qualified low-income community investment is made.

   (b) Notwithstanding Subsection (8)(a), "qualified active low-income community business" does not include a business that derives or projects to derive 15% or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by or under common control with another business if the second business:

   (i) does not derive or project to derive 15% or more of its annual revenue from the rental or sale of real estate; and
   (ii) is the primary tenant of the real estate leased from the initial business.

   (c) A business is considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the qualified community development entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the United States Small
Business Administration size standards, throughout the entire period of the investment or loan.

(9) (a) "Qualified community development entity" is as defined in Section 45D, Internal Revenue Code, if the entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Treasury Department with respect to credits authorized by Section 45D, Internal Revenue Code, that includes Utah within the service area set forth in the allocation agreement.

(b) An entity may not be considered to be controlled by another entity solely as a result of the entity having made a direct or indirect equity investment in the other entity that earns tax credits under Section 45D, Internal Revenue Code, or in a similar state program.

(c) "Qualified community development entity" includes a subsidiary community development entity of a qualified community development entity.

(10) (a) "Qualified equity investment" means an equity investment in, or long-term debt security issued by, a qualified community development entity that:

(i) is acquired on or after September 2, 2014, at its original issuance solely in exchange for cash;

(ii) has at least 85% of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(iii) is designated by the qualified community development entity as a qualified equity investment and is certified by the office pursuant to Section [63M-4-3503] 63N-2-603.

(b) Notwithstanding Subsection (10)(a), "qualified equity investment" includes a qualified equity investment that does not meet the provisions of Subsection (10)(a) if the investment was a qualified equity investment in the hands of a prior holder.

(11) "Qualified low-income community investment" means a capital or equity investment in, or a loan to, a qualified active low-income community business, except, with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with
all of the business's affiliates, with the proceeds of qualified equity investments certified under Section 63M-1-3503 63N-2-603 shall be $4,000,000, exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized on the repaid or redeemed qualified low-income community investments.

(12) "Tax credit certificate" is a certificate issued by the office under Subsection 63M-1-3503 63N-2-603(11) to an entity eligible for a tax credit under Section 59-9-107 that:

(a) lists the name of the entity eligible for a tax credit;

(b) lists the entity's taxpayer identification number;

(c) lists the amount of tax credit that the office determines the entity is eligible for the calendar year; and

(d) may include other information as determined by the office.

Section 121. Section 63N-2-603, which is renumbered from Section 63M-1-3503 is renumbered and amended to read:

[63M-1-3503]. 63N-2-603. Certification of qualified equity investments -- Issuance of tax credit related certificates.

(1) (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits under Section 59-9-107 shall apply to the office.

(b) The office shall begin accepting applications on September 2, 2014.

(c) The qualified community development entity shall include the following in the qualified community development entity's application:

[(a)] (i) evidence of the applicant's certification as a qualified community development entity, including evidence of the service area of the applicant that includes this state;

[(b)] (ii) a copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund;

[(c)] (iii) a certificate executed by an executive officer of the applicant attesting that:

[(A)] the applicant or its controlling entity has received more than one allocation of
qualified equity investment authority under the Federal New Markets Tax Credit Program; and

[(ii)] (B) the allocation agreement submitted with the application remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund;

[(d)] (iv) a description of the proposed amount, structure, and purchaser of the qualified equity investment;

[(e)] (v) examples of the types of qualified active low-income businesses in which the applicant, its controlling entity, or affiliates of its controlling entity have invested under the Federal New Markets Tax Credit Program, except that when submitting an application an applicant is not required to identify qualified active low-income community businesses in which the applicant will invest;

[(f)] (vi) the amount of qualified equity investment authority the applicant agrees to designate as a federal qualified equity investment under Section 45D, Internal Revenue Code, including a copy of the screen shot from the Community Development Financial Institutions Fund's Allocation Tracking System of the applicant's remaining federal qualified equity investment authority;

[(g)] (vii) if applicable, the refundable performance deposit required by Subsection 63M-1-3506(1);

[(h)] (viii) a copy of a certificate of qualified equity investment authority under another state's new markets tax credit program; and

[(i)] (ix) evidence that the applicant, its controlling entity, and subsidiary qualified community development entities of the controlling entity have collectively made at least $40,000,000 in qualified low-income community investments under the Federal New Markets Tax Credit Program and other state's new markets tax credit programs with a maximum qualified low-income community investment size of $4,000,000 per business.

(2) (a) Within 30 days after receipt of a completed application containing the information set forth in Subsection (1), including, if applicable, the refundable performance deposit, the office shall grant or deny the application in full or in part.

(b) If the office denies any part of the application, the office shall inform the applicant
of the grounds for the denial. If the applicant provides additional information required by the
office or otherwise completes its application within 15 days of the notice of denial, the
application shall be considered completed as of the original date of submission.

(c) If the applicant fails to provide the information or complete its application within
the 15-day period:

(i) the application is denied;

(ii) the applicant shall resubmit an application in full with a new submission date; and

(iii) the office shall return any refundable performance deposit required by Subsection
[63M-1-3506] 63N-2-606(1).

(3) (a) If the application is complete, the office shall certify the proposed equity
investment or long-term debt security as a qualified equity investment, subject to the limitation
contained in Subsection (6).

(b) The office shall provide written notice of the certification to the qualified
community development entity.

(4) The office shall certify qualified equity investments in the order applications are
received by the office. Applications received on the same day are considered to have been
received simultaneously.

(5) For applications that are complete and received on the same day, the office shall
certify, consistent with remaining qualified equity investment capacity, qualified equity
investments of applicants as follows:

(a) First, the office shall certify applications by applicants that agree to designate
qualified equity investments as federal qualified equity investments in accordance with
Subsection (1)[(f)](c)(vi) in proportionate percentages based upon the ratio of the amount of
qualified equity investments requested in an application to be designated as federal qualified
equity investments to the total amount of qualified equity investments to be designated as
federal qualified equity investments requested in all applications received on the same day.

(b) After complying with Subsection (5)(a), the office shall certify the qualified equity
investments of all other applicants, including the remaining qualified equity investment
authority requested by applicants not designated as federal qualified equity investments in accordance with Subsection (1)(f)(c)(vi), in proportionate percentages based upon the ratio of the amount of qualified equity investments requested in the applications to the total amount of qualified equity investments requested in all applications received on the same day.

(6) (a) (i) The office shall certify $50,000,000 in qualified equity investments pursuant to this section.

(ii) If a pending request cannot be fully certified due to this limit, the office shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

(b) If a qualified community development entity withdraws its request pursuant to Subsection (6)(a), the office shall return any refundable performance deposit required by Subsection [63M-1-3506] 63N-2-606(1).

(c) A partial certification does not decrease the amount of the refundable performance deposit required under Subsection [63M-1-3506] 63N-2-606(1).

(7) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or a subsidiary qualified community development entity of the controlling entity, provided that the applicant and the transferee notify the office of the transfer with the notice set forth in Subsection (8) and include with the notice the information required in the application with respect to the transferee.

(8) (a) Within 45 days of the applicant receiving notice of certification, the qualified community development entity or any transferee under Subsection (7) shall:

(i) issue the qualified equity investment;

(ii) receive cash in the amount of the certified amount; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(b) The qualified community development entity or transferee under Subsection (7) shall provide the office with evidence of the receipt of the cash investment and designation of the qualified equity investment as a federal qualified equity investment within 50 days of the
applicant receiving notice of certification.

(c) The certification under this section lapses and the qualified community development entity may not issue the qualified equity investment without reapplying to the office for certification if, within 45 days following receipt of the certification notice, the qualified community development entity or any transferee under Subsection (7) does not:

(i) receive the cash investment;

(ii) issue the qualified equity investment; and

(iii) if applicable, designate the required amount of qualified equity investment authority as federal qualified equity investments.

(d) A lapsed certification under this Subsection (8) reverts back to the office and shall be reissued as follows:

(i) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(a), if applicable;

(ii) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection (5)(b); and

(iii) after complying with Subsections (8)(d)(i) and (ii), in accordance with the application process.

(e) (i) The office shall:

(A) calculate an annual fee to be paid by each applicant certified pursuant to Subsection (3)(a), regardless of the number of transferees under Subsection (7), by dividing $100,000 by the number of applications certified pursuant to Subsection (3)(a); and

(B) notify each successful applicant of the amount of the annual fee.

(ii) (A) The initial annual fee shall be due and payable to the office with the evidence of receipt of cash investment set forth in Subsection (8)(b).

(B) After the initial annual fee, an annual fee shall be due and payable to the office with each report submitted pursuant to Section [63M-1-3510] 63N-2-610.

(iii) An annual fee may not be required once a qualified community development entity together with all transferees under Subsection (7) have decertified all qualified equity
investments in accordance with Subsection [63M-1-3507] 63N-2-607(2).

(iv) To maintain an aggregate annual fee of $100,000 for all qualified community
development entities, the office shall recalculate the annual fee as needed upon:

(A) the lapse of any certification under Subsection (8)(c);

(B) the recapture of tax credits pursuant to Section [63M-1-3504] 63N-2-604; or

(C) the decertification of qualified equity investments pursuant to Subsection

[63M-1-3507] 63N-2-607(2).

(v) An annual fee collected under this Subsection (8)(e) shall be deposited into the
General Fund as a dedicated credit for use by the office to implement this part.

(9) (a) A qualified community development entity that issues a debt instrument
described in Subsection [63M-1-3502] 63N-2-602(6) may not make cash interest payments on
the debt instrument during the period beginning on the date of issuance and ending on the final
credit allowance date in an amount that exceeds the cumulative operating income, as defined
by regulations adopted under Section 45D, Internal Revenue Code, of the qualified community
development entity for that period before giving effect to the interest expense of the long-term
debt security.

(b) This Subsection (9) does not limit the holder of the debt instrument's ability to
accelerate payments on the debt instrument in situations when the qualified community
development entity has defaulted on covenants designed to ensure compliance with this part or
Section 45D, Internal Revenue Code.

(10) (a) A qualified community development entity that issues qualified equity
investments shall notify the office of the names of the entities that are eligible to use tax credits
under this section and Section 59-9-107:

(i) pursuant to an allocation of tax credits;

(ii) pursuant to a change in allocation of tax credits; or

(iii) due to a transfer of a qualified equity investment.

(b) The office may by rule, made in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, provide for the form and content of the notice required under
(11) (a) An entity may claim a tax credit under Section 59-9-107 against tax liability under Title 59, Chapter 9, Taxation of Admitted Insurers, if the entity:

(i) makes a qualified equity investment; and

(ii) obtains a tax credit certificate in accordance with Subsection (11)(b).

(b) For each calendar year, beginning with calendar year 2016, an entity is eligible for a tax credit under this section and Section 59-9-107, the office shall issue to the entity a tax credit certificate for use after January 1, 2017, and provide the State Tax Commission a copy of the tax credit certificate.

(c) On each credit allowance date of the qualified equity investment, the entity that made the qualified equity investment, or the subsequent holder of the qualified equity investment, may claim a portion of the tax credit during the calendar year that includes the credit allowance date.

(d) The office shall calculate the tax credit amount and the tax credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the qualified community development entity for the qualified equity investment.

(e) A tax credit allowed to a partnership, limited liability company, or S-corporation shall be allocated to the partners, members, or shareholders of the partnership, limited liability company, or S-corporation for the partners', members', or shareholders' direct use in accordance with the provisions of any agreement among the partners, members, or shareholders.

(f) An entity may not sell a tax credit allowed under this section on the open market.

(12) (a) An entity that claims a tax credit under Section 59-9-107 and this section shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the entity's tax returns and other information concerning the entity that are required by the office and that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code[; to the office].

(b) The office shall submit the document described in Subsection (12)(a) to the State Tax Commission.
(c) Upon receipt of the document described in Subsection (12)(a), the State Tax Commission shall provide the office with the information requested by the office that the entity authorized the State Tax Commission to provide to the office in the document described in Subsection (12)(a).

Section 122. Section 63N-2-604, which is renumbered from Section 63M-1-3504 is renumbered and amended to read:

63N-2-604. Recapture.

(1) The office may recapture a tax credit from an entity that claimed the tax credit allowed under Section 59-9-107 on a return, if any of the following occur:

(a) If any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a tax credit under this part is recaptured under Section 45D, Internal Revenue Code, the office may recapture the tax credit in an amount that is proportionate to the federal recapture with respect to the qualified equity investment.

(b) If the qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment, the office may recapture an amount proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

(c) (i) If the qualified community development entity fails to invest an amount equal to 85% of the purchase price of the qualified equity investment in qualified low-income community investments in Utah within 12 months of the issuance of the qualified equity investment and maintains at least 85% of the level of investment in qualified low-income community investments in Utah until the last credit allowance date for the qualified equity investment, the office may recapture the tax credit.

(ii) For purposes of this part, an investment is considered held by a qualified community development entity even if the investment has been sold or repaid if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment.
within 12 months of the receipt of the capital.

(iii) Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year.

(iv) A qualified community development entity is not required to reinvest capital returned from a qualified low-income community investment after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(d) If a qualified community development entity makes a distribution or debt payment in violation of Subsection [63M-1-3507] 63N-2-607(1), the office may recapture the tax credit.

(e) If there is a violation of Section [63M-1-3509] 63N-2-609, the office may recapture the tax credit.

(2) A recaptured tax credit and the related qualified equity investment authority revert back to the office and shall be reissued:

(a) first, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection [63M-1-3503] 63N-2-603(5)(a);

(b) second, pro rata to applicants whose qualified equity investment allocations were reduced under Subsection [63M-1-3503] 63N-2-603(5)(b); and

(c) after complying with Subsections (2)(a) and (b), in accordance with the application process.

Section 123. Section 63N-2-605, which is renumbered from Section 63M-1-3505 is renumbered and amended to read:


(1) Enforcement of a recapture provision under Subsection 63M-1-3504 63N-2-604(1) is subject to a six-month cure period.
The office may not recapture a tax credit until the office notifies the qualified community development entity of noncompliance and affords the qualified community development entity six months from the date of the notice to cure the noncompliance.

Section 124. Section 63N-2-606, which is renumbered from Section 63M-1-3506 is renumbered and amended to read:


(1) (a) A qualified community development entity that seeks to have an equity investment or long-term debt security certified as a qualified equity investment and as eligible for tax credits under Section 59-9-107 shall pay a deposit in the amount of .5% of the amount of the equity investment or long-term debt security requested in an application to be certified as a qualified equity investment to the office for deposit into the Small Business Jobs Performance Guarantee Account.

(b) (i) There is created in the General Fund a restricted account known as the "Small Business Jobs Performance Guarantee Account" that consists of deposits made under Subsection (1)(a).


(iii) At the end of a fiscal year, any amount in the Small Business Jobs Performance Guarantee Account that a qualified community development entity forfeits under this section is to be transferred to the General Fund.

(iv) The office shall work with the Division of Finance to ensure that money in the Small Business Jobs Performance Guarantee Account is properly accounted for at the end of each fiscal year.

(c) A qualified community development entity shall forfeit the deposit required under Subsection (1)(a) in its entirety if:

(i) the qualified community development entity and its subsidiary qualified community development entities fail to issue the total amount of qualified equity investments certified by the office and receive cash in the total amount certified under Section [63M-1-3503]
(ii) the qualified community development entity or any subsidiary qualified community development entity that issues a qualified equity investment certified under this part fails to make qualified low-income community investments in qualified active low-income community businesses in Utah equal to at least 85% of the purchase price of the qualified equity investment by the second credit allowance date of such qualified equity investment.

(d) The six-month cure period established under Section [63M-1-3505] 63N-2-605 is not applicable to the forfeiture of a deposit under Subsection (1)(c).

(2) (a) A deposit required under Subsection (1) shall be paid to the office and held in the Small Business Jobs Performance Guarantee Account until such time as compliance with this Subsection (2) is established.

(b) A qualified community development entity may request a refund of the deposit from the office no sooner than 30 days after the qualified community development entity and all transferees under Subsection [63M-1-3503] 63N-2-603(7) have invested 85% of the purchase price of the qualified equity investment authority certified by the office pursuant to Subsection [63M-1-3503] 63N-2-603(3).

(c) The office has 30 days to comply with the request for a refund or give notice of noncompliance.

Section 125. Section 63N-2-607, which is renumbered from Section 63M-1-3507 is renumbered and amended to read:

[63M-1-3507]. 63N-2-607. 150% investment requirement -- Ceasing of certification.

(1) (a) Once certified under Section [63M-1-3503] 63N-2-603, a qualified equity investment shall remain certified until all of the requirements of Subsection (2) have been met.

(b) Until such time as the qualified equity investments issued by a qualified community development entity are no longer certified, the qualified community development entity may not distribute to its equity holders or make cash payments on long-term debt securities that have been certified as qualified equity investments in an amount that exceeds the sum of:
(i) the cumulative operating income, as defined by regulations adopted under Section 45D, Internal Revenue Code, earned by the qualified community development entity since issuance of the qualified equity investment, before giving effect to any interest expense from long-term debt securities certified as qualified equity investments; and

(ii) 50% of the purchase price of the qualified equity investments issued by the qualified community development entity.

(2) Subject to the other provisions of this section, a qualified equity investment ceases to be certified when:

(a) it is beyond its seventh credit allowance date;

(b) the qualified community development entity issuing the qualified equity investment has been in compliance with Section 63M-1-3504 through its seventh credit allowance date, including any cures under Section 63M-1-3505;

(c) the qualified community development entity issuing such qualified equity investment has used the cash purchase of such qualified equity investment, together with capital returned, repaid, or redeemed or profits realized with qualified low-income community investments, to invest in qualified active low-income community businesses such that the total qualified low-income community investments made, cumulatively including reinvestments, exceeds 150% of the qualified equity investment; and

(d) the qualified community development complies with Subsection (4).

(3) For purposes of making the calculation under Subsection (2)(c), qualified low-income community investments to any one qualified active low-income community business, on a collective basis with its affiliates, in excess of $4,000,000 may not be included, unless such investments are made with capital returned or repaid from qualified low-income community investments made by the qualified community development entity in other qualified active low-income community businesses or interest earned on or profits realized from any qualified low-income community investments.

(4) (a) A qualified community development entity shall file a request for ceasing certification of a qualified equity investment in a form, provided by the office, that establishes
that the qualified community development entity has met the requirements of Subsection (2) along with evidence supporting the request for ceasing certification.

(b) Subsection (2)(b) shall be considered to be met if no recapture action has been commenced by the office as of the seventh credit allowance date.

(5) (a) A request for ceasing certification may not be unreasonably denied and the office shall respond to the request within 30 days of the office receiving the request.

(b) Upon grant of a request for ceasing certification, the qualified community development entity is no longer subject to Section [63M-1-3510] 63N-2-610.

(c) If the request is denied for any reason, the office has the burden of proof in any administrative or legal proceeding that follows.

Section 126. Section 63N-2-608, which is renumbered from Section 63M-1-3508 is renumbered and amended to read:

[63M-1-3508]. 63N-2-608. Limitation on fees.

(1) A qualified community development entity or purchaser of a qualified equity investment may not pay to any qualified community development entity or affiliate of a qualified community development entity any fee in connection with any activity under this part before meeting the requirements of Subsection [63M-1-3507] 63N-2-607(2) with respect to all qualified equity investments issued by such qualified community development entity and its affiliates.

(2) Subsection (1) does not prohibit the allocation or distribution of income earned by a qualified community development entity or purchaser of a qualified equity investment to the qualified community development entity's or purchaser's equity owners or the payment of reasonable interest on amounts lent to a qualified community development entity or purchaser of a qualified equity investment.

Section 127. Section 63N-2-609, which is renumbered from Section 63M-1-3509 is renumbered and amended to read:


(1) A qualified active low-income community business that receives a qualified
low-income community investment from a qualified community development entity that issues qualified equity investments under this part, or any affiliates of a qualified active low-income community business, may not directly or indirectly:

(a) own or have the right to acquire an ownership interest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by the qualified community development entity; or

(b) loan to or invest in a qualified community development entity or member or affiliate of a qualified community development entity, including a holder of a qualified equity investment issued by a qualified community development entity when the proceeds of the loan or investment are directly or indirectly used to fund or refinance the purchase of a qualified equity investment under this part.

For purposes of this section, a qualified community development entity may not be considered an affiliate of a qualified active low-income community business solely as a result of its qualified low-income community investment in the business.

Section 128. Section 63N-2-610, which is renumbered from Section 63M-1-3510 is renumbered and amended to read:

63M-1-3510. 63N-2-610. Reporting.

1. (a) A qualified community development entity that issues qualified equity investments shall submit a report to the office within the first five business days after the first anniversary of the initial credit allowance date that provides documentation as to the investment of 85% of the purchase price in qualified low-income community investments in qualified active low-income community businesses located in Utah.

(b) The report shall include:

[(a)] (i) a bank statement of the qualified community development entity evidencing each qualified low-income community investment; and

[(b)] (ii) evidence that the business was a qualified active low-income community business at the time of the qualified low-income community investment.
(2) (a) After the initial report under Subsection (1), a qualified community development entity shall submit an annual report to the office within 60 days of the beginning of the calendar year during the compliance period. [An]

(b) The annual report is not due before the first anniversary of the initial credit allowance date.

(c) The annual report shall include the following:

[(a)] (i) the number of employment positions created and retained as a result of qualified low-income community investments;

[(b)] (ii) the average annual salary of positions described in Subsection (2)(a)(c)(i);

and

[(c)] (iii) certification from the qualified community development entity that the grounds for recapture under Section 63M-1-3504 63N-2-604 have not occurred.

Section 129. Section 63N-2-611, which is renumbered from Section 63M-1-3511 is renumbered and amended to read:

[63M-1-3511]. 63N-2-611. Revenue impact assessment.

(1) Before making a qualified low-income community investment, a qualified community development entity shall submit to the office a revenue impact assessment prepared using a nationally recognized economic development model that demonstrates that the qualified low-income community investment will have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period.

(2) The office [must] shall notify the qualified community development entity within five business days if the qualified low-income community investment does not have a revenue positive impact on the state over 10 years against the 58% tax credit utilization over the same 10-year period using the revenue impact assessment submitted.

(3) If the office determines that the revenue impact assessment does not reflect a revenue positive qualified low-income community investment, the office may waive the requirement under this section if the office determines that the proposed qualified low-income community investment will further economic development.
Section 130. Section 63N-2-612, which is renumbered from Section 63M-1-3512 is renumbered and amended to read:

63N-2-612. Scope of part.
This part applies only to a return or report originally due on or after September 2, 2014.

Section 131. Section 63N-2-701, which is renumbered from Section 63M-1-3101 is renumbered and amended to read:

Part 7. Alternative Energy Manufacturing Tax Credit Act

63N-2-701. Title.
This part is known as the "Alternative Energy Manufacturing Tax Credit Act."

Section 132. Section 63N-2-702, which is renumbered from Section 63M-1-3102 is renumbered and amended to read:

63N-2-702. Definitions.
As used in this part:
(1) "Alternative energy" [is] has the same meaning as defined in Section 59-12-102.
(2) (a) "Alternative energy entity" means a person that:
   (i) conducts business within the state; and
   (ii) enters into an agreement with the office that qualifies the person to receive a tax credit.

   (b) "Alternative energy entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (2)(a).
(3) "Alternative energy manufacturing project" means a project produced by an alternative energy entity if that project involves:
   (a) a new or expanding operation in the state of a new or expanding alternative energy entity; and
   (b) the manufacturing of machinery or equipment used directly in the production of alternative energy.
(4) "New incremental job within the state" means, with respect to an alternative energy entity, an employment position that:
(a) did not exist within the state before:

(i) the alternative energy entity entered into an agreement with the office in accordance with Section [63M-1-3103] 63N-2-703; and

(ii) the alternative energy manufacturing project began;

(b) is not shifted from one location in the state to another location in the state; and

(c) is established to the satisfaction of the office, including by amounts paid or withheld by the alternative energy entity under Title 59, Chapter 10, Individual Income Tax Act.

(5) "New state revenues" means an increased amount of tax revenues generated as a result of an alternative energy manufacturing project by an alternative energy entity or a new incremental job within the state under the following:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

[(6) "Office" means the Governor's Office of Economic Development.]

[(7)] (6) "Tax credit" means a tax credit under Section 59-7-614.8 or 59-10-1030.

[(8)] (7) "Tax credit applicant" means an alternative energy entity that applies to the office to receive a tax credit certificate under this part.

[(9)] (8) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the tax credit certificate recipient;

(b) lists the tax credit certificate recipient's taxpayer identification number;

(c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and

(d) includes other information as determined by the office.

[(10)] (9) "Tax credit certificate recipient" means an alternative energy entity that receives a tax credit certificate for a tax credit in accordance with this part.

Section 133. Section 63N-2-703, which is renumbered from Section 63M-1-3103 is renumbered and amended to read:
[63M-1-3103]. 63N-2-703. Tax credits.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office, with advice from the board, shall make rules establishing standards an alternative energy entity shall meet to qualify for a tax credit.

(b) Before the office enters into an agreement described in Subsection (2) with an alternative energy entity, the office shall certify:

(i) that the alternative energy manufacturing project will generate new state revenues;

(ii) the economic life of the alternative energy manufacturing project produced by the alternative energy entity;

(iii) that local incentives have been committed or will be committed to be provided to the alternative energy manufacturing project;

(iv) that the alternative energy entity meets the requirements of Section [63M-1-3104]; and

(v) that the alternative energy entity has received a Certificate of Good Standing from the Division of Corporations and Commercial Code.

(2) If an alternative energy entity meets the requirements of this part to receive a tax credit, the office may enter into an agreement with the alternative energy entity to authorize the tax credit in accordance with Subsection (3).

(3) (a) Subject to Subsections (3)(b) through (d), the office may authorize or commit a tax credit under this part that may not exceed 100% of new state revenues generated by the alternative energy manufacturing project.

(b) As determined by the office, the office may authorize or commit a tax credit under this section for a time period that does not exceed the lesser of:

(i) the economic life of the alternative energy manufacturing project; or

(ii) 20 years.

(c) The office shall consider economic modeling, including the costs and benefits of an alternative energy manufacturing project to the state and local governments, in determining:

(i) the amount of tax credit to authorize or commit in accordance with Subsection
(3)(a); and
(ii) the time period for which the office will authorize or commit a tax credit in accordance with Subsection (3)(b).
(d) For a taxable year, a tax credit under this section may not exceed the new state revenues generated by an alternative energy manufacturing project during that taxable year.
(4) An alternative energy entity that seeks to receive a tax credit or has entered into an agreement described in Subsection (2) with the office shall:
(a) annually file a report with the office showing the new state revenues generated by the alternative energy manufacturing project during the taxable year for which the alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030;
(b) submit to an audit for verification of a tax credit under Section 59-7-614.8 or 59-10-1030;
(c) provide the office with information required by the office to certify the economic life of the alternative energy manufacturing project produced by the alternative energy entity, which may include a power purchase agreement, a lease, or a permit; and
(d) retain records supporting a claim for a tax credit for at least four years after the alternative energy entity claims a tax credit under Section 59-7-614.8 or 59-10-1030.
(5) The office shall annually certify the new state revenues generated by an alternative energy manufacturing project for a taxable year for which an alternative energy entity seeks to receive a tax credit under Section 59-7-614.8 or 59-10-1030.

Section 134. Section 63N-2-704, which is renumbered from Section 63M-1-3104 is renumbered and amended to read:

(1) The office, with advice from the board, shall certify an alternative energy entity's eligibility for a tax credit as provided in this section.
(2) A tax credit applicant shall provide the office with:
(a) an application for a tax credit certificate;
(b) documentation that the tax credit applicant meets the standards and requirements
described in Section \[63M-1-3103\] \[63N-2-703\] to the satisfaction of the office for the taxable
year for which the tax credit applicant seeks to claim a tax credit; and
(c) documentation that expressly directs and authorizes the State Tax Commission to
disclose to the office the tax credit applicant's returns and other information concerning the tax
credit applicant that would otherwise be subject to confidentiality under Section 59-1-403 or
Section 6103, Internal Revenue Code.
(3) (a) The office shall submit the documentation described in Subsection (2)(c) to the
State Tax Commission.
(b) Upon receipt of the documentation described in Subsection (2)(c), the State Tax
Commission shall provide the office with the documentation described in Subsection (2)(c)
requested by the office that the tax credit applicant directed and authorized the State Tax
Commission to provide to the office.
(4) If, after the office reviews the documentation described in Subsections (2) and (3),
the office determines that the documentation supporting the tax credit applicant's claim for a
tax credit is not substantially accurate, the office shall:
(a) deny the tax credit; or
(b) inform the tax credit applicant that the documentation supporting the tax credit
applicant's claim for a tax credit was inadequate and ask the tax credit applicant to submit new
documentation.
(5) If, after the office reviews the documentation described in Subsections (2) and (3),
the office determines that the documentation supporting the tax credit applicant's claim for a
tax credit is substantially accurate, the office shall, on the basis of that documentation:
(a) enter into the agreement described in Section \[63M-1-3103\] \[63N-2-703\];
(b) issue a tax credit certificate to the tax credit applicant; and
(c) provide a duplicate copy of the tax credit certificate described in Subsection (5)(b)
to the State Tax Commission.
(6) An alternative energy entity may not claim a tax credit under this part unless the
alternative energy entity is a tax credit certificate recipient.
(7) A tax credit certificate recipient that claims a tax credit shall retain the tax credit certificate in accordance with Subsection [63M-1-3103] 63N-2-703(4).

Section 135. Section 63N-2-705, which is renumbered from Section 63M-1-3105 is renumbered and amended to read:


The office shall provide the following information in the annual written report described in Section [63M-1-206] 63N-2-301:

(1) the office's success in attracting alternative energy manufacturing projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 136. Section 63N-2-801, which is renumbered from Section 63M-1-2901 is renumbered and amended to read:

Part 8. Technology and Life Science Economic Development Act

[63M-1-2901]. 63N-2-801. Title.

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

Section 137. Section 63N-2-802, which is renumbered from Section 63M-1-2902 is renumbered and amended to read:


As used in this part:

[(1) "Board" means the Governor's Office of Economic Development Board of Directors.]

[(2)] (1) "Claimant" has the same meaning as defined in Section 59-10-1002.

[(3)] (2) "Eligible business entity" means a person that:

(a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-7-614.6 or 59-10-1109;
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6078 (b) is:
6079 (i) a life science establishment; or
6080 (ii) described in NAICS Code 334413, Semiconductor and Related Device
6081 Manufacturing, of the 2007 North American Industry Classification System of the federal
6082 Executive Office of the President, Office of Management and Budget;
6083 (c) has at least 50% of its employees in the state for each day of a taxable year the
6084 eligible business entity claims a tax credit under Section 59-7-614.6 or 59-10-1109; and
6085 (d) receives a tax credit certificate from the office in accordance with this part.
6086 [(4)] (3) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
6087 (a) enters into an agreement with the office in accordance with this part to receive a tax
6088 credit certificate for a tax credit under Section 59-10-1025; and
6089 (b) receives a tax credit certificate from the office in accordance with this part.
6090 [(5)] (4) "Eligible new state tax revenues" means an increased amount of tax revenues
6091 generated as a result of an eligible product or project by an eligible business entity or a new
6092 incremental job within the state under the following:
6093 (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
6094 (b) Title 59, Chapter 10, Individual Income Tax Act; and
6095 (c) Title 59, Chapter 12, Sales and Use Tax Act.
6096 [(6)] (5) "Eligible product or project" means any product or project produced by an
6097 eligible business entity that was not produced prior to the date of an agreement with the office
6098 under Section [63M-1-2908] 63N-2-808:
6099 (a) by the eligible business entity; and
6100 (b) within the state.
6101 [(7)] (6) "Life science establishment" [is] has the same meaning as defined in Section
6102 59-10-1025.
6103 [(8)] (7) "New incremental job within the state" means, with respect to an eligible
6104 business entity, an employment position that:
6105 (a) did not exist within the state before:
(i) the eligible business entity entered into an agreement with the office in accordance with this part; and
(ii) the eligible product was produced or the eligible project began;
(b) is not shifted from one location in the state to another location in the state; and
(c) is established to the satisfaction of the office, including by amounts paid or withheld by the eligible business entity under Title 59, Chapter 10, Individual Income Tax Act.

[(9) "Office" means the Governor's Office of Economic Development.]

[(10)] (8) "Tax credit" means a tax credit under:
(a) Section 59-7-614.6;
(b) Section 59-10-1025; or
(c) Section 59-10-1109.

[(11)] (9) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.

[(12)] (10) "Tax credit certificate" means a certificate issued by the office that:
(a) lists the name of the tax credit certificate recipient;
(b) lists the tax credit certificate recipient's taxpayer identification number;
(c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and
(d) includes other information as determined by the office.

[(13)] (11) "Tax credit certificate recipient" means:
(a) an eligible business entity that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-7-614.6 or 59-10-1109; or
(b) an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Section 138. Section 63N-2-803, which is renumbered from Section 63M-1-2903 is renumbered and amended to read:

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

(1) (a) The office may issue tax credit certificates under this part only to the extent that
the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.

(b) The Legislature intends that a statutory authorization under Subsection (1)(a) specify:

(i) the total allocation to the tax credits under Sections 59-7-614.6 and 59-10-1109; and

(ii) the allocation to the tax credit under Section 59-10-1025.

(2) For fiscal year 2011-12 only, the office may issue a total of $1,300,000 in tax credit certificates in accordance with this part.

(3) (a) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

(b) Except as provided in Subsection (3)(c), if the total amount of tax credit certificates the office issues in a quarter of a fiscal year is less than the amount of tax credit certificates the office may issue under this part in that quarter, the office may issue the remaining amount of tax credit certificates in a quarter after the quarter for which there is a remaining amount of tax credit certificates.

(c) For fiscal year 2011-12 only, if the total amount of tax credit certificates the office issues in fiscal year 2011-12 is less than the amount of tax credit certificates the office may issue in tax credit certificates under Subsection (2), the office:

(i) may issue the remaining amount of tax credit certificates in a fiscal year after fiscal year 2011-12; and

(ii) is not required to allocate the tax credit certificates to any particular quarter.

Section 139. Section 63N-2-804, which is renumbered from Section 63M-1-2904 is renumbered and amended to read:

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

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

Section 140. Section 63N-2-805, which is renumbered from Section 63M-1-2905 is renumbered and amended to read:

63N-2-805. Application process.

(1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:

(a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) on a form and in the manner prescribed by the office.

(2) The application shall include:

(a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and

(b) other documentation as required by the office.

(3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:

(a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.

(4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.

(5) If the office determines that the information a tax credit applicant provides is
inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:

(a) deny the tax credit; or
(b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Section 141. Section 63N-2-806, which is renumbered from Section 63M-1-2906 is renumbered and amended to read:

[63M-1-2906][63N-2-806. Criteria for tax credits.]

(1) A tax credit applicant shall establish as part of the application required by Section [63M-1-2905][63N-2-805] that the tax credit applicant:

(a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and
(b) will provide a long-term economic benefit to the state.

(2) The office may not issue a tax credit certificate to a tax credit applicant that fails to meet the requirements of Subsection (1)(a).

Section 142. Section 63N-2-807, which is renumbered from Section 63M-1-2907 is renumbered and amended to read:

[63M-1-2907][63N-2-807. Rulemaking authority.]

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

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

Section 143. Section 63N-2-808, which is renumbered from Section 63M-1-2908 is renumbered and amended to read:

[63M-1-2908][63N-2-808. Agreement between tax credit applicant and office -- Tax credit certificate.]

(1) (a) Except as provided in Subsection [63M-1-2903][63N-2-803](3)(b), for each
quarter of a fiscal year after fiscal year 2011-12, the office shall allocate:
(i) 25% of the total amounts made available for allocation in accordance with Section [63M-1-2903] 63N-2-803 for the tax credits under Sections 59-7-614.6 and 59-10-1109; and
(ii) 25% of the amounts made available for allocation in accordance with Section [63M-1-2903] 63N-2-803 for the tax credit under Section 59-10-1025.
(b) Subject to the other provisions of this part, the office, with advice from the board, shall determine quarterly:
(i) the tax credit applicant or applicants to which a tax credit certificate may be provided; and
(ii) the amount of tax credit a tax credit applicant may receive.
(2) The office, with advice from the board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.
(3) The agreement described in Subsection (2) shall:
(a) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;
(b) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and
(c) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.
Section 144. Section 63N-2-809, which is renumbered from Section 63M-1-2909 is renumbered and amended to read:
[63M-1-2909]. 63N-2-809. Issuance of tax credit certificates.
(1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:
(a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;
(b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and

(c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:

(i) the agreement with the office described in Section [63M-1-2908] 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least $1,000,000,000 in the state; and

(ii) the tax credit applicant makes new capital expenditures of at least $1,000,000,000 in the state in accordance with the agreement with the office described in Section [63M-1-2908] 63N-2-808.

(2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Section 145. Section 63N-2-810, which is renumbered from Section 63M-1-2910 is renumbered and amended to read:

[63M-1-2910]. 63N-2-810. Reports on tax credit certificates -- Study by legislative committees.

(1) The office shall include the following information in the annual written report described in Section [63M-1-206] 63N-1-301:

(a) the total amount listed on tax credit certificates the office issues under this part;

(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(c) the economic impact on the state related to providing tax credits under this part.

(2) (a) On or before November 1, 2016, and every five years after November 1, 2016, the Revenue and Taxation Interim Committee shall:

(i) study the tax credits allowed under Sections 59-7-614.6, 59-10-1025, and 59-10-1109; and

(ii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.
(b) The study under Subsection (2)(a) shall include an evaluation of:

(i) the cost of the tax credits under Sections 59-7-614.6, 59-10-1025, and 59-10-1109;
(ii) the purposes and effectiveness of the tax credits; and
(iii) the extent to which the state benefits from the tax credits.

Section 146. Section 63N-2-811, which is renumbered from Section 63M-1-2911 is renumbered and amended to read:

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

(1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) the total amount listed on tax credit certificates the office issues under this part; and
(b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Management and Budget, the Office of Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new agreement entered into by the office since the last report;
(b) the total amount listed on tax credit certificates the office issues under this part; and
(c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Section 147. Section 63N-3-101, which is renumbered from Section 63M-1-901 is renumbered and amended to read:

CHAPTER 3. ECONOMIC DEVELOPMENT PROGRAMS

Part 1. Industrial Assistance Account

[63M-1-901]. 63N-3-101. Title -- Purpose.

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

Section 148. Section 63N-3-102, which is renumbered from Section 63M-1-902 is renumbered and amended to read:

6302 [63M-1-902].

6303 63N-3-102. Definitions.

6304 As used in this part:

6305 (1) "Administrator" means the executive director or the executive director's designee.

6306 (2) "Board" means the Board of Business and Economic Development.

6307 (3) "Company creating an economic impediment" means a company that discourages economic development within a reasonable radius of its location because of:

6308 (a) odors;

6309 (b) noise;

6310 (c) pollution;

6311 (d) health hazards; or

6312 (e) other activities similar to those described in Subsections (3)(a) through (d).

6313 (4) "Economically disadvantaged rural area" means a geographic area designated by the board under Section 63M-1-910.

6314 (5) "Economic opportunities" means unique business situations or community circumstances which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the board.

6315 (6) "Replacement company" means a company locating its business or part of its business in a location vacated by a company creating an economic impediment.

6316 (7) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63M-1-903.

6317 (8) "Targeted industry" means an industry or group of industries targeted by the
board under Section [63M-1-910] 63N-3-111, for economic development in the state.

Section 149. Section 63N-3-103, which is renumbered from Section 63M-1-903 is renumbered and amended to read:

[63M-1-903]. 63N-3-103. Industrial Assistance Account created -- Uses --

Administrator duties -- Costs.

(1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account" of which:

(a) up to 50% may be used in economically disadvantaged rural areas;
(b) up to 25% may be used to take timely advantage of economic opportunities as they arise;
(c) up to 4% may be used to promote business and economic development in rural areas of the state with the Business Expansion and Retention Initiative; and
(d) up to $3,000,000 may be used for the purpose of incubating technology solutions related to economic and workforce development.

(2) The administrator shall administer:

(a) the restricted account created under Subsection (1), under the policy direction of the board; and
(b) the Business Expansion and Retention Initiative for the rural areas of the state.

(3) The administrator may hire appropriate support staff to perform the duties required under this section.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

Section 150. Section 63N-3-104, which is renumbered from Section 63M-1-904 is renumbered and amended to read:

[63M-1-904]. 63N-3-104. Rural Fast Track Program -- Creation --

Funding -- Qualifications for program participation -- Awards -- Reports.
(1) (a) There is created the Rural Fast Track Program.

(b) The program is a funded component of the economically disadvantaged rural areas designation in Subsection [63M-1-903] 63N-3-103(1)(a).

(2) The purpose of the program is to provide an efficient way for small companies in rural areas of the state to receive incentives for creating high paying jobs in those areas of the state.

(3) (a) Twenty percent of the unencumbered amount in the Industrial Assistance Account created in Subsection [63M-1-903] 63N-3-103(1) at the beginning of each fiscal year shall be used to fund the program.

(b) The 20% referred to in Subsection (3)(a) is not in addition to but is a part of the up to 50% designation for economically disadvantaged rural areas referred to in Subsection [63M-1-903] 63N-3-103(1)(a).

(c) If any of the 20% allocation referred to in Subsection (3)(a) has not been used in the program by the end of the third quarter of each fiscal year, that money may be used for any other loan, grant, or assistance program offered through the Industrial Assistance Account during the fiscal year.

(4) (a) To qualify for participation in the program a company shall:

(i) complete and file with the office an application for participation in the program, signed by an officer of the company;

(ii) be located and conduct its business operations in a county in the state that has:

(A) a population of less than 30,000; and

(B) an average household income of less than $60,000 as reflected in the most recently available data collected and reported by the United States Census Bureau;

(iii) have been in business in the state for at least two years; and

(iv) have at least two employees.

(b) (i) The office shall verify an applicant's qualifications under Subsection (4)(a).

(ii) The application must be approved by the administrator in order for a company to receive an incentive or other assistance under this section.
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the administrator may make rules governing:

(i) the content of the application form referred to in Subsection (4)(a)(i);
(ii) who qualifies as an employee under Subsection (4)(a)(iv); and
(iii) the verification procedure referred to in Subsection (4)(b).

(5) (a) The administrator shall make incentive cash awards to small companies under this section based on the following criteria:

(i) $1,000 for each new incremental job that pays over 110% of the county's average annual wage;
(ii) $1,250 for each incremental job that pays over 115% of the county's average annual wage; and
(iii) $1,500 for each incremental job that pays over 125% of the county's average annual wage.

(b) The administrator shall make a cash award under Subsection (5)(a) when a new incremental job has been in place for at least 12 months.

(c) The creation of a new incremental job by a company is based on the number of employees at the company during the previous 24 months.

(d) (i) A small company may also apply for grants, loans, or other financial assistance under the program to help develop its business in rural Utah and may receive up to $50,000 under the program if approved by the administrator.

(ii) The board must approve a distribution that exceeds the $50,000 cap under Subsection (5)(d)(i).

(6) The administrator shall make a quarterly report to the board of the awards made by the administrator under this section and submit a report to the office on the awards and their impact on economic development in the state's rural areas for inclusion in the office's annual written report described in Section [63M-1-206] 63N-1-301.

Section 151. Section 63N-3-105, which is renumbered from Section 63M-1-906 is renumbered and amended to read:
[63M-1-906]. [63N-3-105. Qualification for assistance.

(1) Except as provided in Section [63M-1-908, 63M-1-909, or 63M-1-909.5]

63N-3-108, 63N-3-109, or 63N-3-110, the administrator shall determine which industries,
companies, and individuals qualify to receive money from the Industrial Assistance Account.

Except as provided by Subsection (2), to qualify for financial assistance from the restricted
account, an applicant shall:

(a) demonstrate to the satisfaction of the administrator that the applicant will expend
funds in Utah with employees, vendors, subcontractors, or other businesses in an amount
proportional with money provided from the restricted account at a minimum ratio of 2 to 1 per
year or other more stringent requirements as established from time to time by the board for a
minimum period of five years beginning with the date the loan or grant was approved;

(b) demonstrate to the satisfaction of the administrator the applicant's ability to sustain
economic activity in the state sufficient to repay, by means of cash or appropriate credits, the
loan provided by the restricted account; and

(c) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection
(1)(a) or (b) if:

(i) the financial assistance is provided to an applicant for the purpose of locating all or
any portion of its operations to an economically disadvantaged rural area;

(ii) the applicant is part of a targeted industry;

(iii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a,
Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations
Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide
significant economic stimulus to the growth of commerce and industry in the state; or

(iv) the applicant is an entity offering an economic opportunity under Section
[63M-1-909] 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under
Subsection [63M-1-905] 63N-3-106(2)(b) that the loan be structured so that the repayment or
return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) for applicants described in Subsection (2)(a), make findings as to whether the economic activities of each applicant has resulted in the creation of new jobs on a per capita basis in the economically disadvantaged rural area or targeted industry in which the applicant is located;

(c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section [63M-1-907/63N-3-107]; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 152. Section 63N-3-106, which is renumbered from Section 63M-1-905 is renumbered and amended to read:

[63M-1-905]. 63N-3-106. Loans, grants, and assistance -- Repayment -- Earned credits.

(1) (a) A company that qualifies under Section [63M-1-906/63N-3-105] may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.

(b) A company creating an economic impediment that qualifies under Section [63M-1-908/63N-3-108] may in accordance with this part receive loans, grants, or other financial assistance from the restricted account for the expenses of the company creating an economic impediment related to:

(i) relocation to a rural area in Utah of the company creating an economic impediment;
and
(ii) the siting of a replacement company.

(c) An entity offering an economic opportunity that qualifies under Section [63M-1-909] [63N-3-109] may:
(i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and
(ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.

(2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.
(ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:
(A) the number of Utah jobs created;
(B) the increased economic activity in Utah; or
(C) other events and activities that occur as a result of the restricted account assistance.

(b) (i) The administrator shall provide for a system of credits to be used to support
grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
a company creating an economic impediment.

(ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
determined by the administrator, including:

(A) the number of Utah jobs created;
(B) the increased economic activity in Utah; or
(C) other events and activities that occur as a result of the restricted account assistance.

(4) (a) A cash loan repayment or other cash recovery from a company receiving
assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of
recognizing and accounting for the earned credits used in lieu of loan repayments or to support
grant payments as provided in Subsection (3).

(5) (a) (i) At the end of each fiscal year, the Division of Finance shall set aside the
balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers
of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance
Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (5)(a)(i) shall be capped at $50,000,000, at which
time no subsequent contributions may be made and any interest accrued above the $50,000,000
cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (5)(a) shall be made after the transfer of
surplus General Fund revenue surplus is made:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312;

and

(iii) to the State Disaster Recovery Restricted Account, as provided in Section

63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as
provided in this part until appropriated by the Legislature.

Section 153. Section 63N-3-107, which is renumbered from Section 63M-1-907 is renumbered and amended to read:

[63M-1-907]. 63N-3-107. Agreements.

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

(1) repayment schedules;
(2) interest rates;
(3) specific economic activity required to qualify for the loan or assistance or for repayment credits;
(4) collateral or security, if any; and
(5) other terms and conditions considered appropriate by the administrator.

Section 154. Section 63N-3-108, which is renumbered from Section 63M-1-908 is renumbered and amended to read:

[63M-1-908]. 63N-3-108. Financial assistance to companies that create economic impediments.

(1) (a) The administrator may provide money from the Industrial Assistance Account to a company creating an economic impediment if that company:

(i) applies to the administrator;
(ii) relocates to a rural area in Utah; and
(iii) meets the qualifications of Subsection (1)(b).

(b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, a company creating an economic impediment shall:

(i) demonstrate to the satisfaction of the administrator that the company creating an economic impediment, its replacement company, or in the aggregate the company creating the economic impediment and its replacement company:

(A) will expend funds in Utah with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a
minimum ratio of 2 to 1 per year or other more stringent requirements as established from time to time by the board for a minimum period of five years beginning with the date the loan or grant was approved; and

(B) can sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(ii) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt a company creating an economic impediment from the requirements of Subsection (1)(b)(i)(A) if:

(i) the financial assistance is provided to a company creating an economic impediment for the purpose of locating all or any portion of its operations to an economically disadvantaged rural area; or

(ii) its replacement company is part of a targeted industry.

(b) The administrator may not exempt a company creating an economic impediment from the requirement under Subsection [63M-1-905] 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The administrator shall:

(a) make findings as to whether or not a company creating an economic impediment, its replacement company, or both, have satisfied each of the conditions set forth in Subsection (1);

(b) monitor the compliance by a company creating an economic impediment, its replacement company, or both, with:

(i) each of the conditions set forth in Subsection (1); and

(ii) any contract or agreement under Section [63M-1-907] 63N-3-107 entered into between:

(A) the company creating an economic impediment; and

(B) the state; and

(c) make funding decisions based upon appropriate findings and compliance.
Section 155. Section 63N-3-109, which is renumbered from Section 63M-1-909 is renumbered and amended to read:

[63M-1-909]. 63N-3-109. Financial assistance to entities offering economic opportunities.

(1) Subject to the duties and powers of the board under Section [63M-1-303], the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator; and

(b) meets the qualifications of Subsection (2).

(2) The applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles;

(d) in the case of an economic opportunity that includes the retention of jobs, demonstrate how the potential relocation of jobs outside the state is related to a merger, acquisition, consolidation, or similar business reason other than the applicant simply requesting state assistance to remain in the state;

(e) satisfy other criteria the administrator considers appropriate; and

(f) be either:

(i) an entity whose purpose is to exclusively or substantially promote, develop, or maintain the economic welfare and prosperity of the state as a whole, regions of the state, or specific components of the state, including:
(A) an entity that is a sports development organization under contract with the state for
sports development and sporting event attraction and related activities that provide an
economic impact or promotional value to the state; or
(B) an entity that implements technology innovation in public schools, including
whole-school one-to-one mobile device technology deployment for the purpose of incubating
technology solutions related to economic and workforce development.
(ii) a company or individual that does not otherwise qualify under Section [63M-1-906]
3N-3-105.
(3) Subject to the duties and powers of the board under Section [63M-1-303]
3N-1-402, the administrator shall:
(a) make findings as to whether an applicant has satisfied each of the conditions set
forth in Subsection (2);
(b) establish benchmarks and timeframes in which progress toward the completion of
the agreed upon activity is to occur;
(c) monitor compliance by an applicant with any contract or agreement entered into by
the applicant and the state as provided by Section [63M-1-907] 3N-3-107; and
(d) make funding decisions based upon appropriate findings and compliance.
Section 156. Section 3N-3-110, which is renumbered from Section 63M-1-909.5 is
renumbered and amended to read:
[63M-1-909.5]. 3N-3-110. Selection of educational technology provider to
implement whole-school one-to-one mobile device technology deployment plan for
schools.
The board shall select an educational technology provider to develop and implement a
whole-school one-to-one mobile device technology deployment plan for schools in accordance
with the requirements of this part and Section 53A-1-709.
Section 157. Section 3N-3-111, which is renumbered from Section 63M-1-910 is
renumbered and amended to read:
[63M-1-910]. 3N-3-111. Annual policy considerations.
(1) The board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section [63M-1-902] 63N-3-102.

(2) In designating an economically disadvantaged rural area, the board shall consider the average agricultural and nonagricultural wage, personal income, unemployment, and employment in the area.

(3) In evaluating the economic impact of applications for assistance, the board shall use an econometric cost-benefit model or models adopted by the Governor's Office of Management and Budget.

(4) The board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection [63M-1-906] 63N-3-105(1)(a) or [63M-1-908] 63N-3-108(1)(b)(i)(A).

Section 158. Section 63N-3-201, which is renumbered from Section 63M-1-701 is renumbered and amended to read:

**Part 2. Technology Commercialization and Innovation Act**

63N-3-201. Title.

This part is known as the "Technology Commercialization and Innovation Act."

Section 159. Section 63N-3-202, which is renumbered from Section 63M-1-702 is renumbered and amended to read:

63N-3-202. Purpose.

(1) (a) The Legislature recognizes that the growth of new industry and expansion of existing industry requires a strong technology base, new ideas, concepts, innovations, and prototypes.

(b) Growth in industry frequently results from technological innovation generated by
strong research institutions of higher education and by small businesses.

(c) Technical research in Utah's institutions of higher education should be enhanced and expanded, particularly in those areas targeted by the state for economic development.

(d) Most states enhance their research base by direct funding, usually on a matching basis.

(e) The purpose of this part is to catalyze and enhance the growth of these technologies by:

(i) encouraging interdisciplinary research activities in targeted areas;

(ii) facilitating the transition of these technologies out of the higher education environment into industry where the technologies can be used to enhance job creation; and

(iii) supporting the commercialization of technologies developed by small business to enhance job creation.

(f) The Legislature recognizes that one source of funding is to match state funds with federal funds and industrial support to provide and develop new technologies.

(2) The Legislature recommends that the governor consider matching the allocation of economic development funds for the Technology Commercialization and Innovation Program with industry and federal grants.

(3) (a) The Legislature recommends that the funds be allocated on a competitive basis:

(i) to the various institutions of higher education in the state;

(ii) to companies working in partnership with institutions of higher education to commercialize their technologies; and

(iii) to small businesses that are developing promising technologies.

(b) The funds made available should be used to support:

(i) interdisciplinary research in the Technology Commercialization and Innovation Program in technologies that are considered to have potential for economic development in the state and to help transition these technologies out of institutions of higher education and into industry; and

(ii) small businesses in commercializing their promising technologies that have the
potential to increase economic development in the state.

Section 160. Section 63N-3-203, which is renumbered from Section 63M-1-703 is renumbered and amended to read:

[63M-1-703]. 63N-3-203. Definitions.

As used in this part:

(1) "Business team consultant" means an experienced technology executive, entrepreneur, or business person who:

(a) is recruited by the office through a request for proposal process to work directly with a college or university in the Technology Commercialization and Innovation Program; and

(b) works with the institution to facilitate the transition of its technology into industry by assisting the institution in developing strategies, including spin out strategies when appropriate, and go-to-market plans, and identifying and working with potential customers and partners.

(2) "Direct license" means a written license agreement between a company and a Utah institution of higher education related to technology developed at the institution of higher education with the intent of commercializing the technology or facilitating its transition into industry.

(3) "Institution of higher education" means:

(a) a state institution of higher education as defined in Section 53B-3-102; or

(b) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(4) "Licensee" means:

(a) a company that executes or is in the process of executing a direct license; or

(b) a sublicensee of the technology from a direct license.

(5) "Small business" means a business that:

(a) meets the size standards for the business's industry classification as identified by the United States Small Business Administration in 13 C.F.R. Sec. 121.201;

(b) is organized for profit;
(c) operates primarily within the United States;
(d) has a principal place of business in the state, including a manufacturing or service location; and
(e) is independently owned and operated.

(6) "Technology Commercialization and Innovation Program" means:
(a) a federal- and industry-supported cooperative research and development program based at an institution of higher education; or
(b) a federal- and state-supported program for funding technologically innovative small businesses.

Section 161. Section 63N-3-204, which is renumbered from Section 63M-1-704 is renumbered and amended to read:

63N-3-204. Administration -- Grants and loans.
(1) The [Governor's Office of Economic Development] office shall administer this part.
(2) (a) (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:
(A) an institution of higher education;
(B) a licensee; or
(C) a small business.
(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:
(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or
(ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.

(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.

(d) (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:

(A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or

(B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.

(3) (a) Funding allocations shall be made by the office with the advice of the board.

(b) Each proposal shall receive the best available outside review.

(4) (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.

(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.

(5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section [63M-1-206]
Section 162. Section 63N-3-205, which is renumbered from Section 63M-1-705 is renumbered and amended to read:

[63M-1-705]. 63N-3-205. Business team consultants.

(1) The office may enter into work agreements with business team consultants through a request for proposal process to participate in the Technology Commercialization and Innovation Program.

(2) Under a work agreement, a business team consultant shall assist a college or university in facilitating the transition of its technology into industry.

Section 163. Section 63N-3-301, which is renumbered from Section 63M-1-2701 is renumbered and amended to read:

Part 3. Utah Business Resource Centers Act

[63M-1-2701]. 63N-3-301. Title.

This part is known as the "Utah Business Resource Centers Act."

Section 164. Section 63N-3-302, which is renumbered from Section 63M-1-2702 is renumbered and amended to read:

[63M-1-2702]. 63N-3-302. Purpose.

The Legislature recognizes that:

(1) the development of and assistance to business in Utah is a state public purpose necessary to assure the growth of the state's economy and provide adequate employment opportunities for its citizens;

(2) public colleges and universities in the state hereafter, referred to as "host institutions," have academic and physical resources that can enhance economic development within the state through a partnership with the Governor's Office of Economic Development;

(3) state funded economic development agencies, hereafter referred to as "agencies" could broaden and improve services to business clients through better regional and statewide coordination;
coordination of business clients needs is best done in the regions where they are established;
(5) this coordination needs to be done under the direction of one designated state agency;
(6) an important tool in these coordination efforts will be the development of a data base to identify, track, and assign agencies to be accountable for clients;
(7) agency accountability can be improved through client tracking and monitoring at the regional level;
(8) the state has historically experienced a high business start-up rate and has experienced a commensurate failure rate partially due to lack of coordination and accountability by state agencies;
(9) the state's economy will continue to improve as state agencies and resources become more responsive to private business by identifying them, focusing on their needs, and tracking their progress; and
(10) the governor and the Legislature will benefit from an annual report measuring tax revenue increases, new job creation, and other economic impact as a result of tracking and measuring state agencies' performance in the various regions of the state.

Section 165. Section 63N-3-303, which is renumbered from Section 63M-1-2703 is renumbered and amended to read:

63N-3-303. Definitions.
As used in this part, "business resource centers" means entities established by the Governor's Office of Economic Development in partnership with state public institutions of higher education as certified resource centers to provide private businesses with one-stop technical assistance and access to statewide resources and programs, and to identify, coordinate, track, and measure the impact of business resource programs provided by state agencies in the various regions of the state.

Section 166. Section 63N-3-304, which is renumbered from Section 63M-1-2704 is renumbered and amended to read:
6834 [63M-1-2704].  63N-3-304. Establishment and administration of business
6835 resource centers -- Components.
6836 (1) The [Governor's Office of Economic Development, hereafter referred to in this part
6837 as "the office,"] office shall establish business resource centers in at least four different
6838 geographical regions of the state where host institutions are located and the host institutions
6839 agree to enter into a business resource center partnership with the office.
6840 (2) The office, in partnership with a host institution, shall provide methodology and
6841 oversight for a business resource center.
6842 (3) A host institution shall contribute 50% of a business resource center's operating
6843 costs through cash or in-kind contributions, unless otherwise provided under Subsection
6844 [63M-1-2707] 63N-3-307(7).
6845 (4) The office shall work with the Utah Business Assistance Advisory Board
6846 established under Section [63M-1-2706] 63N-3-306, hereafter referred to in this part as "the
6847 board," to provide operational oversight and coordination of the business resource centers
6848 established under this part.
6849 (5) (a) A business resource center shall work with state agencies in creating methods to
6850 coordinate functions and measure the impact of the efforts provided by the state agencies and
6851 the center.
6852   (b) The host institution, state, local and federal governmental entities,
6853 quasi-governmental entities, and private entities may:
6854   (i) participate in the activities offered by or through a business resource center; and
6855   (ii) provide personnel or other appropriate links to the center.
6856   (c) (i) Other entities that are not initially involved in the establishment of a business
6857 resource center and that are capable of providing supportive services to Utah businesses may
6858 apply to the center to become a provider of services at the center.
6859   (ii) Entities identified in Subsections (5)(a) and (b) shall provide the board with a
6860 service plan, to include funding, which would be made available or supplied to cover the
6861 expenses of their services offered at a business resource center.
(iii) The board shall review each application made under Subsection (5)(c)(i) and make a recommendation for approval by the office as a precondition for providing the service being offered.

(6) A business resource center may:

(a) partner with the office, other host institutions, and other entities to develop and establish web-based access to virtual business resource center services over the Internet to assist in establishing and growing businesses in the state, particularly in those situations where traveling to a business resource center site is not practical;

(b) develop a data base and software for:

(i) tracking clients and their progress; and

(ii) tracking responses and services provided by state agencies and evaluating their effectiveness; and

(c) develop outreach programs and services targeted to business clients in rural areas of the state.

(7) The office shall include in the annual written report described in Section [63M-1-206] 63N-1-301, a report on measured performance of economic development programs offered by or through established business resource centers.

Section 167. Section 63N-3-305, which is renumbered from Section 63M-1-2705 is renumbered and amended to read:

[63M-1-2705] 63N-3-305. Duties and responsibilities.

(1) A business resource center shall:

(a) have a director;

(b) be the organization responsible for identifying, tracking, coordinating, and measuring output of assisted business clients in its region;

(c) develop programs to aid business clients in finding the resources they need;

(d) recruit state funded agencies to locate and establish their programs in the business center's region;

(e) initiate and encourage business education programs, including programs in
collaboration with public, private, and governmental and educational institutions; and

(f) work with the host institution in providing academic resources, including faculty and student assistance.

(2) A business resource center shall collaborate with the host institution and state agencies to:

(a) provide research, development, or training programs for new or existing businesses, industries, or high technology business located in its region;

(b) assist in providing needs assessment relating to new or existing businesses, industries, or high technology business in conjunction with other public or private economic development programs or initiatives;

(c) assist in providing business incubator space or services, or both, if considered feasible and practical, to clients based on criteria established by the office in consultation with the board;

(d) work with local business leaders and government officials to help them formulate and implement sound, coordinated, and measurable economic development programs for their communities; and

(e) work with local government and other entities in its region in developing and certifying non-state funded satellite business resource centers.

Section 168. Section 63N-3-306, which is renumbered from Section 63M-1-2706 is renumbered and amended to read:

[63M-1-2706]. 63N-3-306. Utah Business Assistance Advisory Board -- Creation -- Membership -- Vacancies -- Chairs.

(1) There is created the Utah Business Assistance Advisory Board, composed of at least 13 members appointed by the executive director of the Governor's Office of Economic Development office.

(2) (a) The executive director shall appoint:

(i) one member from three host institutions of business resource centers on a rotating basis;
(ii) three members from urban areas in the state;
(iii) two members from rural areas in the state; and
(iv) one member from each host institution of a statewide business service provider.

(b) The executive director may appoint ex officio board members who are sponsors of or partners with statewide business server providers.

(3) Each board member shall have a background or expertise in any one or all of the following:
(a) state or local economic development;
(b) business networking, growth, or development;
(c) entrepreneurship;
(d) business management or administration; or
(e) the establishment of partnerships or collaborative efforts with state, local, and federal agencies and institutions, as well as private entities.

(4) (a) The executive director shall appoint board members for four-year terms.
(b) The board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of these members are staggered so that approximately half of the members are appointed every two years.
(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the executive director for the unexpired term in the same manner as the vacated member was chosen.

(5) The board shall elect one of its members as a chair of the board for a two-year term.
(6) The board shall meet at the call of the chair, but at least quarterly.

(7) (a) A majority of the members of the board constitute a quorum.
(b) The action of a majority of a quorum constitutes the action of the board.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
Section 169. Section 63N-3-307, which is renumbered from Section 63M-1-2707 is renumbered and amended to read:

63M-1-2707. Duties.

The board shall:

(1) assist the office in providing operational oversight, coordination, and performance review and provide advice and improve the effectiveness of state-funded business assistance programs throughout the state as designated by the executive director;

(2) make recommendations to the office on requirements for the requisite certification of each business resource center and staff at each center by the executive director;

(3) make recommendations to the office for certification of the business plans the board is required to review under Subsection 63M-1-2704(5)(c)(iii);

(4) at the direction of the executive director:

(a) assist the office in providing operational oversight to and coordination of the business resource centers established under this part; and

(b) work closely with the Governor's Office of Economic Development's Board of Business and Economic Development;

(5) identify issues and make recommendations to the office regarding programs, policies, and procedures that could be implemented by:

(a) business resource centers in fulfilling their duties and responsibilities under Section 63M-1-2705 and

(b) state-funded business service providers;

(6) make budget recommendations to the office regarding the operation and staffing of business resource centers established under this part;

(7) recommend matching fund exceptions under Subsection 63M-1-2704(3);

(8) recommend certification of all non-state funded satellite business resource centers;
and 
(9) establish metrics to report the performance of economic development output in 
each region serviced by a business resource center.

Section 170. Section 63N-3-401, which is renumbered from Section 63M-1-2201 is 
renumbered and amended to read:

**Part 4. Transient Room Tax Fund Act**

[63M-1-2204]. 63N-3-401. Title.

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

Section 171. Section 63N-3-402, which is renumbered from Section 63M-1-2202 is 
renumbered and amended to read:

[63M-1-2202]. 63N-3-402. Definitions.

As used in this part, "fund" means the Transient Room Tax Fund created by Section

[63M-1-2203] 63N-3-403.

Section 172. Section 63N-3-403, which is renumbered from Section 63M-1-2203 is 
renumbered and amended to read:

[63M-1-2203]. 63N-3-403. Transient Room Tax Fund -- Source of revenues 
-- Interest -- Expenditure or pledge of revenues.

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

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

(b) (i) The fund shall earn interest.

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

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

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

(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section
for the expenditure of money do not apply; or
(iii) for a combination of Subsections (3)(a)(i) and (ii).
(b) The executive director may not expend more than $20,000,000 in total to mitigate
the impacts of traffic and parking relating to a convention facility within a county of the first
class.

Section 173. Section 63N-4-101, which is renumbered from Section 63M-1-1601 is
renumbered and amended to read:

CHAPTER 4. RURAL DEVELOPMENT ACT

Part 1. Office of Rural Development

[63M-1-1601]. 63N-4-101. Title -- Definitions.

(1) This [part] chapter is known as the "Rural Development Act."
(2) This part is known as the "Office of Rural Development."

[(2)] (3) As used in this part:
(a) "Office" or "GOED" means the Governor's Office of Economic Development.
(b) "Program" means the Rural Development Program.

Section 174. Section 63N-4-102, which is renumbered from Section 63M-1-1602 is
renumbered and amended to read:

[63M-1-1602]. 63N-4-102. Rural Development Program -- Supervision by
office.

(1) There is created within the Governor's Office of Economic Development the Office
of Rural Development.
(2) The Office of Rural Development is under the administration and general
supervision of the Governor's Office of Economic Development.

Section 175. Section 63N-4-103, which is renumbered from Section 63M-1-1603 is
renumbered and amended to read:

[63M-1-1603]. 63N-4-103. Purpose of the Office of Rural Development.
The Office of Rural Development is established to:
(1) foster and support economic development programs and activities for the benefit of
rural counties and communities;
(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;
(3) foster and support leadership training programs and activities for the benefit of:
(a) rural leaders in both the public and private sectors;
(b) economic development and planning personnel; and
(c) rural government officials;
(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges and priorities of rural Utah as identified in the strategic plan required under Subsection 63C-10-103(1)(b);
(5) work to enhance the capacity of [the Governor's Office of Economic Development] GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and
(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 176. Section 63N-4-104, which is renumbered from Section 63M-1-1604 is renumbered and amended to read:

[63M-1-1604]. 63N-4-104. Duties.

(1) The Office of Rural Development shall:
(a) provide staff support to the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6);
(b) facilitate within [the Governor's Office of Economic Development] GOED the implementation of the strategic plan prepared under Subsection 63C-10-103(1)(b);
(c) work to enhance the capacity of [the Governor's Office of Economic Development] GOED to address rural economic development, planning, and leadership training challenges
and opportunities by establishing partnerships and positive working relationships with
appropriate public and private sector entities, individuals, and institutions;
(d) work with the Governor's Rural Partnership Board to coordinate and focus
available resources in ways that address the economic development, planning, and leadership
training challenges and priorities in rural Utah; and
(e) in accordance with economic development and planning policies set by state
government, coordinate relations between:
(i) the state;
(ii) rural governments;
(iii) other public and private groups engaged in rural economic planning and
development; and
(iv) federal agencies.
(2) (a) The Office of Rural Development may:
(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
make rules necessary to carry out its duties;
(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural
Utah citizens; and
(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii)
for the use and benefit of rural citizens within the state.
(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General
Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).
Section 177. Section 63M-1-1605, which is renumbered from Section 63M-1-1605 is
renumbered and amended to read:
[63M-1-1605]. 63N-4-105. Program manager.
(1) The executive director of [the Governor's Office of Economic Development]
GOED shall appoint a director for the Office of Rural Development with the approval of the
governor.
(2) The director of the Office of Rural Development shall be a person knowledgeable
in the field of rural economic development and planning and experienced in administration.

(3) Upon change of the executive director of the Governor's Office of Economic Development, the director of the Office of Rural Development may not be dismissed without cause for at least 180 days.

(4) The director of the Office of Rural Development shall serve as staff to the Governor's Rural Partnership Board and to the executive committee of the Governor's Rural Partnership Board in accordance with Subsection 63C-10-102(6).

Section 178. Section 63N-4-106, which is renumbered from Section 63M-1-1606 is renumbered and amended to read:

[63M-1-1606]. 63N-4-106. Annual report.

[The office] GOED shall include in the annual written report described in Section 63M-1-206, 63N-1-301, a report of the program's operations and recommendations.

Section 179. Section 63N-4-201, which is renumbered from Section 63M-1-2001 is renumbered and amended to read:

Part 2. Business Development for Disadvantaged Rural Communities Act

[63M-1-2001]. 63N-4-201. Title.

This part is known as the "Business Development for Disadvantaged Rural Communities Act."

Section 180. Section 63N-4-202, which is renumbered from Section 63M-1-2002 is renumbered and amended to read:


As used in this part:

[(1) "Board" means the Board of Business and Economic Development created by Section 63M-1-301-]

[(2) "Business incubator expense" means an expense relating to funding a program that is:

(a) designed to provide business support services and resources to one or more business entities within a project area during the business entities' early stages of development;]
and
(b) determined to be a business incubator by the board.
\[(\text{3})\] (2) "Business rehabilitation expense" means an expense relating to the renovation or rehabilitation of an existing building within a project area as determined by the board.
\[(\text{4})\] (3) "Debt service" means the payment of debt service on a bond issued to pay a:
(a) business rehabilitation expense relating to a project; or
(b) public infrastructure expense relating to a project.
\[(\text{5})\] (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.
\[(\text{6})\] (5) "Eligible expense" means an expense:
(a) incurred by an eligible county;
(b) relating to a project; and
(c) that is:
(i) a business incubator expense;
(ii) debt service; or
(iii) a public infrastructure expense.
\[(\text{7})\] (6) "Project" means an economic development project:
(a) as determined by the board; and
(b) for which an eligible county applies to the board in accordance with this part for a loan or grant to assist the eligible county in paying an eligible expense.
\[(\text{8})\] (7) "Project area" means the geographic area within which a project is implemented by an eligible county.
\[(\text{9})\] (8) "Public infrastructure expense" means an expense relating to a publicly owned improvement located within a project area if:
(a) the expense is:
(i) incurred for:
(A) construction;
(B) demolition;
(C) design;
engineering; an environmental impact study; environmental remediation; or rehabilitation; or similar to an expense described in Subsection [(9)] (8)(a)(i) as determined by the board; and

(b) the publicly owned improvement is:

(i) not a building as determined by the board; and
(ii) necessary to support a project as determined by the board.

[(10)] (9) "Publicly owned improvement" means an improvement to real property if:

(a) the real property is owned by:

(i) the United States;
(ii) the state; or
(iii) a political subdivision:

(A) as defined in Section 17B-1-102; and
(B) of the state; and

(b) the improvement relates to:

(i) a sewage system including a system for collection, transport, storage, treatment, dispersal, effluent use, or discharge;
(ii) a drainage or flood control system, including a system for collection, transport, diversion, storage, detention, retention, dispersal, use, or discharge;
(iii) a water system including a system for production, collection, storage, treatment, transport, delivery, connection, or dispersal;
(iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
(v) a rail transportation system;
(vi) a system for pedestrian use for travel, ingress, or egress;
(vii) a public utility system including a system for electricity, gas, or telecommunications; or
Section 181. Section 63N-4-203, which is renumbered from Section 63M-1-2004 is renumbered and amended to read:

63M-1-2004. 63N-4-203. Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan.

(1) (a) Subject to the provisions of, and funds made available for, this section, beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible county of one or more grants or loans to assist in paying an eligible expense relating to a project.

(b) The total amount of grants and loans that the board may award in accordance with this section relating to one project is $75,000.

(c) If the board awards a loan to an eligible county in accordance with this section, the loan shall be subject to interest as provided by the procedures and methods referred to in Subsection (6).

(2) (a) Before the board may award an eligible county a grant or loan in accordance with this section, the eligible county shall submit a written proposal to the board in accordance with Subsection (2)(b).

(b) The proposal described in Subsection (2)(a) shall:

(i) describe the project area;

(ii) describe the characteristics of the project including a description of how the project will be implemented;

(iii) provide an economic development plan for the project including a description of any eligible expenses that will be incurred as part of implementing the project;

(iv) describe the characteristics of the community within which the project area is located;

(v) establish that the community within which the project area is located is a
disadvantaged community on the basis of one or more of the following factors:

(A) median income per capita within the community;

(B) median property tax revenues generated within the community;

(C) median sales and use tax revenues generated within the community; or

(D) unemployment rates within the community;

(vi) demonstrate that there is a need for the project in the community within which the project area is located;

(vii) describe the short-term and long-term benefits of the project to the community within which the project area is located;

(viii) demonstrate that there is a need for assistance in paying eligible expenses relating to the project;

(ix) indicate the amount of any revenues that will be pledged to match any funds the board may award as a loan or grant under this section; and

(x) indicate whether there is support for the implementation of the project from:

(A) the community within which the project area is located; and

(B) any cities or towns within which the project area is located.

(3) At the request of the board, representatives from an eligible county shall appear before the board to:

(a) present a proposal submitted to the board in accordance with Subsection (2)(b); and

(b) respond to any questions or issues raised by the board relating to eligibility to receive a grant or loan under this section.

(4) The board shall:

(a) consider a proposal submitted to the board in accordance with Subsection (2);

(b) make written findings as to whether the proposal described in Subsection (4)(a) meets the requirements of Subsection (2)(b);

(c) make written findings as to whether to award the eligible county that submitted the proposal described in Subsection (4)(a) one or more grants or loans:

(i) on the basis of the factors established in Subsection (5);
(ii) in consultation with the director; and
(iii) in accordance with the procedures established for prioritizing which projects may
be awarded a grant or loan by the board under this section;
(d) if the board determines to award an eligible county a grant or loan in accordance
with this section, make written findings in consultation with the director specifying the:
(i) amount of the grant or loan;
(ii) time period for distributing the grant or loan;
(iii) terms and conditions that the eligible county shall meet to receive the grant or
loan;
(iv) structure of the grant or loan; and
(v) eligible expenses for which the eligible county may expend the grant or loan;
(e) if the board determines to award an eligible county a loan in accordance with this
section, make written findings stating:
(i) the method of calculating interest applicable to the loan; and
(ii) procedures for:
(A) applying interest to the loan; and
(B) paying interest on the loan; and
(f) provide the written findings required by Subsections (4)(b) through (e) to the
eligible county.
(5) For purposes of Subsection (4)(c), the board shall consider the following factors in
determining whether to award an eligible county one or more grants or loans authorized by this
part:
(a) whether the project is likely to result in economic development in the community
within which the project area is located;
(b) whether the community within which the project area is located is a disadvantaged
community on the basis of one or more of the following factors:
(i) median income per capita within the community;
(ii) median property tax revenues generated within the community;
(iii) median sales and use tax revenues generated within the community; or
(iv) unemployment rates within the community;
(c) whether there is a need for the project in the community within which the project
area is located;
(d) whether the project is likely to produce short-term and long-term benefits to the
community within which the project area is located;
(e) whether the project would be successfully implemented without the board awarding
a grant or a loan to the eligible county;
(f) whether any revenues will be pledged to match any funds the board may award as a
grant or loan under this section;
(g) whether there is support for the implementation of the project from:
(i) the community within which the project area is located; and
(ii) any cities or towns within which the project area is located; and
(h) any other factor as determined by the board.
(6) The office shall establish procedures:
(a) for prioritizing which projects may be awarded a grant or loan by the board under
this section; and
(b) for loans awarded in accordance with this section:
(i) the methods of calculating interest applicable to the loans; and
(ii) procedures for:
(A) applying interest to the loans; and
(B) paying interest on the loans.
Section 182. Section 63N-4-204, which is renumbered from Section 63M-1-2005 is
renumbered and amended to read:
63N-4-204. Agreement between the executive director and an
eligible county -- Failure to meet or violation of a term or condition of an agreement.
(1) Before an eligible county that has been awarded a grant or loan in accordance with
Section 63M-1-2004 may receive the grant or loan, the eligible county shall enter
into a written agreement with the executive director.

(2) The written agreement described in Subsection (1):

(a) shall:

(i) specify the amount of the grant or loan;

(ii) specify the time period for distributing the grant or loan;

(iii) specify the terms and conditions that the eligible county shall meet to receive the grant or loan;

(iv) specify the structure of the grant or loan;

(v) specify the eligible expenses for which the eligible county may expend the grant or loan;

(vi) if the eligible county has been awarded a loan:

(A) specify the repayment schedule for the loan;

(B) specify the method of calculating interest applicable to the loan; and

(C) specify procedures for:

(I) applying interest to the loan; and

(II) paying interest on the loan; and

(vii) subject to Subsection (3), contain provisions governing the failure to meet or the violation of a term or condition of the agreement; and

(b) may contain any other provision as determined by the director.

(3) (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an eligible county fails to meet or violates any provision of the agreement described in Subsection (2), the board shall impose one or more of the following penalties:

(i) require the eligible county to repay all or a portion of the amount of any grant or loan the eligible county received in an amount determined by the board;

(ii) provide that an eligible county may not receive any amounts of a grant or loan that the eligible county has been awarded in accordance with Section 63M-1-2004 63N-4-203 but has not received; or

(iii) provide that an eligible county may not be awarded a grant or loan under this part
(b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause exists for the eligible county failing to meet or violating a provision of the agreement described in Subsection (2).

(c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible county, the board shall provide written notice of the penalty to the eligible county within 10 calendar days after the day on which the board determines to impose the penalty.

Section 183. Section 63N-4-205, which is renumbered from Section 63M-1-2006 is renumbered and amended to read:

[63M-1-2006]. 63N-4-205. Report on amount of grants and loans, projects, and outstanding debt.

The board shall annually provide the following information to the office for inclusion in the office's annual written report described in Section [63M-1-206] 63N-1-301:

(1) the total amount of grants and loans the board awarded to eligible counties under this part during the fiscal year that ended on the June 30 immediately preceding the November interim meeting;

(2) a description of the projects with respect to which the board awarded a grant or loan under this part;

(3) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under this part;

(4) whether the grants and loans awarded under this part have resulted in economic development within project areas; and

(5) whether the board recommends:

(a) that the grants and loans authorized by this part should be continued; or

(b) any modifications to this part.

Section 184. Section 63N-5-101, which is renumbered from Section 63M-1-3001 is renumbered and amended to read:
CHAPTER 5. PRIVATE ACTIVITY BONDS

Part 1. Private Activity Bonds

[63M-1-3001].  63N-5-101. Title -- Purpose.

(1) This chapter is known as "Private Activity Bonds."

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

Section 185. Section 63N-5-102, which is renumbered from Section 63M-1-3002 is renumbered and amended to read:


As used in this part:

(1) "Allocated volume cap" means a volume cap for which a certificate of allocation is in effect or for which bonds have been issued.

(2) "Allotment accounts" means the various accounts created in Section [63M-1-3006]

(3) "Board of review" means the Private Activity Bond Review Board created in Section [63M-1-3003] 63N-5-103.

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

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

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

(7) "Issuing authority" means:

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

(b) any not-for-profit corporation or joint agency, or other entity acting on behalf of one or more counties, cities, towns, or any combination of these;
7366 (c) the state; or
7367 (d) any other entity authorized to issue bonds under state law.
7368 (8) "State" means the state of Utah and any of its agencies, institutions, and divisions
7369 authorized to issue bonds or certificates under state law.
7370 (9) "Volume cap" means the private activity bond volume cap for the state as computed
7371 under Section 146 of the code.
7372 (10) "Year" means each calendar year.
7373 Section 186. Section 63N-5-103, which is renumbered from Section 63M-1-3003 is
7374 renumbered and amended to read:
7375 [63M-1-3003]. 63N-5-103. Private Activity Bond Review Board.
7376 (1) There is created within the office the Private Activity Bond Review Board,
7377 composed of the following 11 members [as follows]:
7378 [(a) five ex officio members who are:]
7379 (a) (i) the executive director of the office or the executive director's designee;
7380 (ii) an employee of the office designated by the executive director;
7381 [ (a) (i) the executive director of the office or the executive director's designee;]
7382 (ii) the state treasurer or the treasurer's designee;
7383 (iii) the chair of the Board of Regents or the chair's designee; and
7384 (iv) the chair of the Utah Housing Corporation or the chair's designee; and
7385 (v) the chair of the Division of Business and Economic Development or the
7386 director's designee;]
7387 (b) six local government members who are:
7388 (i) three elected or appointed county officials, nominated by the Utah Association of
7389 Counties and appointed by the governor with the consent of the Senate; and
7390 (ii) three elected or appointed municipal officials, nominated by the Utah League of
7391 Cities and Towns and appointed by the governor with the consent of the Senate.
7392 (2) (a) Except as required by Subsection (2)(b), the terms of office for the local
7393 government members of the board of review shall be four-year terms.
7394 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
time of appointment or reappointment, adjust the length of terms to ensure that the terms of
board members are staggered so that approximately half of the board is appointed every two
years.

(c) Members may be reappointed only once.

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

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

(4) (a) The chair of the board of review is the executive director of the office or the
executive director's designee.

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

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

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

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

(a) Section 63A-3-106;

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

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

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

Section 187. Section 63N-5-104, which is renumbered from Section 63M-1-3004 is
renumbered and amended to read:

[63M-1-3004]. 63N-5-104. Powers, functions, and duties of board of review.

The board of review shall:
(1) make, subject to the limitations of the code, allocations of volume cap to issuing authorities;

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

(3) maintain a record of all applications filed by issuing authorities under Section 63N-5-105 and all certificates of allocation issued under Section 63M-1-3007;

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

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

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

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

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

Section 188. Section 63N-5-105, which is renumbered from Section 63M-1-3005 is renumbered and amended to read:

63N-5-105. Allocation of volume cap.

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the various allotment accounts as set forth in Section 63M-1-3006.

(b) The board of review may distribute up to 50% of each increase in the volume cap [that occurs after March 11, 1999.] for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section 63M-1-3006.
(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

(i) the principal amount of the bonds proposed to be issued;

(ii) the nature and the location of the project or the type of program;

(iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

(iv) whether the project or program could obtain adequate financing without an allocation of volume cap;

(v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;

(vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole;

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing; and

(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created under Section 11-38-201.

(4) The board of review shall evidence an allocation of volume cap by issuing a
(5) (a) From January 1 to June 30, the board shall set aside at least 50% of the Small Issue Bond Account that may be allocated only to manufacturing projects. (b) From July 1 to August 15, the board shall set aside at least 50% of the Pool Account that may be allocated only to manufacturing projects.

Section 189. Section 63N-5-106, which is renumbered from Section 63M-1-3006 is renumbered and amended to read:

[63M-1-3006]. 63N-5-106. Allotment accounts.

(1) There are created the following allotment accounts:

(a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;

(b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;

(c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue:

(i) qualified small issue bonds under Section 144(a) of the code;

(ii) qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code; or

(iii) qualified redevelopment bonds under Section 144(c) of the code;

(d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap other than for purposes described in Subsections (1)(a), (b), or (c);

(e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap; and

(f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.
(2) (a) The volume cap shall be distributed to the various allotment accounts on January 1 of each year on the following basis:

(i) 42% to the Single Family Housing Account;
(ii) 33% to the Student Loan Account;
(iii) 1% to the Exempt Facilities Account; and
(iv) 24% to the Small Issue Bond Account.

(b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.

(c) The board of review, upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be used, may transfer the unused volume cap between the Single Family Housing Account and the Student Loan Account.

(d) From October 1 to the third Friday of December of each year, the board of review shall transfer all unallocated volume cap into the Pool Account.

(e) On the third Saturday of December, the board of review shall transfer uncollected volume cap or allocated volume cap for which bonds have not been issued prior to the third Saturday of December into the Carryforward Account.

(f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any unallocated volume cap from that allotment account to any other allotment account.

Section 190. Section 63N-5-107, which is renumbered from Section 63M-1-3007 is renumbered and amended to read:

[63M-1-3007]. 63N-5-107. Certificates of allocation.

(1) (a) After an allocation of volume cap for a project or program is approved by the board of review, the board shall issue a numbered certificate of allocation stating the amount of the allocation, the allotment account for which the allocation is being made, and the expiration
date of the allocation.
(b) The certificates of allocation shall be mailed to the issuing authority within 10
working days of the date of approval.
(c) No bonds are entitled to any allocation of the volume cap unless the issuing
authority received a certificate of allocation with respect to the bonds.
(d) (i) Certificates of allocation shall remain in effect for a period of 90 days from the
date of approval.
(ii) If bonds for which a certificate has been approved are not issued within the 90-day
period, the certificate of allocation is void and volume cap shall be returned to the applicable
allotment account for reallocation by the board of review.
(2) (a) An issuing authority receiving an allocation of volume cap from the
Carryforward Account shall receive a certificate of allocation similar to the certificates of
allocation described in Subsection (1) from the board of review stating the amount of allocation
from the Carryforward Account that has been allocated to the issuing authority and the
expiration of the allocation.
(b) If in the judgment of the board of review an issuing authority or a person or entity
responsible for a project or program receiving an allocation from the Carryforward Account
does not proceed with diligence in providing for the issuance of the bonds with respect to the
project or program, and because of the lack of diligence the volume cap cannot be used, the
board of review may exclude from its consideration for a given period of time, determined by
the board of review, an application of the issuing authority, person, or entity. The board of
review may, at any time, review and modify its decisions relating to this exclusion.
Section 191. Section 63N-5-108, which is renumbered from Section 63M-1-3008 is
renumbered and amended to read:
(1) (a) Any law to the contrary notwithstanding, an issuing authority issuing bonds
without a certificate of allocation issued under Section [63M-1-3007] 63N-5-107, or an issuing
authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an
allocation of the volume cap for those bonds.

(b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.

(2) Each issuing authority shall:

(a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and

(b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:

(i) the final decision not to issue all or a stated portion of the bonds; or

(ii) the expiration of the certificate of allocation.

(3) Failure by an issuing authority to notify the board of review under Subsection (2), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the issuing authority being denied further consideration of applications.

Section 192. Section 63N-5-109, which is renumbered from Section 63M-1-3009 is renumbered and amended to read:


The board of review shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Section 193. Section 63N-5-110 is enacted to read:

63N-5-110. Duties of office.

(1) The office is recognized as an issuing authority as defined in Section 63N-5-102, entitled to issue bonds from the Small Issue Bond Account created in Subsection 63N-5-106(1)(c) as a part of the state's private activity bond volume cap authorized by the
Internal Revenue Code and computed under Section 146, Internal Revenue Code.

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

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

(b) assist small businesses in applying for and qualifying for these bonds; and

(c) develop strategies to lower the cost to small businesses of applying for and qualifying for these bonds, including making arrangements with financial advisors, underwriters, bond counsel, and other professionals involved in the issuance process to provide their services at a reduced rate when the division can provide them with a high volume of applicants or issues.

Section 194. Section 63N-6-101, which is renumbered from Section 63M-1-1201 is renumbered and amended to read:

CHAPTER 6. UTAH VENTURE CAPITAL ENHANCEMENT ACT


[63M-1-1201]. 63N-6-101. Title.

This [part] chapter is known as the "Utah Venture Capital Enhancement Act."

Section 195. Section 63N-6-102, which is renumbered from Section 63M-1-1202 is renumbered and amended to read:

[63M-1-1202]. 63N-6-102. Findings -- Purpose.

(1) The Legislature finds that:

(a) fundamental changes have occurred in national and international financial markets and in the state's financial markets;

(b) a critical shortage of seed and venture capital resources exists in the state, and that shortage is impairing the growth of commerce in the state;

(c) a need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology;
(d) increased venture equity capital investments in emerging, expanding, and 
restructuring enterprises in Utah will:
(i) create new jobs in the state; and
(ii) help to diversify the state's economic base; and
(e) a well-trained work force is critical for the maintenance and development of Utah's 
economy.
(2) This part is enacted to:
(a) mobilize private investment in a broad variety of venture capital partnerships in 
diversified industries and locales;
(b) retain the private-sector culture of focusing on rate of return in the investing 
process;
(c) secure the services of the best managers in the venture capital industry, regardless 
of location;
(d) facilitate the organization of the Utah fund of funds to seek private investments and 
to serve as a catalyst in those investments by offering state incentives for private persons to 
make investments in the Utah fund of funds;
(e) enhance the venture capital culture and infrastructure in the state so as to increase 
venture capital investment within the state and to promote venture capital investing within the 
state;
(f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner 
that would maximize the direct economic impact for the state; and
(g) authorize the issuance and use of contingent tax credits to accomplish the purposes 
referred to in Subsections (2)(a) through (e) while protecting the interests of the state by 
limiting the manner in which contingent tax credits are issued, registered, transferred, claimed 
as an offset to the payment of state income tax, and redeemed.
Section 196. Section 63N-6-103, which is renumbered from Section 63M-1-1203 is 
renumbered and amended to read:
[63M-1-1203]. 63N-6-103. Definitions.
As used in this part:

(1) "Board" means the Utah Capital Investment Board.

(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.

(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.

(b) "Claimant" does not include an estate or trust.

(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.

(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63M-1-1220 63N-6-408(3)(b).

(6) "Corporation" means the Utah Capital Investment Corporation created under Section 63M-1-1207 63N-6-301.

(7) "Designated investor" means:

(a) a person who makes a private investment; or

(b) a transferee of a certificate or contingent tax credit.

(8) "Designated purchaser" means:

(a) a person who enters into a written undertaking with the board to purchase a commitment; or

(b) a transferee who assumes the obligations to make the purchase described in the commitment.

(9) "Estate" means a nonresident estate or a resident estate.

(10) "Person" means an individual, partnership, limited liability company, corporation,
association, organization, business trust, estate, trust, or any other legal or commercial entity.

(11) "Private investment" means:
(a) an equity interest in the Utah fund of funds; or
(b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014.

(12) "Redemption reserve" means the reserve established by the corporation to facilitate the cash redemption of certificates.

(13) "Taxpayer" means a taxpayer:
(a) of an investor; and
(b) if that taxpayer is a:
(i) claimant;
(ii) estate; or
(iii) trust.

(14) "Trust" means a nonresident trust or a resident trust.

(15) "Utah fund of funds" means a limited partnership or limited liability company established under Section [63M-1-1213] 63N-6-401 in which a designated investor purchases an equity interest.

Section 197. Section 63N-6-201, which is renumbered from Section 63M-1-1204 is renumbered and amended to read:

Part 2. Utah Capital Investment Board

(1) There is created within the office the Utah Capital Investment Board to exercise the powers conferred by this part.

(2) The purpose of the board is to mobilize venture equity capital for investment in a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.

(3) In the exercise of its powers and duties, the board is considered to be performing an essential public purpose.
Section 198. Section 63N-6-202, which is renumbered from Section 63M-1-1205 is renumbered and amended to read:

[63M-1-1205]. 63N-6-202. Board members -- Meetings -- Expenses.

(1) (a) The board shall consist of the following five members:
   (i) the state treasurer;
   (ii) the director or the director's designee; and
   (iii) three members appointed by the governor and confirmed by the Senate.
   (b) The three members appointed by the governor shall serve four-year staggered terms with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.
   (c) The governor shall appoint members of the board based on demonstrated expertise and competence in:
      (i) the supervision of investment managers;
      (ii) the fiduciary management of investment funds; or
      (iii) the management and administration of tax credit allocation programs.

(2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:
   (a) filled in the same manner as the appointment of the original member; and
   (b) for the unexpired term of the board member being replaced.

(3) Appointed members of the board may not serve more than two full consecutive terms except when the governor determines that an additional term is in the best interest of the state.

(4) (a) Four members of the board constitute a quorum for conducting business and exercising board power.
   (b) If a quorum is present, the action of a majority of members present is the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance [according to] under Sections 63A-3-106 and 63A-3-107.

(6) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) Meetings of the board, except to the extent necessary to protect the information identified in Subsection [63M-1-1224] 63N-6-412(3), are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 199. Section 63N-6-203, which is renumbered from Section 63M-1-1206 is renumbered and amended to read:

[63M-1-1206]. 63N-6-203. Board duties and powers.

(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns for the investment portfolio of
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the Utah fund of funds;
(e) establish criteria and procedures governing commitments obtained by the board
from designated purchasers including:
(i) entering into commitments with designated purchasers; and
(ii) drawing on commitments to redeem certificates from designated investors;
(f) have power to:
(i) expend funds;
(ii) invest funds;
(iii) issue debt and borrow funds;
(iv) enter into contracts;
(v) insure against loss; and
(vi) perform any other act necessary to carry out its purpose; and
(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part
and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the
Legislative Management Committee:
(i) whenever made, modified, or repealed; and
(ii) in each even-numbered year.
(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review
Committee from reviewing and taking appropriate action on any rule made, amended, or
repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and
issuance of contingent tax credits shall:
(i) include the contingencies that must be met for a certificate and its related tax credits
to be:
(A) issued by the board;
(B) transferred by a designated investor; and
(C) redeemed by a designated investor in order to receive a contingent tax credit; and
(ii) tie the contingencies for redemption of certificates to:
(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and
(B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds.
(b) The board may not issue contingent tax credits under this part before July 1, 2004.
(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.
(b) The fee shall:
(i) be charged only to pay for reasonable and necessary costs of the board; and
(ii) not exceed .5% of the private investment of the designated investor.
(5) The board's criteria and procedures for redeeming certificates:
(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and
(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:
(i) by certifying a contingent tax credit to the designated investor; or
(ii) by making demand on designated purchasers consistent with the requirements of Section [63M-1-1221] 63N-6-409.
(6) (a) The board shall, in consultation with the corporation, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor; the Business, Economic Development, and Labor Appropriations Subcommittee; the Business and Labor Interim Committee; and the Retirement and Independent Entities Committee.
(b) The annual report shall:
(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;
(ii) include a copy of the audit of the Utah fund of funds described in Section [63M-1-1217] 63N-6-405;
(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;
(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;
(v) include the net annual rate of return of the Utah fund of funds for the reported year, and the net rate of return from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;
(vi) include detailed information regarding:
(A) realized gains from investments and any realized losses; and
(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;
(vii) include detailed information regarding all yearly expenditures, including:
(A) administrative, operating, and financing costs;
(B) aggregate compensation information separated by full- and part-time employees, including benefit and travel expenses; and
(C) expenses related to the allocation manager;
(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;
(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;
(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;
(xi) include the number of companies in Utah where an investment was made from a
fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section [63M-1-1202] 63N-6-102; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.

Section 200. Section 63N-6-301, which is renumbered from Section 63M-1-1207 is renumbered and amended to read:

**Part 3. Utah Capital Investment Corporation**

[63M-1-1207]. 63N-6-301. Utah Capital Investment Corporation -- Powers and purposes.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent
The corporation shall file with the Division of Corporations and Commercial Code: 
(i) articles of incorporation; and 
(ii) any amendment to its articles of incorporation. 
(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter. 
(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act. 
(2) The purposes of the corporation are to: 
(a) organize the Utah fund of funds; 
(b) select a venture capital investment fund allocation manager to make venture capital fund investments by the Utah fund of funds; 
(c) negotiate the terms of a contract with the venture capital investment fund allocation manager; 
(d) execute the contract with the selected venture capital investment fund manager on behalf of the Utah fund of funds; 
(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds; 
(f) receive investment returns from the Utah fund of funds; and 
(g) establish the redemption reserve to be used by the corporation to redeem certificates. 
(3) The corporation may not: 
(a) exercise governmental functions; 
(b) have members; 
(c) pledge the credit or taxing power of the state or any political subdivision of the state; or 
(d) make its debts payable out of any money except money of the corporation.
(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;
(b) expend funds;
(c) invest funds;
(d) issue debt and borrow funds;
(e) enter into contracts;
(f) insure against loss;
(g) hire employees; and
(h) perform any other act necessary to carry out its purposes.

Section 201. Section 63N-6-302, which is renumbered from Section 63M-1-1208 is renumbered and amended to read:

Incorporator -- Appointment committee.

(1) To facilitate the organization of the corporation, the executive director or the executive director's designee shall serve as the incorporator as provided in Section 16-6a-201.

(2) To assist in the organization of the corporation, the Utah Board of Business and Economic Development shall appoint three individuals to serve on an appointment committee.

(3) The appointment committee shall:

(a) elect the initial board of directors of the corporation;
(b) exercise due care to assure that persons elected to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this part, including in areas related to:

(i) venture capital investment;
(ii) investment management; and
(iii) supervision of investment managers and investment funds; and

(c) terminate its existence upon the election of the initial board of directors of the
corporation.

(4) The office shall assist the incorporator and the appointment committee in any manner determined necessary and appropriate by the incorporator and appointment committee in order to administer this section.

Section 202. Section 63N-6-303, which is renumbered from Section 63M-1-1209 is renumbered and amended to read:

[63M-1-1209]. 63N-6-303. Board of directors.

(1) The initial board of directors of the corporation shall consist of five members.

(2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:

(a) the selection and supervision of investment managers;
(b) fiduciary management of investment funds; and
(c) other areas of expertise as considered appropriate by the appointment committee.

(3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.

(4) (a) Board members shall serve four-year terms, except that of the five initial members:

(i) two shall serve four-year terms;
(ii) two shall serve three-year terms; and
(iii) one shall serve a two-year term.

(b) Board members shall serve until their successors are elected and qualified and may serve successive terms.

(c) A majority of the board members may remove a board member for cause.

(d) (i) The board shall select a chair by majority vote.
(ii) The chair's term is for one year.

(5) Three members of the board are a quorum for the transaction of business.
(6) Members of the board of directors:
(a) are subject to any restrictions on conflicts of interest specified in the organizational
documents of the corporation; and
(b) may have no interest in any:
(i) venture capital investment fund allocation manager selected by the corporation
under this part; or
(ii) investments made by the Utah fund of funds.
(7) Directors of the corporation:
(a) shall be compensated for direct expenses and mileage; and
(b) may not receive a director's fee or salary for service as directors.
Section 203. Section 63N-6-304, which is renumbered from Section 63M-1-1210 is
renumbered and amended to read:
[63M-1-1210]. 63N-6-304. Investment manager.
(1) After incorporation, the corporation shall conduct a national solicitation for
investment plan proposals from qualified venture capital investment fund allocation managers
for the raising and investing of capital by the Utah fund of funds in accordance with the
requirements of this part.
(2) Any proposed investment plan shall address the applicant's:
(a) level of:
(i) experience; and
(ii) quality of management;
(b) investment philosophy and process;
(c) probability of success in fund-raising;
(d) prior investment fund results; and
(e) plan for achieving the purposes of this part.
(3) The selected venture capital investment fund allocation manager shall have
substantial, successful experience in the design, implementation, and management of seed and
venture capital investment programs and in capital formation.
The corporation shall only select a venture capital investment fund allocation manager:

(a) with demonstrated expertise in the management and fund allocation of investments in venture capital funds; and

(b) considered best qualified to:

(i) invest the capital of the Utah fund of funds; and

(ii) generate the amount of capital required by this part.

Section 204. Section 63N-6-305, which is renumbered from Section 63M-1-1211 is renumbered and amended to read:

[63M-1-1211]. 63N-6-305. Management fee -- Additional financial assistance.

(1) The corporation may charge a management fee on assets under management in the Utah fund of funds.

(2) The fee shall:

(a) be in addition to any fee charged to the Utah fund of funds by the venture capital investment fund allocation manager selected by the corporation; and

(b) be charged only to pay for reasonable and necessary costs of the corporation.

(3) The corporation may apply for and, when qualified, receive financial assistance from the Industrial Assistance Account under [Title 63M, Chapter 3, Part 9], Industrial Assistance Account, and under rules made by the Board of Business and Economic Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to help establish the program authorized under this part.

Section 205. Section 63N-6-306, which is renumbered from Section 63M-1-1212 is renumbered and amended to read:

[63M-1-1212]. 63N-6-306. Dissolution.

(1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated and dissolved.

(2) Upon dissolution or privatization of the corporation, any assets owned by the
corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be
designated by the Legislature for the purposes listed in Section [63M-1-1202] 63N-6-102 as
provided in Title 63E, Chapter 1, Independent Entities Act.

Section 206. Section 63N-6-401, which is renumbered from Section 63M-1-1213 is
renumbered and amended to read:

**Part 4. Utah Fund of Funds**

63M-1-1213. 63N-6-401. Organization of Utah fund of funds.

(1) The corporation shall organize the Utah fund of funds.

(2) The Utah fund of funds shall make investments in private seed and venture capital
partnerships or entities in a manner and for the following purposes:

(a) to encourage the availability of a wide variety of venture capital in the state;

(b) to strengthen the economy of the state;

(c) to help business in the state gain access to sources of capital;

(d) to help build a significant, permanent source of capital available to serve the needs
of businesses in the state; and

(e) to accomplish all these benefits in a way that minimizes the use of contingent tax
credits.

(3) The Utah fund of funds shall be organized:

(a) as a limited partnership or limited liability company under Utah law having the
corporation as the general partner or manager;

(b) to provide for equity interests for designated investors which provide for a
designated scheduled rate of return and a scheduled redemption in accordance with rules made
by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) to provide for loans by or the issuance of debt obligations to designated investors
which provide for designated payments of principal, interest, or interest equivalent in
accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah
Administrative Rulemaking Act.

(4) Public money may not be invested in the Utah fund of funds.
Section 207.  Section 63N-6-402, which is renumbered from Section 63M-1-1214 is renumbered and amended to read:

[63M-1-1214].  63N-6-402. Compensation from the Utah fund of funds to the corporation -- Redemption reserve.

(1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section [63M-1-1211] 63N-6-305.

(2) Before any returns may be reinvested in the Utah fund of funds:

(a) any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;

(b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and held by the corporation as a first priority reserve for the redemption of certificates;

(c) any returns received by the corporation from investment of amounts held in the redemption reserve shall be added to the redemption reserve until it has reached a total of $250,000,000; and

(d) if at the end of a calendar year the redemption reserve exceeds the $250,000,000 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah fund of funds.

(3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

Section 208.  Section 63N-6-403, which is renumbered from Section 63M-1-1215 is renumbered and amended to read:

[63M-1-1215].  63N-6-403. Investments by Utah fund of funds.

(1) The Utah fund of funds shall invest funds:

(a) principally in high-quality venture capital funds managed by investment managers who have:

(i) made a commitment to equity investments in businesses located within the state; and
(ii) have committed to maintain a physical presence within the state;
(b) in private venture capital funds and not in direct investments in individual
businesses; and
(c) in venture capital funds with experienced managers or management teams with
demonstrated expertise and a successful history in the investment of venture capital funds.

(2) (a) The Utah fund of funds shall give priority to investments in private seed and
venture capital partnerships and entities that have demonstrated a commitment to the state as
evidenced by:
(i) the investments they have made in Utah-based entities;
(ii) the correspondent relationships they have established with Utah-based venture
capital funds; or
(iii) the commitment they have made to expand the reach of expertise within the state
by adding additional investment areas of expertise.

(b) The manager of the Utah fund of funds may waive the priorities under Subsection
(2)(a) only if necessary to achieve the targeted investment returns required to attract designated
investors.

(3) The Utah fund of funds may invest funds in a newly created venture capital fund
only if the managers or management team of the fund have the experience, expertise, and a
successful history in the investment of venture capital funds as described in Subsection (1)(c).

(4) (a) An investment or investments by the Utah fund of funds in any venture capital
fund may comprise no more than 20% of the total committed capital in the venture capital
fund.

(b) (i) No more than 50% of the funds invested by the Utah fund of funds may be made
with venture capital entities with offices in the state established prior to July 1, 2002.
(ii) The restriction under Subsection (4)(b)(i) shall remain in place until three
additional venture capital entities open new offices in the state.

Section 209. Section 63N-6-404, which is renumbered from Section 63M-1-1216 is
renumbered and amended to read:
Powers of Utah fund of funds.

The Utah fund of funds may:

(a) engage consultants and legal counsel;
(b) expend funds;
(c) invest funds;
(d) issue debt and borrow funds;
(e) enter into contracts;
(f) insure against loss;
(g) hire employees;
(h) issue equity interests to designated investors that have purchased equity interest certificates from the board; and
(i) perform any other act necessary to carry out its purposes.

The Utah fund of funds shall engage a venture capital investment fund allocation manager.

The compensation paid to the fund manager shall be in addition to the management fee paid to the corporation under Section 63M-1-1217.

The Utah fund of funds may:

(a) open and manage bank and short-term investment accounts as considered necessary by the venture capital investment fund allocation manager; and
(b) expend money to secure investment ratings for investments by designated investors in the Utah fund of funds.

Section 210. Section 63N-6-405, which is renumbered from Section 63M-1-1217 is renumbered and amended to read:

 Annual audits.

(1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.

(a) The audit shall be conducted by:

(i) the state auditor; or
(ii) an independent auditor engaged by the state auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:

(i) the corporation; or

(ii) the Utah fund of funds.

(3) The corporation shall pay the costs associated with the annual audit.

(4) The annual audit report shall:

(a) be delivered to:

(i) the corporation; and

(ii) the board;

(b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;

(c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection [63M-1-1206] 63N-6-203(6); and

(d) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Section [63M-1-1206] 63N-6-203.

Section 211. Section 63N-6-406, which is renumbered from Section 63M-1-1218 is renumbered and amended to read:

[63M-1-1218]. 63N-6-406. Certificates and contingent tax credits.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the form, issuance, transfer, and redemption of certificates.

(2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:

(a) the aggregate outstanding certificates may not exceed a total of:

(i) $150,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds, including a loan refinanced using debt- or equity-based financing as described in Subsection (2)(c); and
(ii) $75,000,000 used as a guarantee on equity investments in the Utah fund of funds;
(b) the board shall issue a certificate contemporaneously with an investment in the Utah fund of funds by a designated investor;
(c) the board shall issue contingent tax credits in a manner that not more than $20,000,000 of contingent tax credits for each $100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;
(d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection [63M-1-1229] 63N-6-408(3)(b);
(e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan refinanced using debt- or equity-based financing on or after July 1, 2014, that was originated before July 1, 2014;
(f) after July 1, 2014, and on or before December 31, 2017, the board may issue certificates that represent a guarantee of no more than 100% of the principal of each equity investment in the Utah fund of funds; and
(g) the board may not issue certificates after December 31, 2017.

(3) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the $20,000,000 limitation for each $100,000,000 increment of contingent tax credits in Subsection (2)(c):
(a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;
(b) certificates and related contingent tax credits that have expired may not be included; and
(c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.

(4) Contingent tax credits are subject to the following:
(a) a contingent tax credit may not be redeemed except by a designated investor in
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accordance with the terms of a certificate from the board;

(b) a contingent tax credit may not be redeemed prior to the time the Utah fund of
funds receives full payment from the designated investor for the certificate;

(c) a contingent tax credit shall be claimed for a tax year that begins during the
calendar year maturity date stated on the certificate;

(d) an investor who redeems a certificate and the related contingent tax credit shall
allocate the amount of the contingent tax credit to the taxpayers of the investor based on the
taxpayer's pro rata share of the investor's earnings; and

(e) a contingent tax credit shall be claimed as a refundable credit.

(5) In calculating the amount of a contingent tax credit:

(a) the board shall certify a contingent tax credit only if the actual return, or payment of
principal and interest for a loan initiated before July 1, 2014, including a loan refinanced on or
after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less
than that targeted at the issuance of the certificate;

(b) the amount of the contingent tax credit for a designated investor with an equity
interest may not exceed the difference between the actual principal investment of the
designated investor in the Utah fund of funds and the aggregate actual return received by the
designated investor and any predecessor in interest of the initial equity investment and interest
on the initial equity investment;

(c) the rates, whether fixed rates or variable rates, shall be determined by a formula
stipulated in the certificate; and

(d) the amount of the contingent tax credit for a designated investor with an
outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan
refinanced on or after July 1, 2014, that was originated before July 1, 2014, shall be equal to
the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan
or other obligation, as stipulated in the certificate.

(6) The board shall clearly indicate on the certificate:

(a) the targeted return on the invested capital, if the private investment is an equity
(b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014;
  
(c) the amount of the initial private investment;
  
(d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and
  
(e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.

(7) Once money is invested by a designated investor, a certificate:
  
(a) is binding on the board; and
  
(b) may not be modified, terminated, or rescinded.
  
(8) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.

(9) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Section 212. Section 63N-6-407, which is renumbered from Section 63M-1-1219 is renumbered and amended to read:

63N-6-407. Transfer and registration of certificates.

(1) A certificate and the related contingent tax credit may be transferred by the designated investor.

(2) The board, in conjunction with the State Tax Commission, shall develop:
  
(a) a system for registration of any certificate and related contingent tax credit issued or transferred under this part; and
  
(b) a system that permits verification that:
    
(i) any contingent tax credit claimed is valid; and
    
(ii) any transfers of the certificate and related contingent tax credit are made in
accordance with the requirements of this part.

(3) A certificate or contingent tax credit issued or transferred under this part may not be considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

Section 213. Section 63N-6-408, which is renumbered from Section 63M-1-1220 is renumbered and amended to read:

[63M-1-1220]. 63N-6-408. Redemption of certificates.

(1) If a designated investor elects to redeem a certificate, the certificate shall be presented to the board for redemption no later than June 30 of the calendar year maturity date stated on the certificate.

(2) Upon presentment to the board, it shall determine and certify the amount of the contingent tax credit that may be claimed by the designated investor based on:

(a) the limitations in Section [63M-1-1218] 63N-6-406; and

(b) rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) If there are sufficient funds in the redemption reserve, the board shall direct the corporation to make a cash redemption of the certificate.

(b) If there are insufficient funds in the redemption reserve, the board may elect to redeem the certificate:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers to purchase certificates in accordance with Section [63M-1-1221] 63N-6-409.

(4) The board shall certify to the State Tax Commission the contingent tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

(5) The board shall cancel all redeemed certificates.

Section 214. Section 63N-6-409, which is renumbered from Section 63M-1-1221 is renumbered and amended to read:

[63M-1-1221]. 63N-6-409. Use of commitments to redeem certificates.

(1) The board may elect to draw on a commitment to redeem a certificate from a
designated investor.

(2) If the board makes an election under Subsection (1), it shall:
   (a) inform the designated purchaser of the amount of the contingent tax credit that must
   be purchased from the board;
   (b) specify the date on which the purchase must be consummated; and
   (c) use the funds delivered to the board by the designated purchaser to redeem the
certificate from the designated investor.

(3) The board has discretion in determining which commitment or commitments and
what portion of those commitments to use to redeem certificates.

(4) The contingent tax credits acquired by a designated purchaser under this section are
subject to Section \[63M-1-1218\] 63N-6-406.

Section 215. Section 63N-6-410, which is renumbered from Section 63M-1-1222 is
renumbered and amended to read:

\[63M-1-1222\]. 63N-6-410. Powers and effectiveness.

(1) This chapter may not be construed as a restriction or limitation upon any
power which the board might otherwise have under any other law of this state and the
provisions of this chapter are cumulative to those powers.

(2) This chapter shall be construed to provide a complete, additional, and
alternative method for performing the duties authorized and shall be regarded as supplemenal
and additional powers to those conferred by any other laws.

(3) The provisions of any contract entered into by the board or the Utah fund of funds
may not be compromised, diminished, invalidated, or affected by the:
   (a) level, timing, or degree of success of the Utah fund of funds or the investment funds
   in which the Utah fund of funds invests; or
   (b) extent to which the investment funds are:
      (i) invested in Utah venture capital projects; or
      (ii) successful in accomplishing any economic development objectives.

Section 216. Section 63N-6-411, which is renumbered from Section 63M-1-1223 is
renumbered and amended to read:

63M-1-1223. 63N-6-411. *Permissible investments.*

Investments by designated investors in the Utah fund of funds are permissible investments under applicable laws of the state for:

- (1) state-chartered banks;
- (2) state-chartered credit unions;
- (3) state-chartered industrial banks; and
- (4) domestic insurance companies.

Section 217. Section 63N-6-412, which is renumbered from Section 63M-1-1224 is renumbered and amended to read:

63M-1-1224. 63N-6-412. *Exemption from certain statutes.*

(1) Except as otherwise provided in this part, the corporation is exempt from statutes governing state agencies, as provided in Section 63E-2-109.

(2) The corporation is exempt from:

- (a) Title 52, Chapter 4, Open and Public Meetings Act; and
- (b) Title 63G, Chapter 2, Government Records Access and Management Act.

(3) The board is exempt from the requirement to report fund performance of venture firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access and Management Act.

Section 218. Section 63N-7-101, which is renumbered from Section 63M-1-1401 is renumbered and amended to read:

CHAPTER 7. TOURISM DEVELOPMENT

Part 1. Board of Tourism Development

63M-1-1401. 63N-7-101. *Board of Tourism Development.*

(1) This chapter is known as "Tourism Development."

(2) There is created within the office the Board of Tourism Development.

(3) The board shall advise the office on the office's planning, policies, and strategies and on trends and opportunities for tourism development that may exist in the
various areas of the state.

[(3)] (4) The board shall perform other duties as required by Section 63M-1-1403.

Section 219. Section 63N-7-102, which is renumbered from Section 63M-1-1402 is renumbered and amended to read:

[63M-1-1402].  63N-7-102. Members -- Meetings -- Expenses.

(1) (a) The board shall consist of 13 members appointed by the governor to four-year terms with the consent of the Senate.

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

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

(3) Not more than seven members of the board may be of the same political party.

(4) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (4)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall
be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the lodging industry for the governor's consideration;
(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;
(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and
(iv) one member from ownership or executive management of the motor vehicle rental industry, as recommended by the motor vehicle rental industry for the governor's consideration.

d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

e) One member shall be appointed from the Utah Tourism Industry Coalition as recommended by the coalition for the governor's consideration.

f) One member shall be appointed to represent the state's counties as recommended by the Utah Association of Counties for the governor's consideration.

g)(i) The governor may choose to disregard a recommendation made for a board member under Subsections (4)(c), (e), and (f).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (4)(g)(i).

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(6) Seven members of the board constitute a quorum for conducting board business and exercising board powers.

(7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

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

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

(9) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

(10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

(11) (a) The board shall determine attendance requirements for maintaining a designated board seat.
(b) If a board member fails to attend according to the requirements established pursuant to Subsection (11)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.
(c) A replacement appointed by the governor under Subsection (11)(b) shall serve for the remainder of the board member's unexpired term.

(12) The board's office shall be in Salt Lake City.

Section 220. Section 63N-7-103, which is renumbered from Section 63M-1-1403 is renumbered and amended to read:

[63M-1-1403]. 63N-7-103. Board duties.

(1) The board shall:
(a) have authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance Account under Section
(b) have authority to approve a tourism program of advertising, marketing, and branding of the state, taking into account the long-term strategic plan, economic trends, and
opportunities for tourism development on a statewide basis, as a condition of the distribution of money to the office from the Stay Another Day and Bounce Back Account, created in Section [63M-1-341+] 63N-2-511;

(c) review the office programs for coordination and integration of advertising and branding themes to be used whenever possible in all office programs, including recreational, scenic, historic, and tourist attractions of the state at large;

(d) encourage and assist in coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

(e) (i) advise the office in establishing a Cooperative Program from the money in the Tourism Marketing Performance Account under Section [63M-1-1406] 63N-7-301 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the office from the Tourism Marketing Performance Account;

(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;

(iv) an application from an eligible applicant to receive money from the Cooperative Program must be submitted on or before the appropriate date established by the office; and

(v) Cooperative Program money not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role
The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

Section 221. Section 63N-7-201, which is renumbered from Section 63M-1-1404 is renumbered and amended to read:

Part 2. Powers and Duties of Office

63N-7-201. Powers and duties of office related to tourism development plan -- Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, and branding program for the state;

(c) receive approval from the Board of Tourism Development under Subsection 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(3) The office shall:

(a) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

(b) include in the annual written report described in Section 63N-1-301,
report on the economic efficiency of the advertising and branding campaigns conducted under this part.

Section 222. Section 63N-7-202, which is renumbered from Section 63M-1-1405 is renumbered and amended to read:

63M-1-1405. 
63N-7-202. Agreements with other governmental entities.

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

Section 223. Section 63N-7-301, which is renumbered from Section 63M-1-1406 is renumbered and amended to read:

Part 3. Tourism Marketing Performance Account

63M-1-1406. 
63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by the office for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

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

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director shall use account money appropriated to the office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office.

(6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually allocate 10% of the account money appropriated to the office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to the office that gives a complete accounting of
the use of money the sports organization receives under this Subsection (6); and
(ii) partner with the office to promote the state and to encourage economic growth in
the state.
(c) For purposes of this Subsection (6), "sports organization" means an organization
that is:
(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
Revenue Code; and
(ii) created to foster national and international sports competitions in the state,
including competitions related to Olympic sports, and to promote and encourage sports tourism
throughout the state, including advertising, marketing, branding, and promoting Utah for the
purpose of attracting sporting events into the state.
(7) Money deposited into the account shall consist of a legislative appropriation from
the cumulative sales and use tax revenue increases identified in Subsection (8), plus any
appropriation made by the Legislature.
(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
revenues determined under this Subsection (8) shall be certified as a set-aside for the account
by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.
(b) The State Tax Commission shall determine the set-aside under this Subsection (8)
in each fiscal year by applying the following formula: if the increase in the state sales and use
tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal
year two years prior to the fiscal year in which the set-aside is to be made for the account, is at
least 3% over the state sales and use tax revenues derived from the retail sales of
tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
revenues generated above the 3% increase shall be calculated by the commission and set aside
by the state treasurer for appropriation to the account.
(c) The total money appropriated to the account in any fiscal year under Subsections
(8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year
immediately preceding the current fiscal year by more than $3,000,000.

(d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are those sales by businesses registered with the State Tax Commission under the following codes of the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 453 Miscellaneous Store Retailers;
(ii) NAICS Code 481 Passenger Air Transportation;
(iii) NAICS Code 487 Scenic and Sightseeing Transportation;
(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
(vii) NAICS Code 721 Accommodations;
(viii) NAICS Code 722 Food Services and Drinking Places;
(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
(x) NAICS Code 4853 Taxi and Limousine Service;
(xi) NAICS Code 4855 Charter Bus;
(xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
(xiii) NAICS Code 44611 Pharmacies and Drug Stores;
(xiv) NAICS Code 45111 Sporting Goods Stores;
(xv) NAICS Code 45112 Hobby Toy and Game Stores;
(xvi) NAICS Code 45121 Book Stores and News Dealers;
(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
(xix) NAICS Code 447190 Other Gasoline Stations;
(xx) NAICS Code 532111 Passenger Car Rental; and
(xxi) NAICS Code 532292 Recreational Goods Rental.

(e) The Division of Finance shall for each fiscal year transfer the first $6,000,000 of ongoing money in the account to the General Fund.
Section 224. Section 63N-8-101, which is renumbered from Section 63M-1-1801 is renumbered and amended to read:

**CHAPTER 8. MOTION PICTURE INCENTIVES**

[63M-1-1801]. 63N-8-101. Title -- Purpose.

(1) This chapter is known as "Motion Picture Incentives."

[(+) (2) The Legislature finds that:

(a) the state's natural beauty, scenic wonders, and diverse topography provide a variety of magnificent settings from which the motion picture industry can choose to film part or all of major or independent motion pictures, made-for-television movies, and television series;

(b) the state has an abundance of resources, including a skilled and able workforce, the required infrastructure, and a friendly and hospitable populace that have been instrumental in the filming of hundreds of successful motion pictures and several television series; and

(c) further development of the motion picture industry in Utah is a state public purpose that will significantly impact growth in the state's economy and contribute to the fiscal well being of the state and its people.

[(2)] (3) The purpose of this [part] chapter is to:

(a) encourage the use of Utah as a site for the production of motion pictures, television series, and made-for-television movies;

(b) provide financial incentives to the film industry so that Utah might compete successfully with other states and countries for filming locations; and

(c) help develop a strong motion picture industry presence in the state that will contribute substantially to improving the state's economy.

Section 225. Section 63N-8-102, which is renumbered from Section 63M-1-1802 is renumbered and amended to read:


As used in this [part] chapter:

[(+) "Board" means the Governor's Office of Economic Development Board:]

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

"Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act;

and

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections [(4)] (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

"Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

"Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

"Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

"New state revenues" means:
Incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

Incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections [(8)] (7)(b)(i), (ii), (iii), and (iv);

Incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections [(8)] (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections [(8)] (7)(a), (b), and (c).

"Office" means the Governor’s Office of Economic Development.

"Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

"Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63M-1-1803 and claimed under Section 59-7-614.5 or 59-10-1108.

"Restricted account" means the Motion Picture Incentive Account created in Section 63M-1-1803.

"State-approved production" means a production under Subsections [(3)] (2) and [(6)] (5) that is:

(a) approved by the office and ratified by the board; and

(b) produced in the state by a motion picture company.
"Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

"Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;
(b) lists the applicant's taxpayer identification number;
(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and
(d) may include other information as determined by the office.

Section 226. Section 63N-8-103, which is renumbered from Section 63M-1-1803 is renumbered and amended to read:

63M-1-1803. 63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.
(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.
(c) The restricted account shall consist of an annual appropriation by the Legislature.
(d) The office shall:
(i) with the advice of the board, administer the restricted account; and
(ii) make payments from the restricted account as required under this section.
(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).
(b) The motion picture company or digital media company shall provide the office with a report identifying and documenting the dollars left in the state or new state revenues
generated by the motion picture company or digital media company for its state-approved
production, including any related tax returns by the motion picture company, payroll company,
digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:
(i) review the report submitted by the motion picture company; and
(ii) attest to the accuracy and validity of the report, including the amount of dollars left
in the state.

(d) The motion picture company, digital media company, payroll company, or loan-out
corporation shall provide the office with a document that expressly directs and authorizes the
State Tax Commission to disclose the entity's tax returns and other information concerning the
entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section
6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State
Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax
Commission shall provide the office with the information requested by the office that the
motion picture company, digital media company, payroll company, or loan-out corporation
directed or authorized the State Tax Commission to provide to the office in the document
described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:
(i) review the report from the motion picture company described in Subsection (2)(b)
and verify that it was reviewed by an independent certified public accountant as described in
Subsection (2)(c); and
(ii) based upon the certified public accountant's attestation under Subsection (2)(c),
determine the amount of the incentive that the motion picture company is entitled to under its
agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:
(i) ensure the digital media project results in new state revenue; and
(ii) based upon review of new state revenue, determine the amount of the incentive that
a digital media company is entitled to under its agreement with the office.
(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office
shall pay the incentive from the restricted account to the motion picture company,
notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(4)(c).
(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or
59-10-1108, the office shall:
(i) issue a tax credit certificate to the motion picture company or digital media
company; and
(ii) provide a duplicate copy of the tax credit certificate to the State Tax Commission.
(k) A motion picture company or digital media company may not claim a motion
picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company
or digital media company has received a tax credit certificate for the claim issued by the office
under Subsection (2)(j)(i).
(l) A motion picture company or digital media company may claim a motion picture
tax credit on its tax return for the amount listed on the tax credit certificate issued by the office.
(m) A motion picture company or digital media company that claims a tax credit under
Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in
accordance with Subsection [63M-1-1804] 63N-8-104(6).
3. (a) Subject to Subsection (3)(b), the office may issue $6,793,700 in tax credit
certificates under this part in a fiscal year.
(b) If the office does not issue tax credit certificates in a fiscal year totaling the amount
authorized under Subsection (3)(a), it may carry over that amount for issuance in subsequent
fiscal years.
Section 227. Section 63N-8-104, which is renumbered from Section 63M-1-1804 is
renumbered and amended to read:
[63M-1-1804]. 63N-8-104. Motion picture incentives -- Standards to qualify
for an incentive -- Limitations -- Content of agreement between office and motion picture
company or digital media company.

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a state approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5) (a) The office, with advice from the board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection [63M-1-1803] [63N-8-103](3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:
(A) employing a significant percentage of cast and crew from Utah;
(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or
(C) other promotion opportunities as agreed upon by the office and the motion picture company; and
(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.
(c) A cash rebate incentive from the Motion Picture Incentive Restricted Account may not exceed $500,000 per state approved production for a motion picture project.
(d) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.
(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):
(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;
(b) specifies:
(i) the nature of the incentive; and
(ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;
(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;
(d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and
(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.
Section 228. Section 63N-8-105, which is renumbered from Section 63M-1-1805 is renumbered and amended to read:

63M-1-1805. Annual report.

The office shall include the following information in the annual written report described in Section 63N-1-301:

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

Section 229. Section 63N-9-101, which is renumbered from Section 63M-1-3301 is renumbered and amended to read:

CHAPTER 9. UTAH OFFICE OF OUTDOOR RECREATION

63N-9-101. Title.

This chapter is known as the "Utah Office of Outdoor Recreation [Office Act]."

Section 230. Section 63N-9-102, which is renumbered from Section 63M-1-3302 is renumbered and amended to read:


As used in this chapter:
(1) "Director" means the director of the outdoor recreation office.
(2) "Executive director" means the executive director of the Governor's Office of Economic Development created in Section 63M-1-201 GOED.
(3) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63M-1-3304 63N-9-104.
It is the declared policy of the state that outdoor recreation is vital to a diverse economy and a healthy community.

Section 232. Section 63N-9-104, which is renumbered from Section 63M-1-3304 is renumbered and amended to read:

Purpose of office.

(1) There is created within the Governor's Office of Economic Development [an] the Utah Office of Outdoor Recreation [Office].

(2) (a) The executive director shall appoint a director of the outdoor recreation office.

(b) The director shall report to the executive director and may appoint staff.

(3) The purposes of the office are to:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state; and

(ii) with the Public Lands Policy Coordinating Office created in Section 63J-4-602, if public land is involved;

(b) promote economic development by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(d) develop data regarding the impacts of outdoor recreation in the state; and

(e) promote the health and social benefits of outdoor recreation, especially to young people.

Section 233. Section 63N-9-105, which is renumbered from Section 63M-1-3305 is
Duties of director.

(1) The director shall:

(a) assure that the purposes outlined in Subsection [63M-1-3304] 63N-9-104(3) are fulfilled; and

(b) organize and provide administrative oversight to the outdoor recreation office staff.

(2) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(3) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Annual report.

The executive director shall include in the annual written report described in Section [63M-1-206] 63N-1-301, a report from the director on the activities of the outdoor recreation office.

CHAPTER 10. PETE SUAZO UTAH ATHLETIC COMMISSION ACT


Title.

This chapter is known as the "Pete Suazo Utah Athletic Commission Act."
As used in this chapter:

(1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

   (i) the rules of the contest are not approved by the commission;
   (ii) a licensed physician or osteopath approved by the commission is not in attendance;
   (iii) a correct HIV negative test regarding each contestant has not been provided to the commission;
   (iv) the contest is not conducted in accordance with commission rules; or
   (v) the contestants are not matched by the weight standards established in accordance with Section 63C-11-316.

(b) "Club fighting" does not include sparring if:

   (i) it is conducted for training purposes;
   (ii) no tickets are sold to spectators;
   (iii) no concessions are available for spectators;
   (iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and
   (v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:
(a) attend and supervise a particular contest; and
(b) act on the behalf of the commission at a contest venue.

(8) "Director" means the director appointed by the commission.

(9) "Elimination unarmed combat contest" means a contest where:
(a) a number of contestants participate in a tournament;
(b) the duration is not more than 48 hours; and
(c) the loser of each contest is eliminated from further competition.

(10) "Exhibition" means an engagement in which the participants show or display their
skills without necessarily striving to win.

(11) "Judge" means an individual qualified by training or experience to:
(a) rate the performance of contestants;
(b) score a contest; and
(c) determine with other judges whether there is a winner of the contest or whether the
contestants performed equally, resulting in a draw.

(12) "Licensee" means an individual licensed by the commission to act as a:
(a) contestant;
(b) judge;
(c) manager;
(d) promoter;
(e) referee;
(f) second; or
(g) other official established by the commission by rule.

(13) "Manager" means an individual who represents a contestant for the purpose of:
(a) obtaining a contest for a contestant;
(b) negotiating terms and conditions of the contract under which the contestant will
engage in a contest; or
(c) arranging for a second for the contestant at a contest.

(14) "Promoter" means a person who engages in producing or staging contests and
(15) "Promotion" means a single contest or a combination of contests that:
(a) occur during the same time and at the same location; and
(b) is produced or staged by a promoter.
(16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.
(17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:
(a) enforcing the rules relating to the contest;
(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and
(c) acting as a judge if so designated by the commission.
(18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.
(19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.
(20) "Serious bodily injury" [is] has the same meaning as defined in Section 76-1-601.
(21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.
(22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:
(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;
(b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;
(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;
(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

(23) (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the
contest and each contestant from the prohibition on striking a downed opponent before the start
of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an
opponent by a contestant, manager, or second before the commencement of the contest; or
(h) as further defined by rules made by the commission under Title 63G, Chapter 3,
Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no
alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur
registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup,
and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur
registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is
worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the
ground;
(vii) the contest is no longer than three rounds of no longer than three minutes each;

and

(viii) no winner or loser is declared or recorded.

Section 237. Section 63N-10-201, which is renumbered from Section 63C-11-201 is
renumbered and amended to read:

**Part 2. Pete Suazo Utah Athletic Commission**

63N-10-201. Commission -- Creation -- Appointments --

Terms -- Expenses -- Quorum.

(1) There is created within the [Governor's Office of Economic Development] office

the Pete Suazo Utah Athletic Commission consisting of five members.

(2) (a) The governor shall appoint three commission members.

(b) The president of the Senate and the speaker of the House of Representatives shall
each appoint one commission member.

(c) The commission members may not be licensees under this chapter.

(d) A member of the commission serving on June 30, 2009, shall continue as a member

of the commission until the expiration of the member's term then existing, or until the
expiration of any subsequent term to which the member is appointed.

(3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the
governor, president, or speaker, respectively, shall appoint each new member or reappointed
member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length

of the governor's appointees' terms to ensure that the terms of members are staggered so that
approximately half of the commission is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be

appointed for the unexpired term.

(d) If a commission member fails or refuses to fulfill the responsibilities and duties of a

commission member, including the attendance at commission meetings, the governor,
president, or speaker, respectively, with the approval of the commission, may remove the
commission member and replace the member in accordance with this section.

(4) (a) A majority of the commission members constitutes a quorum.
(b) A majority of a quorum is sufficient authority for the commission to act.
(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall annually designate one of its members to serve as chair for a one-year period.

Section 238. Section 63N-10-202, which is renumbered from Section 63C-11-202 is renumbered and amended to read:

[63C-11-202].


(1) The commission shall:
(a) purchase and use a seal;
(b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
(c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and
(d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.

(2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Section 239. Section 63N-10-203, which is renumbered from Section 63C-11-203 is renumbered and amended to read:
9046  [63C-11-203].  63N-10-203.  Commission director.
9047  (1) The commission shall employ a director, who may not be a member of the
9048  commission, to conduct the commission's business.
9049  (2) The director serves at the pleasure of the commission.
9050  Section 240.  Section 63N-10-204, which is renumbered from Section 63C-11-204 is
9051  renumbered and amended to read:
9052  [63C-11-204].  63N-10-204.  Inspectors.
9053  (1) The commission may appoint one or more official representatives to be designated
9054  as inspectors, who shall serve at the pleasure of the commission.
9055  (2) Each inspector must receive from the commission a card authorizing that inspector
9056  to act as an inspector for the commission.
9057  (3) An inspector may not promote or sponsor any contest.
9058  (4) Each inspector may receive a fee approved by the commission for the performance
9059  of duties under this chapter.
9060  Section 241.  Section 63N-10-205, which is renumbered from Section 63C-11-205 is
9061  renumbered and amended to read:
9062  [63C-11-205].  63N-10-205.  Affiliation with other commissions.
9063  The commission may affiliate with any other state, tribal, or national boxing
9064  commission or athletic authority.
9065  Section 242.  Section 63N-10-301, which is renumbered from Section 63C-11-301 is
9066  renumbered and amended to read:
9067  Part 3.  Licensing
9068  [63C-11-301].  63N-10-301.  Licensing.
9069  (1) A license is required for a person to act as or to represent that the person is:
9070  (a) a promoter;
9071  (b) a manager;
9072  (c) a contestant;
9073  (d) a second;
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9074  (e) a referee;
9075  (f) a judge; or
9076  (g) another official established by the commission by rule.
9077  (2) The commission shall issue to a person who qualifies under this chapter a license in
9078  the classifications of:
9079  (a) promoter;
9080  (b) manager;
9081  (c) contestant;
9082  (d) second;
9083  (e) referee;
9084  (f) judge; or
9085  (g) another official who meets the requirements established by rule under Subsection
9086  (1)(g).
9087  (3) [(a)] All money collected [pursuant to] under this section and Sections
9088  [63C-11-304, 63C-11-307, 63C-11-310, and 63C-11-313] 63N-10-304, 63N-10-307,
9089  63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission
9090  expenses.
9091  [(b) All money available to the commission under Subsection (3)(a) to pay for
9092  commission expenses is nonlapsing for fiscal year 2009-10 only:]
9093  (4) Each applicant for licensure as a promoter shall:
9094  (a) submit an application in a form prescribed by the commission;
9095  (b) pay the fee determined by the commission under Section 63J-1-504;
9096  (c) provide to the commission evidence of financial responsibility, which shall include
9097  financial statements and other information that the commission may reasonably require to
determine that the applicant or licensee is able to competently perform as and meet the
9098  obligations of a promoter in this state;
9099  (d) make assurances that the applicant:
9100  (i) is not engaging in illegal gambling with respect to sporting events or gambling with
respect to the promotions the applicant is promoting;
(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and
(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
(e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(5) Each applicant for licensure as a contestant shall:
(a) be not less than 18 years of age at the time the application is submitted to the commission;
(b) submit an application in a form prescribed by the commission;
(c) pay the fee established by the commission under Section 63J-1-504;
(d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;
(e) make assurances that the applicant:
(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;
(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating
to the regulation of contests in this state or any other jurisdiction;
(f) acknowledge in writing to the commission receipt, understanding, and intent to
comply with this chapter and the rules made under this chapter; and
(g) if requested by the commission or the director, meet with the commission or the
director to examine the applicant's qualifications for licensure.
(6) Each applicant for licensure as a manager or second shall:
(a) submit an application in a form prescribed by the commission;
(b) pay a fee determined by the commission under Section 63J-1-504;
(c) make assurances that the applicant:
(i) is not engaging in illegal gambling with respect to sporting events or gambling with
respect to a contest in which the applicant is participating;
(ii) has not been found in a criminal or civil proceeding to have engaged in or
attempted to have engaged in any fraud or misrepresentation in connection with a contest or
any other sporting event; and
(iii) has not been found in a criminal or civil proceeding to have violated or attempted
to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating
to the regulation of contests in this state or any other jurisdiction;
(d) acknowledge in writing to the commission receipt, understanding, and intent to
comply with this chapter and the rules made under this chapter; and
(e) if requested by the commission or director, meet with the commission or the
director to examine the applicant's qualifications for licensure.
(7) Each applicant for licensure as a referee or judge shall:
(a) submit an application in a form prescribed by the commission;
(b) pay a fee determined by the commission under Section 63J-1-504;
(c) make assurances that the applicant:
(i) is not engaging in illegal gambling with respect to sporting events or gambling with
respect to a contest in which the applicant is participating;
(ii) has not been found in a criminal or civil proceeding to have engaged in or
attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

(e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material affect on the integrity of a contest held under this chapter.

(9) (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

(b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Section 243. Section 63N-10-302, which is renumbered from Section 63C-11-302 is renumbered and amended to read:


(1) The commission shall issue each license under this chapter in accordance with a renewal cycle established by rule.

(2) At the time of renewal, the licensee shall show satisfactory evidence of compliance with renewal requirements established by rule by the commission.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with the rules established by the commission.
Section 244. Section 63N-10-303, which is renumbered from Section 63C-11-303 is renumbered and amended to read:

**63N-10-303. Grounds for denial of license -- Disciplinary proceedings -- Reinstatement.**

(1) The commission shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this chapter.

(2) The commission may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee if:

(a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as defined by statute or rule under this chapter;

(b) the applicant or licensee has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(c) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare, as determined by a ringside physician or the commission.

(3) Any licensee whose license under this chapter has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, or restriction.

(4) The commission may issue cease and desist orders:

(a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and

(b) to any person who otherwise violates this chapter or any rules adopted under this chapter.

(5) (a) The commission may impose an administrative fine for acts of unprofessional or
unlawful conduct under this chapter.

(b) An administrative fine under this Subsection (5) may not exceed $2,500 for each separate act of unprofessional or unlawful conduct.

(c) The commission shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in any action to impose an administrative fine under this chapter.

(d) The imposition of a fine under this Subsection (5) does not affect any other action the commission or department may take concerning a license issued under this chapter.

(6) (a) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct under this chapter, unless the commission initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the commission, except under Subsection (6)(b).

(b) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the following may immediately suspend the license of a licensee at such time and for such period that the following believes is necessary to protect the health, safety, and welfare of the licensee, another licensee, or the public:

(i) the commission;
(ii) a designated commission member; or
(iii) if a designated commission member is not present, the director.

(b) The commission shall establish by rule appropriate procedures to invoke the suspension and to provide a suspended licensee a right to a hearing before the commission with respect to the suspension within a reasonable time after the suspension.

Section 245. Section 63N-10-304, which is renumbered from Section 63C-11-304 is renumbered and amended to read:

[63C-11-304]. 63N-10-304. Additional fees for license of promoter --
Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.

(1) In addition to the payment of any other fees and money due under this chapter, every promoter shall pay a license fee determined by the commission and established in rule.

[(a) (2) License fees collected under this Subsection [(a) (2)] from professional boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.

[(b) Money available to the commission for awarding grants to organizations that promote amateur boxing in the state and covering commission expenses is nonlapsing for fiscal year 2009-10 only.]

[(2) (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:

(a) governing the manner in which applications for grants under Subsection [(a) (2)] may be submitted to the commission; and

(b) establishing standards for awarding grants under Subsection [(a) (2)] to organizations which promote amateur boxing in the state.

[(3) (4) (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.

(b) The commission shall select the contest or exhibition to be exempted based on factors which include:

(i) attraction of the optimum number of spectators;

(ii) costs of promoting and producing the contest or exhibition;

(iii) ticket pricing;

(iv) committed promotions and advertising of the contest or exhibition;

(v) rankings and quality of the contestants; and

(vi) committed television and other media coverage of the contest or exhibition.

Section 246. Section 63N-10-305, which is renumbered from Section 63C-11-305 is
renumbered and amended to read:

[63C-11-305]. 63N-10-305. Jurisdiction of commission.

(1) (a) The commission has the sole authority concerning direction, management, control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held, or given within this state.

(b) A contest or exhibition may not be conducted, held, or given within this state except in accordance with this chapter.

(2) Any contest involving a form of unarmed self-defense must be conducted pursuant to rules for that form which are approved by the commission before the contest is conducted, held, or given.

(3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for the use of:

(i) the designated commission member;

(ii) other commission members in attendance;

(iii) the director;

(iv) commission employees;

(v) officials;

(vi) licensees participating or assisting in the contest; and

(vii) others granted credentials by the commission.

(b) The promoter shall provide security at the direction of the commission or designated commission member to secure the area described in Subsection (3)(a).

(4) The area described in Subsection (3), the area in the dressing rooms, and other areas considered necessary by the designated commission member for the safety and welfare of a licensee and the public shall be reserved for the use of:

(a) the designated commission member;

(b) other commission members in attendance;

(c) the director;

(d) commission employees;
(e) officials;
(f) licensees participating or assisting in the contest; and
(g) others granted credentials by the commission.

(5) The promoter shall provide security at the direction of the commission or designated commission member to secure the areas described in Subsections (3) and (4).

(6) (a) The designated commission member may direct the removal from the contest venue and premises, of any individual whose actions:

(i) are disruptive to the safe conduct of the contest; or

(ii) pose a danger to the safety and welfare of the licensees, the commission, or the public, as determined by the designated commission member.

(b) The promoter shall provide security at the direction of the commission or designated commission member to effectuate a removal under Subsection (6)(a).

Section 247. Section 63N-10-306, which is renumbered from Section 63C-11-306 is renumbered and amended to read:


(1) Club fighting is prohibited.

(2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:

(a) guilty of a class A misdemeanor as provided in Section 76-9-705; and

(b) subject to license revocation under this chapter.

Section 248. Section 63N-10-307, which is renumbered from Section 63C-11-307 is renumbered and amended to read:

[63C-11-307]. 63N-10-307. Approval to hold contest or promotion -- Bond required.

(1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.

(2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.
The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.

Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:

(i) the promoter of the contest or promotion is properly licensed;

(ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and

(iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.

Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:

(i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant;

(ii) a copy of each contestant's federal identification card;

(iii) a copy of a signed contract between each contestant and the promoter for the contest;

(iv) a statement specifying the maximum number of rounds of the contest;

(v) a statement specifying the site, date, and time of weigh-in; and

(vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest.

Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.

Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.

An applicant shall post a surety bond or cashier's check with the commission in the
greater of $10,000 or the amount of the purse, providing for forfeiture and disbursement of the
proceeds if the applicant fails to comply with:

(a) the requirements of this chapter; or
(b) rules made under this chapter relating to the promotion or conduct of the contest or
promotion.

Section 249. Section 63N-10-308, which is renumbered from Section 63C-11-308 is
renumbered and amended to read:

[63C-11-308]. 63N-10-308. Rules for the conduct of contests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, for the conduct of contests in the state.

(2) The rules shall include:

(a) authority for:

(i) stopping contests; and
(ii) impounding purses with respect to contests when there is a question with respect to
the contest, contestants, or any other licensee associated with the contest; and

(b) reasonable and necessary provisions to ensure that all obligations of a promoter
with respect to any promotion or contest are paid in accordance with agreements made by the
promoter.

(3) (a) The commission may, in its discretion, exempt a contest and each contestant
from the definition of unprofessional conduct found in Subsection [63C-11-102]
63N-10-102(25)(f) after:

(i) a promoter requests the exemption; and
(ii) the commission considers relevant factors, including:

(A) the experience of the contestants;
(B) the win and loss records of each contestant;
(C) each contestant's level of training; and
(D) any other evidence relevant to the contestants' professionalism and the ability to
safely conduct the contest.
(b) The commission's hearing of a request for an exemption under this Subsection (3) is an informal adjudicative proceeding under Section 63G-4-202.

(c) The commission's decision to grant or deny a request for an exemption under this Subsection (3) is not subject to agency review under Section 63G-4-301.

Section 250. Section 63N-10-309, which is renumbered from Section 63C-11-309 is renumbered and amended to read:

63N-10-309. Medical examinations and drug tests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:

(a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;

(b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;

(c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and

(d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.

(2) (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.

(b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.

(1) Except as provided in Section 63C-11-317, a licensee may not participate in an unarmed combat contest within a predetermined time after another unarmed combat contest, as prescribed in rules made by the commission.

(2) During the period of time beginning 60 minutes before the beginning of a contest, the promoter shall demonstrate the promoter's compliance with the commission's security requirements to all commission members present at the contest.

(3) The commission shall establish fees in accordance with Section 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of multiple contests conducted under this chapter.

Section 252. Section 63N-10-311, which is renumbered from Section 63C-11-311 is renumbered and amended to read:

[63C-11-311]. 63N-10-311. Ringside physician.

(1) The commission shall maintain a list of ringside physicians who hold a Doctor of Medicine (MD) degree and are registered with the commission as approved to act as a ringside physician and meet the requirements of Subsection (2).

(2) (a) The commission shall appoint a registered ringside physician to perform the duties of a ringside physician at each contest held [pursuant to] under this chapter.

(b) The promoter of a contest shall pay a fee determined by the commission by rule to the commission for a ringside physician.

(3) An applicant for registration as a ringside physician shall:

(a) submit an application for registration;

(b) provide the commission with evidence of the applicant's licensure to practice medicine in the state; and

(c) satisfy minimum qualifications established by the department by rule.

(4) A ringside physician at attendance at a contest:

(a) may stop the contest at any point if the ringside physician determines that a
contestant's physical condition renders the contestant unable to safely continue the contest; and

(b) works under the direction of the commission.

Section 253. Section 63N-10-312, which is renumbered from Section 63C-11-312 is renumbered and amended to read:

[63C-11-312]. 63N-10-312. Contracts.

Before a contest is held, a copy of the signed contract or agreement between the promoter of the contest and each contestant shall be filed with the commission. Approval of the contract's terms and conditions shall be obtained from the commission as a condition precedent to the contest.

Section 254. Section 63N-10-313, which is renumbered from Section 63C-11-313 is renumbered and amended to read:

[63C-11-313]. 63N-10-313. Withholding of purse.

(1) The commission, the director, or any other agent authorized by the commission may order a promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager, or second if, in the judgment of the commission, director, or other agent:

(a) the contestant is not competing honestly or to the best of the contestant's skill and ability or the contestant otherwise violates any rules adopted by the commission or any of the provisions of this chapter; or

(b) the manager or second violates any rules adopted by the commission or any of the provisions of this chapter.

(2) This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of the contestant's skill and ability.

(3) Upon the withholding of any part of a purse or other money pursuant to this section, the commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties, and dispose of the matter as promptly as possible.

(4) If it is determined that a contestant, manager, or second is not entitled to any part of that person's share of the purse or other money, the promoter shall pay the money over to the
9466 commission.
9467 Section 255. Section 63N-10-314, which is renumbered from Section 63C-11-314 is
9468 renumbered and amended to read:
9469 [63C-11-314]. 63N-10-314. Penalty for unlawful conduct.
9470 A person who engages in any act of unlawful conduct, as defined in Section
9471 [63C-11-102] 63N-10-102, is guilty of a class A misdemeanor.
9472 Section 256. Section 63N-10-315, which is renumbered from Section 63C-11-315 is
9473 renumbered and amended to read:
9474 [63C-11-315]. 63N-10-315. Exemptions.
9475 This chapter does not apply to:
9476 (1) any amateur contest or exhibition of unarmed combat conducted by or participated
9477 in exclusively by:
9478 (a) a school accredited by the Utah Board of Education;
9479 (b) a college or university accredited by the United States Department of Education; or
9480 (c) any association or organization of a school, college, or university described in
9481 Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide
9482 student in the school, college, or university;
9483 (2) any contest or exhibition of unarmed combat conducted in accordance with the
9484 standards and regulations of USA Boxing, Inc.; or
9485 (3) a white-collar contest.
9486 Section 257. Section 63N-10-316, which is renumbered from Section 63C-11-316 is
9487 renumbered and amended to read:
9488 [63C-11-316]. 63N-10-316. Contest weights and classes -- Matching
9489 contestants.
9490 (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
9491 Administrative Rulemaking Act, establishing boxing contest weights and classes consistent
9492 with those adopted by the Association of Boxing Commissions.
9493 (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat that is not boxing.

(3) (a) As to any unarmed combat contest, a contestant may not fight another contestant who is outside of the contestant's weight classification.

(b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to fight another contestant who is outside of the contestant's weight classification.

(4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

(a) a contestant who has contracted to participate in a given weight class may not be permitted to compete if the contestant is not within that weight class at the weigh-in; and

(b) a contestant may have two hours to attempt to gain or lose not more than three pounds in order to be reweighed.

(5) (a) As to any unarmed combat contest, the commission may not allow a contest in which the contestants are not fairly matched.

(b) Factors in determining if contestants are fairly matched include:

(i) the win-loss record of the contestants;

(ii) the weight differential between the contestants;

(iii) the caliber of opponents for each contestant;

(iv) each contestant's number of fights; and

(v) previous suspensions or disciplinary actions of the contestants.

Section 258. Section 63N-10-317, which is renumbered from Section 63C-11-317 is renumbered and amended to read:


(1) An elimination unarmed combat contest shall be conducted under the supervision and authority of the commission.

(2) Except as otherwise provided in this section and except as otherwise provided by specific statute, the provisions of this chapter pertaining to boxing apply to an elimination
9522 unarmed combat contest.
9523 (3) (a) All contests in an elimination unarmed combat contest shall be no more than
9524 three rounds in duration.
9525 (b) A round of unarmed combat in an elimination unarmed combat contest shall:
9526 (i) be no more than one minute in duration; or
9527 (ii) be up to three minutes in duration if there is only a single round.
9528 (c) A period of rest following a round shall be no more than one minute in duration.
9529 (4) A contestant:
9530 (a) shall wear gloves approved by the commission; and
9531 (b) shall wear headgear approved by the commission, the designated commission
9532 member, or the director if a designated commission member is not present.
9533 (5) A contestant may participate in more than one contest, but may not participate in
9534 more than a total of seven rounds in the entire tournament.
9535 Section 259. Section 63N-10-318, which is renumbered from Section 63C-11-318 is
9536 renumbered and amended to read:
9538 The commission may make rules governing the conduct of a contest held under this
9539 chapter to protect the health and safety of licensees and members of the public.
9540 Section 260. Section 63N-11-101, which is renumbered from Section 63M-1-2501 is
9541 renumbered and amended to read:
9542 CHAPTER 11. HEALTH SYSTEM REFORM ACT
9543 [63M-1-2501]. 63N-11-101. Title.
9544 This [part] chapter is known as the "Health System Reform Act."
9545 Section 261. Section 63N-11-102, which is renumbered from Section 63M-1-2502 is
9546 renumbered and amended to read:
9548 As used in this [part, "office"] chapter, "consumer health office" means the Office of
9549 Consumer Health Services created in Section [63M-1-2504] 63N-11-104.
Section 262. Section 63N-11-103, which is renumbered from Section 63M-1-2503 is renumbered and amended to read:  

[63M-1-2503]. 63N-11-103. Duties related to health system reform.  
The Governor's Office of Economic Development shall coordinate the efforts of the Office of Consumer Health Services, the Department of Health, the Insurance Department, and the Department of Workforce Services to assist the Legislature with developing the state's strategic plan for health system reform described in Section [63M-1-2505] 63N-11-105.

Section 263. Section 63N-11-104, which is renumbered from Section 63M-1-2504 is renumbered and amended to read:  


(1) There is created within the Governor's Office of Economic Development the Office of Consumer Health Services.  

(2) The consumer health office shall:  

(a) in cooperation with the Insurance Department, the Department of Health, and the Department of Workforce Services, and in accordance with the electronic standards developed under Sections 31A-22-635 and [63M-1-2506] 63N-11-107, create a Health Insurance Exchange that:  

(i) provides information to consumers about private and public health programs for which the consumer may qualify;  

(ii) provides a consumer comparison of and enrollment in a health benefit plan posted on the Health Insurance Exchange; and  

(iii) includes information and a link to enrollment in premium assistance programs and other government assistance programs;  

(b) contract with one or more private vendors for:  

(i) administration of the enrollment process on the Health Insurance Exchange, including establishing a mechanism for consumers to compare health benefit plan features on the exchange and filter the plans based on consumer preferences;
(ii) the collection of health insurance premium payments made for a single policy by multiple payers, including the policyholder, one or more employers of one or more individuals covered by the policy, government programs, and others; and

(iii) establishing a call center in accordance with Subsection (4);

(c) assist employers with a free or low cost method for establishing mechanisms for the purchase of health insurance by employees using pre-tax dollars;

(d) establish a list on the Health Insurance Exchange of insurance producers who, in accordance with Section 31A-30-209, are appointed producers for the Health Insurance Exchange;

(e) include in the annual written report described in Section [63M-1-206] 63N-1-301, a report on the operations of the Health Insurance Exchange required by this chapter; and

(f) in accordance with Subsection (3), provide a form to a small employer that certifies:

(i) that the small employer offered a qualified health plan to the small employer's employees; and

(ii) the period of time within the taxable year in which the small employer maintained the qualified health plan coverage.

(3) The form required by Subsection (2)(f) shall be provided to a small employer if:

(a) the small employer selected a qualified health plan on the small employer health exchange created by this section; or

(b) (i) the small employer selected a health plan in the small employer market that is not offered through the exchange created by this section; and

(ii) the issuer of the health plan selected by the small employer submits to the office, in a form and manner required by the office:

(A) an affidavit from a member of the American Academy of Actuaries stating that based on generally accepted actuarial principles and methodologies the issuer's health plan meets the benefit and actuarial requirements for a qualified health plan under PPACA as defined in Section 31A-1-301; and

(B) an affidavit from the issuer that includes the dates of coverage for the small
employer during the taxable year.

(4) A call center established by the consumer health office:

(a) shall provide unbiased answers to questions concerning exchange operations, and plan information, to the extent the plan information is posted on the exchange by the insurer; and

(b) may not:

(i) sell, solicit, or negotiate a health benefit plan on the Health Insurance Exchange;

(ii) receive producer compensation through the Health Insurance Exchange; and

(iii) be designated as the default producer for an employer group that enters the Health Insurance Exchange without a producer.

(5) The consumer health office:

(a) may not:

(i) regulate health insurers, health insurance plans, health insurance producers, or health insurance premiums charged in the exchange;

(ii) adopt administrative rules, except as provided in Section [63M-1-2506]; or

(iii) act as an appeals entity for resolving disputes between a health insurer and an insured;

(b) may establish and collect a fee for the cost of the exchange transaction in accordance with Section 63J-1-504 for:

(i) processing an application for a health benefit plan;

(ii) accepting, processing, and submitting multiple premium payment sources;

(iii) providing a mechanism for consumers to filter and compare health benefit plans in the exchange based on consumer preferences; and

(iv) funding the call center; and

(c) shall separately itemize the fee established under Subsection (5)(b) as part of the cost displayed for the employer selecting coverage on the exchange.

Section 264. Section 63N-11-105, which is renumbered from Section 63M-1-2505 is
renumbered and amended to read:


The state's strategic plan for health system reform shall include consideration of the following:

(1) legislation necessary to allow a health insurer in the state to offer one or more health benefit plans that:

(a) allow an individual to purchase a policy for individual or family coverage, with or without employer contributions, and keep the policy even if the individual changes employment;

(b) incorporate rating practices and issue practices that will sustain a viable insurance market and provide affordable health insurance products for the most purchasers;

(c) are based on minimum required coverages that result in a lower premium than most current health insurance products;

(d) include coverage for immunizations, screenings, and other preventive health services;

(e) encourage cost-effective use of health care systems;

(f) minimize risk-skimming insurance benefit designs;

(g) maximize the use of federal and state income tax policies to allow for payment of health insurance products with tax-exempt funds;

(h) may include other innovative provisions that may lower the costs of health insurance products;

(i) may incorporate innovative consumer-driven provisions, including:

(i) an exemption from selected state health insurance laws and regulations;

(ii) a range of benefit and cost sharing provisions tailored to the health status, financial capacity, and preferences of individual consumers; and

(iii) varying the amount of cost sharing for a service based on where the service falls along a continuum of care ranging from preventive care to purely elective care; and

(j) encourage employers to allow their employees greater control of the employee's
health care benefits by providing tax-exempt defined contributions for the purchase of health
insurance by either the employer or the employee;

(2) current rating and issue practices by health insurers and changes that may be
necessary to achieve the goals of Subsection (1)(b);

(3) methods to decrease cost shifting from the uninsured and under-insured to the
insured, health care providers and taxpayers, including:

(a) eligibility and benefit levels for entitlement programs;
(b) reimbursement rates for entitlement programs; and
(c) the Utah Premium Partnership for Health Insurance Program and the Children's
Health Insurance Program's enrollment and benefit policies, and whether those policies provide
appropriate and effective coverage for children;

(4) providing public employees an option that gives them greater control of their health
care benefits through a system of defined contributions for insurance policies;

(5) giving public employees access to an option that provides individually selected and
owned policies;

(6) encouraging the use of health care quality measures and the adoption of best
practice protocols by health care providers for the benefit of consumers, health care providers,
and third party payers;

(7) providing some protection from liability for health care providers who follow best
practice protocols;

(8) promoting personal responsibility through:

(a) obtaining health insurance;
(b) achieving self reliance;
(c) making healthy choices; and
(d) encouraging healthy behaviors and lifestyles to the full extent allowed by the
Health Insurance Portability and Accountability Act;

(9) studying the costs and benefits associated with:

(a) different forms of mandates for individual responsibility; and
(b) potential enforcement mechanisms for individual responsibility;

(10) (a) increasing the number of affordable health insurance policies available to a person responsible for obtaining health insurance under Subsection (8)(a) by creating a system of subsidies and Medicaid waivers that bring more people into the private insurance market; and

(b) funding subsidies to support bringing more people into the private insurance market, which may include:

(i) imposing assessments on:

(A) health care facilities;

(B) health care providers;

(C) health care services; and

(D) health insurance products; or

(ii) relying on other funding sources;

(11) investigating and applying for Medicaid waivers that will promote the use of private sector health insurance;

(12) identifying federal barriers to state health system reform and seeking collaborative solutions to those barriers;

(13) maximizing the use of pre-tax dollars for health insurance premium payments;

(14) requiring employers in the state to adopt mechanisms that allow an employee to use tax-exempt earnings, other than pre-tax contributions by the employer, to purchase a health insurance product;

(15) extending a preference under the state procurement code for bidders who offer goods or services to the state if the bidder provides health insurance benefits or a defined contribution for health insurance to the bidder's employees; and

(16) requiring insurers to accept premium payments from multiple sources, including state-funded subsidies.

Section 265. Section 63N-11-106, which is renumbered from Section 63M-1-2505.5 is renumbered and amended to read:
Prohibition of individual mandate.

(1) The Legislature finds that:

(a) the state has embarked on a rigorous process of implementing a strategic plan for health system reform pursuant to Section 63M-1-2505.5, 63N-11-106;

(b) the health system reform efforts for the state were developed to address the unique circumstances within Utah and to provide solutions that work for Utah;

(c) Utah is a leader in the nation for health system reform which includes:

(i) developing and using health data to control costs and quality; and

(ii) creating a defined contribution insurance market to increase options for employers and employees; and

(d) the federal government proposals for health system reform:

(i) infringe on state powers;

(ii) impose a uniform solution to a problem that requires different responses in different states;

(iii) threaten the progress Utah has made towards health system reform; and

(iv) infringe on the rights of citizens of this state to provide for their own health care by:

(A) requiring a person to enroll in a third party payment system;

(B) imposing fines, penalties, and taxes on a person who chooses to pay directly for health care rather than use a third party payer;

(C) imposing fines, penalties, and taxes on an employer that does not meet federal standards for providing health care benefits for employees; and

(D) threatening private health care systems with competing government supported health care systems.

(2) (a) For purposes of this section:

(i) "Implementation" includes adopting or changing an administrative rule, applying for or spending federal grant money, issuing a request for proposal to carry out a requirement of
9746 PPACA, entering into a memorandum of understanding with the federal government regarding
9747 a provision of PPACA, or amending the state Medicaid plan.
9748 (ii) "PPACA" has the same meaning as defined in Section 31A-1-301.
9749 (b) A department or agency of the state may not implement any part of PPACA unless,
9750 prior to implementation, the department or agency reports in writing, and, if practicable, in
9751 person if requested, to the Legislature's Business and Labor Interim Committee, the Health
9752 Reform Task Force, or the legislative Executive Appropriations Committee in accordance with
9753 Subsection (2)(d).
9754 (c) The Legislature may pass legislation specifically authorizing or prohibiting the
9755 state's compliance with, or participation in provisions of PPACA.
9756 (d) The report required under Subsection (2)(b) shall include:
9757 (i) the specific federal statute or regulation that requires the state to implement a
9758 provision of PPACA;
9759 (ii) whether PPACA has any state waiver or options;
9760 (iii) exactly what PPACA requires the state to do, and how it would be implemented;
9761 (iv) who in the state will be impacted by adopting the federal reform provision, or not
9762 adopting the federal reform provision;
9763 (v) what is the cost to the state or citizens of the state to implement the federal reform
9764 provision;
9765 (vi) the consequences to the state if the state does not comply with PPACA;
9766 (vii) the impact, if any, of the PPACA requirements regarding:
9767 (A) the state's protection of a health care provider's refusal to perform an abortion on
9768 religious or moral grounds as provided in Section 76-7-306; and
9769 (B) abortion insurance coverage restrictions provided in Section 31A-22-726.
9770 (3) (a) The state shall not require an individual in the state to obtain or maintain health
9771 insurance as defined in PPACA, regardless of whether the individual has or is eligible for
9772 health insurance coverage under any policy or program provided by or through the individual's
9773 employer or a plan sponsored by the state or federal government.
The provisions of this title may not be used to facilitate the federal PPACA individual mandate or to hold an individual in this state liable for any penalty, assessment, fee, or fine as a result of the individual's failure to procure or obtain health insurance coverage.

(c) This section does not apply to an individual who voluntarily applies for coverage under a state administered program pursuant to Title XIX or Title XXI of the Social Security Act.

Section 266. Section 63N-11-107, which is renumbered from Section 63M-1-2506 is renumbered and amended to read:


(1) (a) The consumer health office shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish uniform electronic standards for insurers, employers, brokers, consumers, and vendors to use when transmitting or receiving information, uniform applications, waivers of coverage, or payments to, or from, the Health Insurance Exchange.

(b) The administrative rules adopted by the consumer health office shall:

(i) promote an efficient and consumer friendly process for shopping for and enrolling in a health benefit plan offered on the Health Insurance Exchange; and

(ii) if appropriate, as determined by the consumer health office, comply with standards adopted at the national level.

(2) The consumer health office shall assist the risk adjuster board created under Title 31A, Chapter 42, Defined Contribution Risk Adjuster Act, and carriers participating in the defined contribution market on the Health Insurance Exchange with the determination of when an employer is eligible to participate in the Health Insurance Exchange under Title 31A, Chapter 30, Part 2, Defined Contribution Arrangements.

(3) (a) The consumer health office shall create an advisory board to advise the exchange concerning the operation of the exchange, the consumer experience on the exchange, and transparency issues.
(b) The advisory board shall have the following members:

(i) two health producers who are appointed producers with the Health Insurance Exchange;

(ii) two representatives from community-based, non-profit organizations;

(iii) one representative from an employer that participates in the defined contribution market on the Health Insurance Exchange;

(iv) up to four representatives from insurers who participate in the defined contribution market of the Health Insurance Exchange;

(v) one representative from the Insurance Department; and

(vi) one representative from the Department of Health.

(c) Members of the advisory board shall serve without compensation.

(4) The consumer health office shall post or facilitate the posting, on the Health Insurance Exchange, of the information required by this section and Section 31A-22-635 and links to websites that provide cost and quality information from the Department of Health Data Committee or neutral entities with a broad base of support from the provider and payer communities.

Section 267. Section 63N-12-101, which is renumbered from Section 63M-1-601 is renumbered and amended to read:

CHAPTER 12. SCIENCE AND EDUCATION PROGRAMS

Part 1. State Advisory Council on Science and Technology

[63M-1-601]. 63N-12-101. Title -- Purpose.

(1) This chapter is known as "Science and Education Programs."

(2) This part is known as the "State Advisory Council on Science and Technology."

(3) The purpose of this part is to establish an advisory council on science and technology to assist in the development of programs, communication, and use of science and technology in governmental organizations in the state.

Section 268. Section 63N-12-102, which is renumbered from Section 63M-1-602 is renumbered and amended to read:
9830  [63M-1-602]. 63N-12-102. Definition of terms.
9831  As used in this part:
9832  (1) "Adviser" means the state science adviser appointed under this part.
9833  (2) "Council" means the State Advisory Council on Science and Technology created
9834  under this part.
9835  [(3) "Director" means the governor's director for economic development.]
9836  Section 269. Section 63N-12-103, which is renumbered from Section 63M-1-603 is
9837  renumbered and amended to read:
9838  [63M-1-603]. 63N-12-103. Creation.
9839  There is created the State Advisory Council on Science and Technology within the
9840  Governor's Office of Economic Development, which shall perform the functions and duties
9841  provided in this part.
9842  Section 270. Section 63N-12-104, which is renumbered from Section 63M-1-604 is
9843  renumbered and amended to read:
9844  [63M-1-604]. 63N-12-104. Members -- Appointment -- Terms --
9845  Qualifications -- Vacancies -- Chair and vice chair -- Executive secretary -- Executive
9846  committee -- Quorum -- Expenses.
9847  (1) The council comprises the following nonvoting members or their designees:
9848  (a) the adviser;
9849  (b) the executive director of the Department of Natural Resources;
9850  (c) the executive director of the Department of Heritage and Arts;
9851  (d) the executive director of the Department of Health;
9852  (e) the executive director of the Department of Environmental Quality;
9853  (f) the commissioner of agriculture and food;
9854  (g) the commissioner of higher education;
9855  (h) the state planning coordinator; and
9856  (i) the executive director of the Department of Transportation.
9857  (2) The governor may appoint other voting members, not to exceed 12.
(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(4) The governor shall consider all institutions of higher education in the state in the appointment of council members.

(5) The voting members of the council shall be experienced or knowledgeable in the application of science and technology to business, industry, or public problems and have demonstrated their interest in and ability to contribute to the accomplishment of the purposes of this part.

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

(7) (a) Each year the council shall select from its membership a chair and a vice chair.

(b) The chair and vice chair shall hold office for one year or until a successor is appointed and qualified.

(8) The adviser serves as executive secretary of the council.

(9) An executive committee shall be established consisting of the chair, vice chair, and the adviser.

(10) (a) In order to conduct business matters of the council at regularly convened meetings, a quorum consisting of a simple majority of the total voting membership of the council is required.

(b) All matters of business affecting public policy require not less than a simple majority of affirmative votes of the total membership.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
Section 271. Section 63N-12-105, which is renumbered from Section 63M-1-605 is renumbered and amended to read:

63N-12-105. Duties and powers.

(1) The council shall:

(a) encourage the use of science and technology in the administration of state and local government;

(b) develop programs whereby state agencies and the several public and private institutions of higher education and technical colleges within the state may assist business and industry in the utilization of science and technology;

(c) further communication between agencies of federal, state, and local government who wish to utilize science and technology;

(d) develop programs of cooperation on matters of science and technology between:

(i) state and local government agencies;

(ii) the several public and private institutions of higher education and technical colleges within the state; and

(iii) business and industry within the state; or

(iv) any combination of these;

(e) provide a means whereby government, business, industry, and higher education may be represented in the formulation and implementation of state policies and programs on matters of science and technology;

(f) review, catalog, and compile the research and development uses by the state universities of the revenue derived from mineral lease funds on state and federal lands;

(g) submit an annual report to the office regarding the expenditure and utilization of these mineral lease funds for inclusion in the office's annual written report described in Section...
(h) make recommendations to the Legislature on the further uses of these mineral lease funds in order to stimulate research and development directed toward the more effective utilization of the state's natural resources; and

(i) prepare and submit, before November 1, an annual written report to the governor and the Legislature.

(2) The council may:

(a) in accordance with Title 63J, Chapter 5, Federal Funds Procedures Act, apply for, receive, and disburse funds, contributions, or grants from whatever source for the purposes set forth in this part;

(b) employ, compensate, and prescribe the duties and powers of those individuals, subject to the provisions of this part relating to the adviser, necessary to execute the duties and powers of the council; and

(c) enter into contracts for the purposes of this part.

Section 272. Section 63N-12-106, which is renumbered from Section 63M-1-606 is renumbered and amended to read:

[63M-1-606]. 63N-12-106. Adviser -- Duties and powers.

(1) The adviser shall be appointed by the governor.

(2) The adviser shall be experienced or knowledgeable in the application of science and technology to business, industry, or public problems and shall have demonstrated interest in or ability to contribute to the accomplishment of the purposes of this part.

(3) The adviser shall be compensated pursuant to the wage and salary classification plan for appointed officers of the state currently in effect.

(4) (a) The adviser shall have those duties and powers the council assigns.

(b) The adviser, with the advice of the council, may enter into contracts and agreements and may incur expenses necessary to fulfill the purposes of this part.

(5) The adviser shall be administratively responsible to the executive director of the office.
Section 273. Section 63N-12-107, which is renumbered from Section 63M-1-607 is renumbered and amended to read:

63N-12-107. Request for information.

All departments, divisions, boards, commissions, agencies, institutions, and all other instrumentalities of the state shall, upon request of the council, provide the council with any information that these instrumentalities have concerning research in science and technology.

Section 274. Section 63N-12-108, which is renumbered from Section 63M-1-608 is renumbered and amended to read:

63N-12-108. Science education program.

(1) (a) There is established an informal science and technology education program within the Governor's Office of Economic Development office.

(b) The state science advisor shall act as the director of the program.

(c) The State Advisory Council on Science and Technology shall advise the program, including:

(i) approving all money expended by the science and technology education program;

(ii) approving all operations of the program; and

(iii) making policies and procedures to govern the program.

(2) The program may:

(a) provide informal science and technology-based education to elementary and secondary students;

(b) expose public education students to college level science and technology disciplines; and

(c) provide other informal promotion of science and technology education in the state.

Section 275. Section 63N-12-201 is enacted to read:

Part 2. STEM Action Center

63N-12-201. Title.

This part is known as the "STEM Action Center."

Section 276. Section 63N-12-202, which is renumbered from Section 63M-1-3201 is
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renumbered and amended to read:


As used in this part:

(1) "Board" means the STEM Action Center Board created in Section [63M-1-3202]

63N-12-203.

(2) "Educator" has the same meaning as defined in Section 53A-6-103.

(3) "High quality professional development" means professional development that
meets high quality standards developed by the State Board of Education.

(4) "Office" means the Governor's Office of Economic Development.

(5) "Provider" means a provider, selected by staff of the board and staff of the Utah State Board of Education, on behalf of the board:

(a) through a request for proposals process; or

(b) through a direct award or sole source procurement process for a pilot described in
Section [63M-1-3205] 63N-12-206.

(6) "STEM" means science, technology, engineering, and mathematics.

(7) "STEM Action Center" means the center described in Section [63M-1-3204]

63N-12-205.

Section 277. Section 63N-12-203, which is renumbered from Section 63M-1-3202 is
renumbered and amended to read:

[63M-1-3202]. 63N-12-203. STEM Action Center Board creation --

Membership.

(1) There is created the STEM Action Center Board within the office, composed of the
following members:

(a) six private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state superintendent of public instruction's designee;

(c) the commissioner of higher education or the commissioner of higher education's designee;
(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of Education;

(f) the executive director of the Governor's Office of Economic Development office or the executive director's designee;

(g) the president of the Utah College of Applied Technology or the president of the Utah College of Applied Technology's designee; and

(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

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

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

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the committee requires a majority vote of a quorum.

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

(a) Section 63A-3-106;

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

(6) The governor shall select the chair of the board to serve a one-year term.

(7) The executive director of the [Governor's Office of Economic Development] office or the executive [director of the Governor's Office of Economic Development's] director's designee shall serve as the vice chair of the board.

Section 278. Section 63N-12-204, which is renumbered from Section 63M-1-3203 is renumbered and amended to read:

[63M-1-3203]. 63N-12-204. STEM Action Center Board -- Duties.

(1) The board shall:

(a) establish a STEM Action Center to:

(i) coordinate STEM activities in the state among the following stakeholders:

(A) the State Board of Education;

(B) school districts and charter schools;

(C) the State Board of Regents;

(D) institutions of higher education;

(E) parents of home-schooled students; and

(F) other state agencies;

(ii) align public education STEM activities with higher education STEM activities; and

(iii) create and coordinate best practices among public education and higher education;

(b) with the consent of the Senate, appoint [an executive] a director to oversee the administration of the STEM Action Center;

(c) select a physical location for the STEM Action Center;

(d) strategically engage industry and business entities to cooperate with the board:

(i) to support high quality professional development and provide other assistance for educators and students; and

(ii) to provide private funding and support for the STEM Action Center;

(e) give direction to the STEM Action Center and the providers selected through a
request for proposals process pursuant to this part; and

(f) work to meet the following expectations:

(i) that at least 50 educators are implementing best practice learning tools in classrooms per each product specialist or manager working with the STEM Action Center;

(ii) performance change in student achievement in each classroom working with a STEM Action Center product specialist or manager; and

(iii) that students from at least 50 high schools participate in the STEM competitions, fairs, and camps described in Subsection [63M-1-3204] 63N-12-205(2)(d).

(2) The board may:

(a) enter into contracts for the purposes of this part;

(b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;

(c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the board;

(d) prescribe the duties and powers of the STEM Action Center providers; and

(e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.

(3) The board may establish a foundation to assist in:

(a) the development and implementation of the programs authorized under this part to promote STEM education; and

(b) implementation of other STEM education objectives described in this part.

(4) A foundation established by the board under Subsection (3):

(a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;

(b) shall comply with Title 51, Chapter 7, State Money Management Act;

(c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;

(d) may not exercise executive or administrative authority over the programs or other
activities described in this part, except to the extent specifically authorized by the board;

(e) shall provide the board with information detailing transactions and balances of funds managed for the board; and

(f) may not:

(i) engage in lobbying activities;

(ii) attempt to influence legislation; or

(iii) participate in any campaign activity for or against:

(A) a political candidate; or

(B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

(5) Money donated to a foundation established under Subsection (3) may be accounted for in an expendable special revenue fund.

Section 279. Section 63N-12-205, which is renumbered from Section 63M-1-3204 is renumbered and amended to read:

63N-12-205. STEM Action Center.

(1) As funding allows, the board shall:

(a) establish a STEM Action Center;

(b) ensure that the STEM Action Center:

(i) is accessible by the public; and

(ii) includes the components described in Subsection (2);

(c) work cooperatively with the State Board of Education to:

(i) further STEM education; and

(ii) ensure best practices are implemented as described in Sections 63M-1-3205 and 63M-1-3206; and

(d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities.

(2) As funding allows, the [executive] director of the STEM Action Center shall:

(a) support high quality professional development for educators regarding STEM
(b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section [63M-1-3205];

63N-12-206;

(c) review and acquire STEM education related materials and products for:

(i) high quality professional development;

(ii) assessment, data collection, analysis, and reporting; and

(iii) public school instruction;

(d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;

(e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;

(f) use resources to bring the latest STEM education learning tools into public education classrooms;

(g) identify at least 10 best practice innovations used in Utah that have resulted in at least 80% of students performing at grade level in STEM areas;

(h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;

(i) identify:

(i) learning tools for kindergarten through grade 6 identified as best practices; and

(ii) learning tools for grades 7 through 12 identified as best practices;

(j) provide a Utah best practices database, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;

(k) keep track of the following items related to the best practices database described in Subsection (2)(j):

(i) how the best practices database is being used; and

(ii) how many individuals are using the database, including the demographics of the
users, if available;

(l) as appropriate, join and participate in a national STEM network;

(m) identify performance changes linked to use of the best practices database described in Subsection (2)(j);

(n) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;

(o) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;

(p) recognize a high school's achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);

(q) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;

(r) develop and distribute STEM information to parents of students being served by the STEM Action Center;

(s) support targeted high quality professional development for improved instruction in STEM education, including:

(i) improved instructional materials that are dynamic and engaging for students;

(ii) use of applied instruction; and

(iii) introduction of other research-based methods that support student achievement in STEM areas; and

(t) ensure that an online college readiness assessment tool be accessible by:

(i) public education students; and

(ii) higher education students.

(3) The board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.
The director shall track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, in the following STEM related activities, at the beginning and end of each year:

(i) public education high school graduation rates;
(ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;
(iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and
(iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.

(b) The State Board of Education and the State Board of Regents shall provide information to the board to assist the board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Section 280. Section 63N-12-206, which is renumbered from Section 63M-1-3205 is renumbered and amended to read:

Acquisition of STEM education related instructional technology program -- Research and development of education related instructional technology through a pilot program.

(1) For purposes of this section:
(a) "Pilot" means a pilot of the program.
(b) "Program" means the STEM education related instructional technology program created in Subsection (2).

(2) (a) There is created the STEM education related instructional technology program to provide public schools the STEM education related instructional technology described in Subsection (3).
(b) On behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school
districts and charter schools.

(c) On behalf of the board, the staff of the board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).

(3) The STEM education related instructional technology shall:

(a) support mathematics instruction for students in:

(i) kindergarten through grade 6; or

(ii) grades 7 and 8; or

(b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.

(4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for the students described in Subsection (3)(a), the board shall consider the following criteria:

(a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;

(b) the technology is self-adapting to respond to the needs and progress of the learner;

and

(c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.

(5) Before issuing a request for proposals described in Subsection (2), on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and may:

(a) conduct a pilot of the program to test and select providers for the program;

(b) select at least two providers through a direct award or sole source procurement process for the purpose of conducting the pilot; and

(c) select schools to participate in the pilot.
A contract with a provider for STEM education related instructional technology may include professional development for full deployment of the STEM education related instructional technology.

(b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Section 281. Section 63N-12-207, which is renumbered from Section 63M-1-3206 is renumbered and amended to read:

[63M-1-3206]. 63N-12-207. Distribution of STEM education instructional technology to schools.

(1) Subject to legislative appropriations, on behalf of the board, the staff of the board and the staff of the State Board of Education shall collaborate and shall:

(a) distribute STEM education related instructional technology described in Section 63M-1-3205 to school districts and charter schools; and

(b) provide related professional development to the school districts and charter schools that receive STEM education related instructional technology.

(2) A school district or charter school may apply to the board, through a competitive process, to receive STEM education related instructional technology from the board.

(3) A school district or charter school that receives STEM education related instructional technology as described in this section shall provide the school district's or charter school's own computer hardware.

Section 282. Section 63N-12-208, which is renumbered from Section 63M-1-3207 is renumbered and amended to read:

[63M-1-3207]. 63N-12-208. Report to Legislature and the State Board of Education.

(1) The board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:

(a) the Education Interim Committee;
(b) the Public Education Appropriations Subcommittee;
(c) the State Board of Education; and
(d) the office for inclusion in the office's annual written report described in Section

[63M-1-206] 63N-1-301.

(2) The report described in Subsection (1) shall include information that demonstrates
the effectiveness of the program, including:
(a) the number of educators receiving high quality professional development;
(b) the number of students receiving services from the STEM Action Center;
(c) a list of the providers selected pursuant to this part;
(d) a report on the STEM Action Center's fulfilment of its duties described in Section
[63M-1-3204] 63N-12-205; and
(e) student performance of students participating in a STEM Action Center program as
collected in Subsection [63M-1-3204] 63N-12-205(4).

Section 283. Section 63N-12-209, which is renumbered from Section 63M-1-3208 is
renumbered and amended to read:

[63M-1-3208]. 63N-12-209. STEM education endorsements and incentive
program.

(1) The State Board of Education shall collaborate with the STEM Action Center to:
(a) develop STEM education endorsements; and
(b) create and implement financial incentives for:
(i) an educator to earn an elementary or secondary STEM education endorsement
described in Subsection (1)(a); and
(ii) a school district or a charter school to have STEM endorsed educators on staff.
(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
State Board of Education shall make rules to establish how a STEM education endorsement
incentive described in Subsection (1)(a) will be valued on a salary scale for educators.

Section 284. Section 63N-12-210, which is renumbered from Section 63M-1-3209 is
renumbered and amended to read:
The STEM Action Center shall, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.

The high quality professional development application described in Subsection (1) shall:

(a) allow the State Board of Education, a school district, or a school to define the application's input and track results of the high quality professional development;

(b) allow educators to access automatic tools, resources, and strategies;

(c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;

(d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;

(e) include video examples of highly effective STEM education teaching that:

(i) cover a cross section of grade levels and subjects;

(ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and

(iii) contain tools to help educators implement what they have learned; and

(f) allow for additional STEM education video content to be added.

In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Section 285. Section 63N-12-211, which is renumbered from Section 63M-1-3210 is renumbered and amended to read:

[63M-1-3210]. 63N-12-211. STEM education middle school applied science initiative.

(1) The STEM Action Center shall develop an applied science initiative for students in
grades 7 and 8 that includes:

(a) a STEM applied science curriculum with instructional materials;
(b) STEM hybrid or blended high quality professional development that allows for
face-to-face applied learning; and
(c) hands-on tools for STEM applied science learning.

(2) The STEM Action Center may, through a request for proposals process, select a
consultant to assist in developing the initiative described in Subsection (1).

Section 286. Section 63N-12-212, which is renumbered from Section 63M-1-3211 is
renumbered and amended to read:

[63M-1-3211]. 63N-12-212. High school STEM education initiative.

(1) Subject to legislative appropriations, after consulting with State Board of Education
staff, the STEM Action Center shall award grants to school districts and charter schools to fund
STEM related certification for high school students.

(2) (a) A school district or charter school may apply for a grant from the STEM Action
Center, through a competitive process, to fund the school district's or charter school's STEM
related certification training program.

(b) A school district's or charter school's STEM related certification training program
shall:

(i) prepare high school students to be job ready for available STEM related positions of
employment; and

(ii) when a student completes the program, result in the student gaining a nationally
industry-recognized employer STEM related certification.

(3) A school district or charter school may partner with one or more of the following to
provide a STEM related certification program:

(a) a Utah College of Applied Technology college campus;
(b) Salt Lake Community College;
(c) Snow College; or
(d) a private sector employer.
Section 287. Section 63N-13-101, which is renumbered from Section 63M-1-2101 is renumbered and amended to read:

CHAPTER 13. PROCUREMENT PROGRAMS

Part 1. Procurement Assistance

[63M-1-2101]. 63N-13-101. Title -- Projects to assist companies to secure new business with federal, state, and local governments.

(1) This chapter is known as "Procurement Programs."

[(+) (2) The Legislature recognizes that:

(a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;

(b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;

(c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;

(d) the Governor's Office of Economic Development currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and

(e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.

[(2)] (3) The office, through its executive director:

(a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;

(b) may require program accountability measures; and

(c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:
(i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;

(ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;

(iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the Governor's Office of Economic Development's Procurement Technical Assistance Center Program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and

(iv) may include the following components:

(A) recruitment, individualized consultation, and an introduction to government contracting;

(B) specialized contractor training for companies located in Utah;

(C) a Utah contractor matching program for government requirements;

(D) experienced proposal and bid support; and

(E) specialized support services.

[(3) (4) (a) The office, through its executive director, shall make any distribution referred to in Subsection [(2) (3) on a semiannual basis.

(b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:

(i) consultive meetings with Utah companies;

(ii) seminars or training meetings held;

(iii) government contracts awarded to Utah companies;

(iv) increased revenues generated by Utah companies from new government contracts;

(v) jobs created;
(vi) salary ranges of new jobs; and
(vii) the value of contracts generated.

Section 288. Section 63N-13-201, which is renumbered from Section 63M-1-2601 is
renumbered and amended to read:

Part 2. Government Procurement Private Proposal Program

[63M-1-2601]. 63N-13-201. Title.
This part is known as the "Government Procurement Private Proposal Program."

Section 289. Section 63N-13-202, which is renumbered from Section 63M-1-2602 is
renumbered and amended to read:


As used in this part:
(1) "Affected department" means, as applicable, the Board of Education or the
Department of Technology Services.
(2) "Board" means the Board of Business and Economic Development created under
Section [63M-1-301] 63N-1-401.
(3) "Board of Education" means the Utah State Board of Education.
(4) "Chief procurement officer" means the chief procurement officer appointed under
Section 63G-6a-302.
(5) "Committee" means the proposal review committee created under Section
[63M-1-2604] 63N-13-204.
(6) "Day" means a calendar day.

[(7) "Director" is as defined in Section 63M-1-102-] [(8)] (7) "Executive Appropriations Committee" means the Legislature's Executive
Appropriations Committee.
[(9)] (8) "Information technology" [is] has the same meaning as defined in Section
63F-1-102.
[(10) "Office" means the Governor's Office of Economic Development created under
Section 63M-1-201-]
“Private entity” means a person submitting a proposal under this part for the purpose of entering into a project.

“Project” means the subject of a proposal or an agreement for the procurement or disposal of:

(a) information technology or telecommunications products or services; or

(b) supplies or services for or on behalf of the Department of Technology Services or the Board of Education.

“Proposal” means an unsolicited offer by a private entity to undertake a project, including an initial proposal under Section 63M-1-2605 and a detailed proposal under Section 63N-13-205.

“Services” has the same meaning as defined in Section 63G-6a-103.

“Supplies” has the same meaning as defined in Section 63G-6a-103.

“Telecommunications” has the same meaning as defined in Section 63F-1-102.

Section 290. Section 63N-13-203, which is renumbered from Section 63M-1-2603 is renumbered and amended to read:

(1) There is created within the office the Government Procurement Private Proposal Program.

(2) In accordance with this part, the board may:

(a) accept a proposal for a project;

(b) solicit comments, suggestions, and modifications to a project in accordance with Section 63G-6a-711; and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements, including time limits for any action required by the affected department, a directly affected state entity or school district, or the Governor's Office of Management and Budget, for the procurement of a project to the extent not governed by
Title 63G, Chapter 6a, Utah Procurement Code.

Section 291. Section 63N-13-204, which is renumbered from Section 63M-1-2604 is renumbered and amended to read:

[63M-1-2604]. 63N-13-204. Committee for reviewing proposals -- Appointment -- Accepting or rejecting a proposal.

(1) The executive director shall appoint a committee composed of members of the board to review and evaluate a proposal submitted in accordance with this part.

(2) The executive director shall determine the number of board members that constitute a committee.

(3) The committee shall, at all times, consist of less than a quorum of the members of the board, as established under Section [63M-1-301] 63N-1-401.

(4) A committee member shall serve on the committee until:

(a) replaced by the executive director; or

(b) the committee member ceases to be a member of the board.

(5) The executive director may fill a vacancy among voting members on the committee.

(6) The committee shall include the following nonvoting members in addition to the members appointed under Subsection (1):

(a) a member of the Senate, appointed by the president of the Senate; and

(b) a member of the House of Representatives, appointed by the speaker of the House of Representatives, who may not be from the same political party as the member of the Senate appointed under Subsection (6)(a).

(7) (a) A vacancy among legislative members appointed under Subsection (6) shall be filled by the president of the Senate or the speaker of the House of Representatives, respectively.

(b) At the time of appointment or reappointment, the president of the Senate and the speaker of the House of Representatives shall consult to ensure that the legislative members appointed under Subsection (6) are not members of the same political party.
(8) A committee member is subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, and any additional requirement established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(9) The committee shall inform a private entity of the committee's decision to approve or reject a proposal in writing.

(10) If the committee, in its sole discretion, accepts a proposal, the proposal shall be evaluated under this part.

(11) If the committee, in its sole discretion, rejects a proposal, the committee shall notify the private entity of the reason for the rejection and shall return any remaining portion of the fee required under Section [63M-1-2612] 63N-13-212.

Section 292. Section 63N-13-205, which is renumbered from Section 63M-1-2605 is renumbered and amended to read:


(1) In accordance with this part, a private entity may at any time submit to the committee an initial proposal for a project.

(2) An initial proposal shall include:

(a) a conceptual description of the project;

(b) a description of the economic benefit of the project to the state and the affected department;

(c) information concerning the products, services, and supplies currently being provided by the state, that are similar to the project;

(d) an estimate of the following costs associated with the project:

(i) design;

(ii) implementation;

(iii) operation and maintenance; and

(iv) any other related project cost; and

(e) the name and address of a person who may be contacted for further information concerning the initial proposal.
10502 (3) A private entity submitting an initial proposal under this section shall pay the fee
10503 required by Section [63M-1-2612] 63N-13-212 when the initial proposal is submitted.
10504 (4) An initial proposal submitted under this section is a protected record under Title
10505 63G, Chapter 2, Government Records Access and Management Act, until the chief
10506 procurement officer initiates a procurement process in accordance with Section 63G-6a-711.
10507 (5) The board shall make rules in accordance with Title 63G, Chapter 3, Utah
10508 Administrative Rulemaking Act, detailing the portions of an initial proposal that remain
10509 protected after the chief procurement officer initiates a procurement process.
10510 Section 293. Section 63N-13-206, which is renumbered from Section 63M-1-2606 is
10511 renumbered and amended to read:
10512 [63M-1-2606].   63N-13-206. Review of initial proposal -- Affected
department review.
10514 (1) The committee shall review and evaluate an initial proposal submitted in
10515 accordance with:
10516 (a) this part; and
10517 (b) any rule established by the board under Section [63M-1-2603] 63N-13-203.
10518 (2) If the committee, in its sole discretion, determines to proceed with the project, the
10519 committee shall submit a copy of the initial proposal to:
10520 (a) the affected department; and
10521 (b) the Governor's Office of Management and Budget.
10522 (3) (a) An affected department, directly affected state entity, and school district
10523 receiving a copy of the initial proposal under Subsection (2) or (4) shall review the initial
10524 proposal and provide the committee with any comment, suggestion, or modification to the
10525 project.
10526 (b) After receiving an initial proposal, the Governor's Office of Management and
10527 Budget shall prepare an economic feasibility report containing:
10528 (i) information concerning the economic feasibility and effectiveness of the project
10529 based upon competent evidence;
(ii) a dollar amount representing the total estimated fiscal impact of the project to the affected department and the state; and

(iii) any other matter the committee requests or is required by the board by rule.

(4) In reviewing an initial proposal, the affected department shall share the initial proposal with any other state entity or school district that will be directly affected if the proposal is ultimately adopted, if the confidentiality of the initial proposal is maintained.

(5) If the committee determines to proceed with the project, the committee shall submit a copy of the initial proposal, including any comment, suggestion, or modification to the initial proposal, to:

(a) the chief procurement officer in accordance with Section 63G-6a-711; and

(b) the Executive Appropriations Committee, for informational purposes.

(6) Before taking any action under Subsection (5), the committee shall consider:

(a) any comment, suggestion, or modification to the initial proposal submitted in accordance with Subsection (3);

(b) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department;

(c) the economic feasibility report prepared by the Governor's Office of Management and Budget; and

(d) any other reasonable factor identified by the committee or required by the board by rule.

Section 294. Section 63N-13-207, which is renumbered from Section 63M-1-2607 is renumbered and amended to read:

63N-13-207. Acceptance of initial proposal -- Obtaining detailed proposals.

(1) If an initial proposal is accepted under Section 63M-1-2606, the chief procurement officer shall:

(a) take action under Section 63G-6a-711 to initiate a procurement process to obtain one or more detailed proposals using information from portions of the initial proposal that are
not protected records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) consult with the committee during the procurement process; and

(c) submit all detailed proposals that meet the guidelines established under Subsection 63M-1-2608(1), including the detailed proposal submitted by the private entity that submitted the initial proposal for the project, to:

(i) the committee; and

(ii) the Governor's Office of Management and Budget.

(2) The office is considered the purchasing agency for a procurement process initiated under this part.

Section 295. Section 63N-13-208, which is renumbered from Section 63M-1-2608 is renumbered and amended to read:

63N-13-208. Detailed proposal -- Requirements --

Cooperation of affected department.

(1) A detailed proposal submitted in response to a procurement process initiated under Section 63M-1-2607 shall include:

(a) a conceptual description of the project, including the scope of the work;

(b) a description of the economic benefit of the project to the state and the affected department;

(c) an estimate of the design, implementation, operation, maintenance, or other costs associated with the project;

(d) information concerning the information technology or telecommunication product and service or other supply or service currently provided by the state that is similar to the project being proposed, if applicable;

(e) a statement setting forth the private entity's general plan for financing the project, including any appropriation by the Legislature or other public money and, if applicable, the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity;
(f) the name and address of the person who may be contacted for further information concerning the detailed proposal;

(g) a statement describing the private entity's experience with other similar projects and a description of why the private entity is best qualified for the project; and

(h) any other information:

(i) reasonably requested by the affected department or the committee, or required by the board by rule; or

(ii) that the private entity considers necessary or appropriate to complete or describe the detailed proposal.

(2) To assist each private entity in preparing a detailed proposal:

(a) the affected department shall provide each private entity with access to all information, records, documents, and reports related to the proposal and the project that are designated public records under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) the affected department and the committee shall cooperate with each private entity to assist the private entity in the development of a detailed proposal that is:

(i) practical;

(ii) efficient; and

(iii) economically beneficial to the state and the affected department.

(3) The committee or any private entity may choose to terminate the development of the detailed proposal at any time before the submission of the detailed proposal to the chief procurement officer under Section 63G-6a-711.

Section 296. Section 63N-13-209, which is renumbered from Section 63M-1-2609 is renumbered and amended to read:


(1) If the committee, in its sole discretion, determines that a detailed proposal does not substantially meet the guidelines established under Subsection [63M-1-2608] 63N-13-208(1),
(2) (a) After receiving a detailed proposal, the Governor's Office of Management and Budget shall update the economic feasibility report prepared under Section 63M-1-2606
63N-13-206.
(b) A detailed proposal that is to be reviewed by the committee shall be submitted to the affected department, a directly affected state entity, and a directly affected school district for comment or suggestion.

(3) In determining which, if any, of the detailed proposals to accept, in addition to the proposal evaluation criteria, the committee shall consider the following factors:

(a) any comment, suggestion, or modification offered in accordance with Subsection [63M-1-2606] 63N-13-206(3) or Subsection (2)(b);
(b) the economic feasibility report updated in accordance with Subsection (2)(a);
(c) the source of funding and any resulting constraint necessitated by the funding source;
(d) any alternative funding proposal;
(e) the extent to which the project is practical, efficient, and economically beneficial to the state and the affected department; and
(f) any other reasonable factor identified by the committee or required by the board by rule.

(4) (a) If the committee accepts a detailed proposal, the accepted detailed proposal shall be submitted to the board for approval.
(b) If the affected department or a directly affected state entity or school district disputes the detailed proposal approved by the board, the Governor's Office of Management and Budget shall consider the detailed proposal and any comment, suggestion, or modification and determine whether to proceed with a project agreement.
(c) If there is no funding for a project that is the subject of a detailed proposal and the committee determines to proceed with the project, the office shall submit a report to the Governor's Office of Management and Budget and the Executive Appropriations Committee
detailing the position of the board, the affected department, a directly affected state entity or
school district.

(5) A detailed proposal received from a private entity other than the private entity that
submitted the initial proposal may not be accepted in place of the detailed proposal offered by
the private entity that submitted the initial proposal solely because of a lower cost if the lower
cost is within the amount of the fee paid by the private entity that submitted the initial proposal
for review of the initial proposal.

Section 297. Section 63N-13-210, which is renumbered from Section 63M-1-2610 is
renumbered and amended to read:


(1) If the board accepts the detailed proposal, the executive director shall:

(a) prepare a project agreement in consultation with the affected department and any
other state entity directly impacted by the detailed proposal; and

(b) enter into the project agreement with the private entity.

(2) A project agreement shall be signed by the executive director, the affected
department, a directly affected state entity or school district, and the private entity.

(3) A project agreement shall include provisions concerning:

(a) the scope of the project;

(b) the pricing method of the project;

(c) the executive director's or the state's ability to terminate for convenience or for
default, and any termination compensation to be paid to the private entity, if applicable;

(d) the ability to monitor performance under the project agreement;

(e) the appropriate limits of liability;

(f) the appropriate transition of services, if applicable;

(g) the exceptions from applicable rules and procedures for the implementation and
administration of the project by the affected department, if any;

(h) the clauses and remedies applicable to state contracts under Title 63G, Chapter 6a,
Part 12, Contracts and Change Orders; and
(i) any other matter reasonably requested by the committee or required by the board by
rule.

(4) A copy of the signed project agreement shall be submitted to:
(a) the affected department; and
(b) the Executive Appropriations Committee.

(5) A project agreement is considered a contract under Title 63G, Chapter 6a, Utah Procurement Code.

(6) The affected department shall implement and administer the project agreement in accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except as modified by the project agreement under Subsection (3)(g).

Section 298. Section 63N-13-211, which is renumbered from Section 63M-1-2611 is renumbered and amended to read:

63N-13-211. Advisory committee.

(1) The executive director may appoint an advisory committee comprised of:
(a) representatives of:
(i) the affected department for the proposal;
(ii) a directly affected state entity or school district;
(iii) the Department of Human Resource Management; and
(iv) the Division of Risk Management;
(b) members of the public; and
(c) other members.

(2) A member of an advisory committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
(a) Section 63A-3-106;
(b) Section 63A-3-107; and
(c) rules made by the Division of Finance [pursuant to] under Sections 63A-3-106 and 63A-3-107.

(3) An advisory committee appointed in accordance with Subsection (1) may not
participate in the final decision-making of the committee or the board.

(4) The staff, any outside consultant, and any advisory subcommittee shall:

(a) provide the committee and the board with professional services, including architectural, engineering, legal, and financial services, to develop rules and guidelines to implement the program described in this part; and

(b) assist the committee and the board in:

(i) reviewing and commenting on initial proposals;

(ii) reviewing and commenting on detailed proposals; and

(iii) preparing and negotiating the terms of any project agreement.

Section 299. Section 63N-13-212, which is renumbered from Section 63M-1-2612 is renumbered and amended to read:


(1) There is created an expendable special revenue fund within the office called the Private Proposal Expendable Special Revenue Fund.

(2) Money collected from the payment of a fee required by this part shall be deposited in the Private Proposal Expendable Special Revenue Fund.

(3) The board or the committee may use the money in the Private Proposal Expendable Special Revenue Fund to offset:

(a) the expense of hiring staff and engaging any outside consultant to review a proposal under this part; and

(b) any expense incurred by the Governor's Office of Management and Budget or the affected department in the fulfillment of its duties under this part.

(4) The board shall establish a fee in accordance with Section 63J-1-504 for:

(a) reviewing an initial proposal;

(b) reviewing any detailed proposal; and

(c) preparing any project agreement.

(5) The board may waive the fee established under Subsection (4) if the board
Section 300. Section 79-4-1103 is amended to read:

79-4-1103. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain
the operation of one or more national parks, national monuments, national forests, and national
recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if
any, for additional appropriations to assist the division in opening and operating one or more
national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the Outdoor Recreation Office, created in Section \[63M-1-3304\]
63N-9-104, in consultation with the executive director of the Governor's Office of Economic
Development, shall determine, by rule, the priority of national parks, national monuments,
national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the Outdoor
Recreation Office shall consider the:

(a) economic impact of the national park, national monument, national forest, or
national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest,
or national recreation area.

(4) The director of the Outdoor Recreation Office shall:

(a) report the priority determined under Subsection (2) to the Natural Resources,
Agriculture, and Environment Interim Committee by November 30, 2014; and

(b) annually review the priority set under Subsection (2) to determine whether the
priority list should be amended.

Section 301. Repealer.
This bill repeals:

Section 63M-1-204, Organization of office -- Jurisdiction of director.
Section 63M-1-207, Daylight saving time study.
Section 63M-1-301, Board of Business and Economic Development.
Section 63M-1-304, Governor's Office of Economic Development -- Powers and duties of office -- Consulting with board on funds or services provided by office.
Section 63M-1-801, Creation of shared foreign sales corporations.
Section 63M-1-802, Management fees.
Section 63M-1-1301, Title.
Section 63M-1-1302, Purpose.
Section 63M-1-1901, Military installation projects for economic development -- Funding -- Criteria -- Dispersal -- Report.
Section 63M-1-2408, Transition clause -- Renegotiation of agreements -- Payment of partial rebates.