

**BUDGETARY PROCEDURES ACT**

**RECODIFICATION**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ron Bigelow**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill recodifies and makes technical amendments to the Budgetary Procedures Act.

**Highlighted Provisions:**

This bill:

- ▶ organizes and groups existing sections of the Budgetary Procedures Act into consistent categories;
- ▶ simplifies structure and language in the act;
- ▶ modifies provisions to list requirements and procedures in chronological order;
- ▶ consolidates, modifies, and provides definitions in the act;
- ▶ removes references to the currently unused term "allotment";
- ▶ updates and coordinates cross references; and
- ▶ makes technical and grammatical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

AMENDS:

**3-1-6**, as last amended by Laws of Utah 2008, Chapter 382

**3-1-36**, as last amended by Laws of Utah 2008, Chapter 382

- 30           **4-2-2**, as last amended by Laws of Utah 2008, Chapter 382
- 31           **4-3-14**, as last amended by Laws of Utah 2008, Chapter 382
- 32           **4-14-3**, as last amended by Laws of Utah 2008, Chapter 382
- 33           **4-14-13**, as last amended by Laws of Utah 2008, Chapter 382
- 34           **4-37-201**, as last amended by Laws of Utah 2008, Chapter 382
- 35           **4-37-301**, as last amended by Laws of Utah 2008, Chapter 382
- 36           **4-39-203**, as last amended by Laws of Utah 2008, Chapter 382
- 37           **12-1-10**, as last amended by Laws of Utah 2008, Chapter 382
- 38           **13-1-2**, as last amended by Laws of Utah 2008, Chapter 382
- 39           **13-1a-9**, as last amended by Laws of Utah 2008, Chapter 382
- 40           **13-14-105**, as last amended by Laws of Utah 2008, Chapter 382
- 41           **13-15-4**, as last amended by Laws of Utah 2008, Chapter 382
- 42           **13-15-4.5**, as last amended by Laws of Utah 2008, Chapter 382
- 43           **13-21-3**, as last amended by Laws of Utah 2008, Chapter 382
- 44           **13-22-6**, as last amended by Laws of Utah 2008, Chapters 177 and 382
- 45           **13-22-8**, as last amended by Laws of Utah 2008, Chapter 382
- 46           **13-22-9**, as last amended by Laws of Utah 2008, Chapter 382
- 47           **13-23-5**, as last amended by Laws of Utah 2008, Chapter 382
- 48           **13-26-3**, as last amended by Laws of Utah 2008, Chapter 382
- 49           **13-32a-111**, as last amended by Laws of Utah 2008, Chapter 382
- 50           **13-34-107**, as last amended by Laws of Utah 2008, Chapter 382
- 51           **13-35-105**, as last amended by Laws of Utah 2008, Chapter 382
- 52           **13-39-201**, as last amended by Laws of Utah 2008, Chapter 382
- 53           **13-42-105**, as last amended by Laws of Utah 2008, Chapter 382
- 54           **13-42-109**, as last amended by Laws of Utah 2008, Chapter 382
- 55           **13-42-111**, as last amended by Laws of Utah 2008, Chapter 382
- 56           **13-42-132**, as last amended by Laws of Utah 2008, Chapter 382
- 57           **15-9-109**, as last amended by Laws of Utah 2008, Chapter 382

- 58           **16-6a-107**, as last amended by Laws of Utah 2008, Chapter 382
- 59           **16-7-11**, as last amended by Laws of Utah 2008, Chapter 382
- 60           **16-10a-122**, as last amended by Laws of Utah 2008, Chapter 382
- 61           **16-12-3**, as last amended by Laws of Utah 2008, Chapter 382
- 62           **16-13-12**, as last amended by Laws of Utah 2008, Chapter 382
- 63           **16-15-105**, as last amended by Laws of Utah 2008, Chapter 382
- 64           **16-15-107**, as last amended by Laws of Utah 2008, Chapter 382
- 65           **16-15-108**, as last amended by Laws of Utah 2008, Chapter 382
- 66           **16-16-208**, as enacted by Laws of Utah 2008, Chapter 363
- 67           **16-17-201**, as enacted by Laws of Utah 2008, Chapter 364
- 68           **19-1-201**, as last amended by Laws of Utah 2008, Chapter 382
- 69           **19-1-403**, as last amended by Laws of Utah 2008, Chapter 382
- 70           **19-2-105.3**, as last amended by Laws of Utah 2008, Chapter 382
- 71           **19-2-109.1**, as last amended by Laws of Utah 2008, Chapter 382
- 72           **19-2-109.5**, as last amended by Laws of Utah 2008, Chapter 382
- 73           **19-3-104**, as last amended by Laws of Utah 2008, Chapter 382
- 74           **19-3-106.4**, as last amended by Laws of Utah 2008, Chapter 382
- 75           **19-3-308**, as last amended by Laws of Utah 2008, Chapter 382
- 76           **19-3-315**, as last amended by Laws of Utah 2008, Chapter 382
- 77           **19-5-120**, as last amended by Laws of Utah 2008, Chapter 382
- 78           **19-5-121**, as last amended by Laws of Utah 2008, Chapter 382
- 79           **19-5-122**, as last amended by Laws of Utah 2008, Chapter 382
- 80           **19-6-408**, as last amended by Laws of Utah 2008, Chapter 382
- 81           **19-6-806**, as last amended by Laws of Utah 2008, Chapter 382
- 82           **19-6-1003**, as last amended by Laws of Utah 2008, Chapter 382
- 83           **19-8-117**, as last amended by Laws of Utah 2008, Chapter 382
- 84           **23-14-18**, as last amended by Laws of Utah 2008, Chapter 382
- 85           **23-16-4**, as last amended by Laws of Utah 2008, Chapter 382

86           **26-1-6**, as last amended by Laws of Utah 2008, Chapter 382  
87           **26-2-22**, as last amended by Laws of Utah 2008, Chapters 3, 137, and 382  
88           **26-21a-205**, as last amended by Laws of Utah 2008, Chapter 382  
89           **31A-3-103**, as last amended by Laws of Utah 2008, Chapter 382  
90           **31A-3-304 (Superseded 07/01/10)**, as last amended by Laws of Utah 2008, Chapter  
91 382  
92           **31A-3-304 (Effective 07/01/10)**, as last amended by Laws of Utah 2008, Chapters 302  
93 and 382  
94           **31A-34-104**, as last amended by Laws of Utah 2008, Chapter 382  
95           **31A-35-301**, as last amended by Laws of Utah 2008, Chapter 382  
96           **31A-35-401**, as last amended by Laws of Utah 2008, Chapter 382  
97           **31A-35-406**, as last amended by Laws of Utah 2008, Chapter 382  
98           **31A-37-202**, as last amended by Laws of Utah 2008, Chapters 302 and 382  
99           **34A-1-106**, as last amended by Laws of Utah 2008, Chapter 382  
100          **34A-7-104**, as last amended by Laws of Utah 2008, Chapter 382  
101          **34A-7-203**, as last amended by Laws of Utah 2008, Chapter 382  
102          **35A-1-106**, as last amended by Laws of Utah 2008, Chapter 382  
103          **36-12-13**, as last amended by Laws of Utah 2008, Chapter 382  
104          **38-1-27**, as last amended by Laws of Utah 2008, Chapter 382  
105          **38-11-201**, as last amended by Laws of Utah 2008, Chapter 382  
106          **38-11-202**, as last amended by Laws of Utah 2008, Chapter 382  
107          **38-11-204**, as last amended by Laws of Utah 2008, Chapter 382  
108          **38-11-206**, as last amended by Laws of Utah 2008, Chapter 382  
109          **38-11-301**, as last amended by Laws of Utah 2008, Chapter 382  
110          **38-11-302**, as last amended by Laws of Utah 2008, Chapter 382  
111          **40-2-401**, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and  
112 amended by Laws of Utah 2008, Chapter 113  
113          **40-2-402**, as last amended by Laws of Utah 2008, Chapter 382 and renumbered and

114 amended by Laws of Utah 2008, Chapter 113  
115 **40-6-14.5**, as last amended by Laws of Utah 2008, Chapter 382  
116 **41-1a-115**, as last amended by Laws of Utah 2008, Chapter 382  
117 **41-1a-116**, as last amended by Laws of Utah 2008, Chapter 382  
118 **41-1a-301**, as last amended by Laws of Utah 2008, Chapter 382  
119 **41-1a-418**, as last amended by Laws of Utah 2008, Chapters 48, 143, 153, 181, 201,  
120 and 382  
121 **41-1a-419**, as last amended by Laws of Utah 2008, Chapter 382  
122 **41-1a-422**, as last amended by Laws of Utah 2008, Chapters 48, 201, and 382  
123 **41-1a-1007**, as last amended by Laws of Utah 2008, Chapter 382  
124 **41-1a-1010**, as last amended by Laws of Utah 2008, Chapter 382  
125 **41-1a-1211**, as last amended by Laws of Utah 2008, Chapters 143 and 382  
126 **41-1a-1212**, as last amended by Laws of Utah 2008, Chapter 382  
127 **41-1a-1221**, as last amended by Laws of Utah 2008, Chapter 382  
128 **41-3-601**, as last amended by Laws of Utah 2008, Chapter 382  
129 **41-3-604**, as last amended by Laws of Utah 2008, Chapter 382  
130 **41-6a-404**, as last amended by Laws of Utah 2008, Chapter 382  
131 **41-6a-518**, as last amended by Laws of Utah 2008, Chapter 382  
132 **41-12a-202**, as last amended by Laws of Utah 2008, Chapter 382  
133 **41-12a-805**, as last amended by Laws of Utah 2008, Chapters 166 and 382  
134 **41-22-33**, as last amended by Laws of Utah 2008, Chapter 94  
135 **41-22-36**, as last amended by Laws of Utah 2008, Chapter 382  
136 **42-2-10**, as last amended by Laws of Utah 2008, Chapter 382  
137 **42-3-2**, as last amended by Laws of Utah 2008, Chapter 382  
138 **42-3-4**, as last amended by Laws of Utah 2008, Chapter 382  
139 **46-1-3**, as last amended by Laws of Utah 2008, Chapter 382  
140 **48-1-42**, as last amended by Laws of Utah 2008, Chapters 364 and 382  
141 **48-2a-206**, as last amended by Laws of Utah 2008, Chapter 382

142           **48-2a-1107**, as last amended by Laws of Utah 2008, Chapter 382  
143           **48-2c-214**, as last amended by Laws of Utah 2008, Chapter 382  
144           **51-9-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
145           **53-1-106**, as last amended by Laws of Utah 2008, Chapters 339 and 382  
146           **53-1-110**, as last amended by Laws of Utah 2008, Chapter 382  
147           **53-2-403**, as last amended by Laws of Utah 2008, Chapters 216, 250, and 382  
148           **53-2-404**, as last amended by Laws of Utah 2008, Chapter 382  
149           **53-3-106**, as last amended by Laws of Utah 2008, Chapters 304 and 382  
150           **53-3-109**, as last amended by Laws of Utah 2008, Chapters 376 and 382  
151           **53-3-303.5**, as last amended by Laws of Utah 2008, Chapter 382  
152           **53-3-506**, as last amended by Laws of Utah 2008, Chapter 382  
153           **53-7-204.2**, as last amended by Laws of Utah 2008, Chapter 382  
154           **53-7-216**, as last amended by Laws of Utah 2008, Chapter 382  
155           **53-7-225.5**, as last amended by Laws of Utah 2008, Chapter 382  
156           **53-7-225.6**, as last amended by Laws of Utah 2008, Chapter 382  
157           **53-7-314**, as last amended by Laws of Utah 2008, Chapter 382  
158           **53-8-204**, as last amended by Laws of Utah 2008, Chapter 382  
159           **53-10-108**, as last amended by Laws of Utah 2008, Chapters 3 and 382  
160           **53A-6-105**, as last amended by Laws of Utah 2008, Chapter 382  
161           **53A-17a-105**, as last amended by Laws of Utah 2008, Chapter 382  
162           **53A-26a-302**, as last amended by Laws of Utah 2008, Chapter 382  
163           **54-5-1.5**, as last amended by Laws of Utah 2008, Chapter 382  
164           **58-1-308**, as last amended by Laws of Utah 2008, Chapter 382  
165           **58-3a-103**, as last amended by Laws of Utah 2008, Chapter 382  
166           **58-3a-302**, as last amended by Laws of Utah 2008, Chapter 382  
167           **58-5a-302**, as last amended by Laws of Utah 2008, Chapter 382  
168           **58-9-302**, as last amended by Laws of Utah 2008, Chapter 382  
169           **58-11a-302**, as last amended by Laws of Utah 2008, Chapter 382

- 170           **58-15-4**, as last amended by Laws of Utah 2008, Chapter 382
- 171           **58-16a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 172           **58-17b-303**, as last amended by Laws of Utah 2008, Chapter 382
- 173           **58-17b-304**, as last amended by Laws of Utah 2008, Chapter 382
- 174           **58-17b-305**, as last amended by Laws of Utah 2008, Chapter 382
- 175           **58-17b-306**, as last amended by Laws of Utah 2008, Chapter 382
- 176           **58-20a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 177           **58-22-103**, as last amended by Laws of Utah 2008, Chapter 382
- 178           **58-22-302**, as last amended by Laws of Utah 2008, Chapters 277 and 382
- 179           **58-26a-302**, as last amended by Laws of Utah 2008, Chapters 265 and 382
- 180           **58-26a-306**, as last amended by Laws of Utah 2008, Chapter 382
- 181           **58-26a-307**, as last amended by Laws of Utah 2008, Chapter 382
- 182           **58-28-302**, as last amended by Laws of Utah 2008, Chapter 382
- 183           **58-31b-302**, as last amended by Laws of Utah 2008, Chapter 382
- 184           **58-31b-304**, as last amended by Laws of Utah 2008, Chapter 382
- 185           **58-31b-305**, as last amended by Laws of Utah 2008, Chapter 382
- 186           **58-37-6**, as last amended by Laws of Utah 2008, Chapters 3 and 382
- 187           **58-39a-5**, as last amended by Laws of Utah 2008, Chapter 382
- 188           **58-40a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 189           **58-41-5**, as last amended by Laws of Utah 2008, Chapter 382
- 190           **58-41-13**, as last amended by Laws of Utah 2008, Chapter 382
- 191           **58-42a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 192           **58-44a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 193           **58-46a-302**, as last amended by Laws of Utah 2008, Chapter 382
- 194           **58-47b-302**, as last amended by Laws of Utah 2008, Chapter 382
- 195           **58-53-103**, as last amended by Laws of Utah 2008, Chapter 382
- 196           **58-53-302**, as last amended by Laws of Utah 2008, Chapter 382
- 197           **58-54-5**, as last amended by Laws of Utah 2008, Chapter 382

198           **58-55-103**, as last amended by Laws of Utah 2008, Chapter 382  
199           **58-55-302**, as last amended by Laws of Utah 2008, Chapters 215 and 382  
200           **58-56-16**, as last amended by Laws of Utah 2008, Chapter 382  
201           **58-57-4**, as last amended by Laws of Utah 2008, Chapter 382  
202           **58-60-115**, as last amended by Laws of Utah 2008, Chapter 382  
203           **58-60-117**, as last amended by Laws of Utah 2008, Chapter 382  
204           **58-60-205**, as last amended by Laws of Utah 2008, Chapter 382  
205           **58-60-305**, as last amended by Laws of Utah 2008, Chapter 382  
206           **58-60-305.5**, as enacted by Laws of Utah 2000, Chapter 159  
207           **58-60-308**, as enacted by Laws of Utah 2001, Chapter 281  
208           **58-60-405**, as last amended by Laws of Utah 2008, Chapter 382  
209           **58-60-407**, as enacted by Laws of Utah 2001, Chapter 281  
210           **58-60-506**, as last amended by Laws of Utah 2008, Chapter 382  
211           **58-61-304**, as last amended by Laws of Utah 2008, Chapter 382  
212           **58-63-302**, as last amended by Laws of Utah 2008, Chapters 246 and 382  
213           **58-64-302**, as last amended by Laws of Utah 2008, Chapters 211 and 382  
214           **58-67-302**, as last amended by Laws of Utah 2008, Chapter 382  
215           **58-68-302**, as last amended by Laws of Utah 2008, Chapter 382  
216           **58-69-302**, as last amended by Laws of Utah 2008, Chapters 269 and 382  
217           **58-70a-302**, as last amended by Laws of Utah 2008, Chapter 382  
218           **58-71-302**, as last amended by Laws of Utah 2008, Chapters 238 and 382  
219           **58-72-302**, as last amended by Laws of Utah 2008, Chapter 382  
220           **58-73-302**, as last amended by Laws of Utah 2008, Chapter 382  
221           **58-74-302**, as last amended by Laws of Utah 2008, Chapter 382  
222           **58-75-302**, as last amended by Laws of Utah 2008, Chapter 382  
223           **58-76-103**, as last amended by Laws of Utah 2008, Chapter 382  
224           **58-76-302**, as last amended by Laws of Utah 2008, Chapter 382  
225           **58-77-302**, as last amended by Laws of Utah 2008, Chapter 382

- 226            **59-1-305**, as last amended by Laws of Utah 2008, Chapter 382
- 227            **59-19-105**, as last amended by Laws of Utah 2008, Chapter 382
- 228            **61-1-18.4**, as last amended by Laws of Utah 2008, Chapter 382
- 229            **61-2-7.1**, as last amended by Laws of Utah 2008, Chapter 382
- 230            **61-2-9**, as last amended by Laws of Utah 2008, Chapter 382
- 231            **61-2b-6**, as last amended by Laws of Utah 2008, Chapters 382 and 387
- 232            **61-2b-18**, as last amended by Laws of Utah 2008, Chapters 382 and 387
- 233            **61-2b-37**, as last amended by Laws of Utah 2008, Chapter 382
- 234            **61-2c-103**, as last amended by Laws of Utah 2008, Chapters 158 and 382
- 235            **61-2c-201**, as last amended by Laws of Utah 2008, Chapter 382
- 236            **61-2c-202**, as last amended by Laws of Utah 2008, Chapters 382 and 387
- 237            **61-2c-205**, as last amended by Laws of Utah 2008, Chapter 382
- 238            **61-2c-206**, as last amended by Laws of Utah 2008, Chapters 382 and 387
- 239            **61-2c-208**, as last amended by Laws of Utah 2008, Chapter 382
- 240            **62A-2-105**, as last amended by Laws of Utah 2008, Chapter 382
- 241            **62A-14-106**, as last amended by Laws of Utah 2008, Chapter 382
- 242            **63A-1-114**, as last amended by Laws of Utah 2008, Chapter 382
- 243            **63A-2-103**, as last amended by Laws of Utah 2008, Chapter 382
- 244            **63A-4-102**, as last amended by Laws of Utah 2008, Chapter 382
- 245            **63A-5-104**, as last amended by Laws of Utah 2008, Second Special Session, Chapter 3
- 246            **63A-5-204**, as last amended by Laws of Utah 2008, Chapter 382
- 247            **63A-8-201**, as last amended by Laws of Utah 2008, Chapters 3 and 382
- 248            **63A-9-401**, as last amended by Laws of Utah 2008, Chapter 382
- 249            **63C-11-308**, as last amended by Laws of Utah 2008, Chapter 382
- 250            **63C-11-315**, as last amended by Laws of Utah 2008, Chapter 382
- 251            **63C-11-318**, as last amended by Laws of Utah 2008, Chapter 382
- 252            **63F-1-103**, as last amended by Laws of Utah 2008, Chapter 382
- 253            **63F-1-301**, as last amended by Laws of Utah 2008, Chapter 382

254           **63F-1-302**, as last amended by Laws of Utah 2008, Chapter 382  
255           **63G-2-203**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
256           **63G-9-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
257           **63J-1-201**, as last amended by Laws of Utah 2008, Chapter 213 and renumbered and  
258 amended by Laws of Utah 2008, Chapter 382  
259           **63J-2-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
260           **63J-3-103**, as last amended by Laws of Utah 2008, Chapters 191, 250 and renumbered  
261 and amended by Laws of Utah 2008, Chapter 382  
262           **63J-4-301**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
263           **63M-1-905**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
264           **63M-1-1104**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
265           **63M-1-2408**, as enacted by Laws of Utah 2008, Chapter 372  
266           **63M-1-2612**, as enacted by Laws of Utah 2008, Chapter 352  
267           **67-1a-2.5**, as last amended by Laws of Utah 2008, Chapter 382  
268           **67-19-5**, as last amended by Laws of Utah 2008, Chapter 382  
269           **67-19-11**, as last amended by Laws of Utah 2008, Chapter 382  
270           **70-3a-203**, as last amended by Laws of Utah 2008, Chapters 258 and 382  
271           **72-6-205**, as last amended by Laws of Utah 2008, Chapter 382  
272           **72-7-507**, as last amended by Laws of Utah 2008, Chapter 382  
273           **72-9-602**, as last amended by Laws of Utah 2008, Chapter 382  
274           **72-10-116**, as last amended by Laws of Utah 2008, Chapters 206 and 382  
275           **72-11-208**, as last amended by Laws of Utah 2008, Chapter 382  
276           **73-2-14**, as last amended by Laws of Utah 2008, Chapters 380, 382, and 399  
277           **73-3b-201**, as last amended by Laws of Utah 2008, Chapter 382  
278           **73-3b-204**, as last amended by Laws of Utah 2008, Chapter 382  
279           **73-3b-302**, as last amended by Laws of Utah 2008, Chapter 382  
280           **73-10c-10**, as last amended by Laws of Utah 2008, Chapter 382  
281           **73-18-4**, as last amended by Laws of Utah 2008, Chapters 94 and 382

- 282           **73-18-7**, as last amended by Laws of Utah 2008, Chapter 382
- 283           **73-18-15.2**, as last amended by Laws of Utah 2008, Chapter 94
- 284           **73-18-25**, as last amended by Laws of Utah 2008, Chapter 382
- 285           **73-28-404**, as last amended by Laws of Utah 2008, Chapter 382
- 286           **76-10-526**, as last amended by Laws of Utah 2008, Chapters 322 and 382
- 287           **76-10-1209**, as last amended by Laws of Utah 2008, Chapter 382
- 288           **77-18-11**, as last amended by Laws of Utah 2008, Chapters 303 and 382
- 289   ENACTS:
- 290           **63J-1-102**, Utah Code Annotated 1953
- 291           **63J-1-216**, Utah Code Annotated 1953
- 292   RENUMBERS AND AMENDS:
- 293           **63J-1-104**, (Renumbered from 63J-1-404, as renumbered and amended by Laws of
- 294   Utah 2008, Chapter 382)
- 295           **63J-1-206**, (Renumbered from 63J-1-301, as renumbered and amended by Laws of
- 296   Utah 2008, Chapter 382)
- 297           **63J-1-207**, (Renumbered from 63J-1-408, as renumbered and amended by Laws of
- 298   Utah 2008, Chapter 382)
- 299           **63J-1-208**, (Renumbered from 63J-1-409, as renumbered and amended by Laws of
- 300   Utah 2008, Chapter 382)
- 301           **63J-1-209**, (Renumbered from 63J-1-406, as renumbered and amended by Laws of
- 302   Utah 2008, Chapter 382)
- 303           **63J-1-210**, (Renumbered from 63J-1-302, as renumbered and amended by Laws of
- 304   Utah 2008, Chapter 382)
- 305           **63J-1-211**, (Renumbered from 63J-1-307, as renumbered and amended by Laws of
- 306   Utah 2008, Chapter 382)
- 307           **63J-1-212**, (Renumbered from 63J-1-308, as renumbered and amended by Laws of
- 308   Utah 2008, Chapter 382)
- 309           **63J-1-213**, (Renumbered from 63J-1-309, as renumbered and amended by Laws of

310 Utah 2008, Chapter 382)  
311           **63J-1-214**, (Renumbered from 63J-1-310, as renumbered and amended by Laws of  
312 Utah 2008, Chapter 382)  
313           **63J-1-215**, (Renumbered from 63J-1-311, as renumbered and amended by Laws of  
314 Utah 2008, Chapter 382)  
315           **63J-1-217**, (Renumbered from 63J-1-405, as renumbered and amended by Laws of  
316 Utah 2008, Chapter 382)  
317           **63J-1-218**, (Renumbered from 63J-1-407, as renumbered and amended by Laws of  
318 Utah 2008, Chapter 382)  
319           **63J-1-312**, (Renumbered from 63J-1-202, as last amended by Laws of Utah 2008,  
320 Second Special Session, Chapter 8)  
321           **63J-1-313**, (Renumbered from 63J-1-203, as last amended by Laws of Utah 2008,  
322 Second Special Session, Chapter 8)  
323           **63J-1-314**, (Renumbered from 63J-1-204, as last amended by Laws of Utah 2008,  
324 Chapter 138 and renumbered and amended by Laws of Utah 2008, Chapter 382)  
325           **63J-1-410**, (Renumbered from 63J-1-306, as renumbered and amended by Laws of  
326 Utah 2008, Chapter 382)  
327           **63J-1-411**, (Renumbered from 63J-1-403, as renumbered and amended by Laws of  
328 Utah 2008, Chapter 382)  
329           **63J-1-504**, (Renumbered from 63J-1-303, as renumbered and amended by Laws of  
330 Utah 2008, Chapter 382)  
331           **63J-1-505**, (Renumbered from 63J-1-304, as renumbered and amended by Laws of  
332 Utah 2008, Chapter 382)  
333           **63J-1-506**, (Renumbered from 63J-1-305, as renumbered and amended by Laws of  
334 Utah 2008, Chapter 382)  
335           **63J-1-601**, (Renumbered from 63J-1-401, as renumbered and amended by Laws of  
336 Utah 2008, Chapter 382)  
337           **63J-1-603**, (Renumbered from 63J-1-402, as renumbered and amended by Laws of

338 Utah 2008, Chapter 382)

339 **63J-1-701**, (Renumbered from 63J-1-501, as renumbered and amended by Laws of  
340 Utah 2008, Chapter 382)

341 **63J-1-702**, (Renumbered from 63J-1-502, as renumbered and amended by Laws of  
342 Utah 2008, Chapter 382)

343 **63J-1-703**, (Renumbered from 63J-1-503, as renumbered and amended by Laws of  
344 Utah 2008, Chapter 382)

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

347 Section 1. Section **3-1-6** is amended to read:

348 **3-1-6. Filing articles of incorporation -- Certificate of incorporation -- Fees --**  
349 **Constructive notice.**

350 (1) The articles of incorporation shall be filed with the Division of Corporations and  
351 Commercial Code, which shall thereupon issue a certificate of incorporation. This certificate  
352 or a certified copy of the same shall be prima facie evidence of the due incorporation of the  
353 association. Upon the issuance of such certificate of incorporation, the corporate existence  
354 begins.

355 (2) The Division of Corporations and Commercial Code shall establish a fee pursuant  
356 to Section [~~63J-1-303~~] 63J-1-504 for filing articles of incorporation with the division, for  
357 securing a certified copy of the articles, for the issuance of a certificate of incorporation, and  
358 for filing amendments to the articles, whether incorporated with or without stock.

359 (3) No person dealing with the association may be charged with constructive notice of  
360 the contents of the articles or amendments thereto by reason of such filing or recording.

361 Section 2. Section **3-1-36** is amended to read:

362 **3-1-36. Articles of merger or consolidation -- Execution, contents, and filing of**  
363 **articles -- Issuance of certificate of merger or consolidation -- Fees.**

364 (1) Upon approval, articles of merger or consolidation shall be signed in duplicate by  
365 each party to the merger or consolidation by its president or a vice president and by its

366 secretary or an assistant secretary and verified by one of the officers of each association and  
367 corporation signing the articles.

368 (2) The articles shall set forth:

369 (a) the plan of merger or consolidation;

370 (b) a statement:

371 (i) of the date of the meeting at which the plan of merger or consolidation was  
372 considered and voted upon;

373 (ii) that a quorum was present at the meeting; and

374 (iii) that notice of the meeting was given to all members and shareholders entitled to  
375 notice;

376 (c) the number of members entitled to vote and the number of shares outstanding  
377 entitled to vote; and

378 (d) the number of members who voted for and against the plan, respectively, and the  
379 number of shares voted for and against the plan, respectively.

380 (3) (a) Duplicate originals of the articles of merger or consolidation shall be delivered  
381 to the Division of Corporations and Commercial Code and the fee established under Section  
382 [~~63J-1-303~~] 63J-1-504 shall be paid.

383 (b) If the Division of Corporations and Commercial Code finds that the articles  
384 conform to law, it shall, after the fees have been paid:

385 (i) endorse on each of the duplicate originals the word "filed" and the month, day, and  
386 year of the filing;

387 (ii) file one of the duplicate originals in its office; and

388 (iii) issue a certificate of merger or consolidation, attach the other duplicate original,  
389 and return the certificate to the surviving or new corporation, or its representative.

390 Section 3. Section **4-2-2** is amended to read:

391 **4-2-2. Functions, powers, and duties of department -- Fees for services --**  
392 **Marketing orders -- Procedure.**

393 (1) The department shall:

- 394 (a) inquire into and promote the interests and products of agriculture and its allied  
395 industries;
- 396 (b) promote methods for increasing the production and facilitating the distribution of  
397 the agricultural products of the state;
- 398 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases  
399 among livestock and the means for their prevention and cure; and  
400 (ii) initiate, implement, and administer plans and programs to prevent the spread of  
401 diseases among livestock;
- 402 (d) encourage experiments designed to determine the best means and methods for the  
403 control of diseases among domestic and wild animals;
- 404 (e) issue marketing orders for any designated agricultural product to:  
405 (i) promote orderly market conditions for any product;  
406 (ii) give the producer a fair return on the producer's investment at the marketplace; and  
407 (iii) only promote and not restrict or restrain the marketing of Utah agricultural  
408 commodities;
- 409 (f) administer and enforce all laws assigned to the department by the Legislature;
- 410 (g) establish standards and grades for agricultural products and fix and collect  
411 reasonable fees for services performed by the department in conjunction with the grading of  
412 agricultural products;
- 413 (h) establish operational standards for any establishment that manufactures, processes,  
414 produces, distributes, stores, sells, or offers for sale any agricultural product;
- 415 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
416 rules necessary for the effective administration of the agricultural laws of the state;
- 417 (j) when necessary, make investigations, subpoena witnesses and records, conduct  
418 hearings, issue orders, and make recommendations concerning all matters related to  
419 agriculture;
- 420 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any  
421 private or public place that may become infested or infected with harmful insects, plant

422 diseases, noxious or poisonous weeds, or other agricultural pests;

423       (ii) establish and enforce quarantines;

424       (iii) issue and enforce orders and rules for the control and eradication of pests,

425 wherever they may exist within the state; and

426       (iv) perform other duties relating to plants and plant products considered advisable

427 and not contrary to law;

428       (l) inspect apiaries for diseases inimical to bees and beekeeping;

429       (m) take charge of any agricultural exhibit within the state, if considered necessary by

430 the department, and award premiums at that exhibit;

431       (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,

432 Conservation Commission Act, and administer and disburse any funds available to assist

433 conservation districts in the state in the conservation of the state's soil and water resources;

434 and

435       (o) perform any additional functions, powers, and duties provided by law.

436       (2) The department, by following the procedures and requirements of Section

437 [~~63J-1-303~~] 63J-1-504, may adopt a schedule of fees assessed for services provided by the

438 department.

439       (3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

440       (i) the department gives notice of the proposed order to the producers and handlers of

441 the affected product;

442       (ii) the commissioner conducts a hearing on the proposed order; and

443       (iii) at least 50% of the registered producers and handlers of the affected products vote

444 in favor of the proposed order.

445       (b) (i) The department may establish boards of control to administer marketing orders

446 and the proceeds derived from any order.

447       (ii) The board of control shall:

448       (A) ensure that all proceeds are placed in an account in the board of control's name in

449 a depository institution; and

450 (B) ensure that the account is annually audited by an accountant approved by the  
451 commissioner.

452 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be  
453 deposited in the General Fund as nonlapsing dedicated credits for the grain grading program.

454 Section 4. Section **4-3-14** is amended to read:

455 **4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not**  
456 **permitted.**

457 (1) As used in this section:

458 (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

459 (b) "Self-owned retail store" means a retail store:

460 (i) of which the producer owns at least 51% of the value of the real property and  
461 tangible personal property used in the operations of the retail store; or

462 (ii) for which the producer has the power to vote at least 51% of any class of voting  
463 shares or ownership interest in the business entity that operates the retail store.

464 (2) Raw milk may be sold if:

465 (a) the producer obtains a permit from the department to produce milk under  
466 Subsection 4-3-8(5);

467 (b) the sale and delivery of the milk is made upon the premises where the milk is  
468 produced, except as provided by Subsection (3);

469 (c) it is sold to consumers for household use and not for resale;

470 (d) it is bottled or packaged under sanitary conditions and in sanitary containers on the  
471 premises where the milk is produced;

472 (e) it is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts  
473 101 and 131 and rules established by the department;

474 (f) it is:

475 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being  
476 drawn from the animal;

477 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the

478 animal; and  
479 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until it is delivered to  
480 the consumer;  
481 (g) the bacterial count of the milk does not exceed 20,000 colony forming units per  
482 milliliter;  
483 (h) the bacterial plate count and the coliform count of the milk meet the bacterial and  
484 coliform enforcement standards for grade A pasteurized milk;  
485 (i) the production of the milk conforms to departmental rules for the production of  
486 grade A milk;  
487 (j) all dairy animals on the premises are:  
488 (i) permanently and individually identifiable; and  
489 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and  
490 (k) any person on the premises performing any work in connection with the  
491 production, bottling, handling, or sale of the milk is free from communicable disease.  
492 (3) A producer may sell raw whole milk at a self-owned retail store, which is properly  
493 staffed, if, in addition to the requirements of Subsection (2), the producer:  
494 (a) transports the milk from the premises where the milk is produced to the self-owned  
495 retail store in a refrigerated truck where the milk is maintained at 41 degrees Fahrenheit or a  
496 lower temperature;  
497 (b) retains ownership of the milk until it is sold to the final consumer, including  
498 transporting the milk from the premises where the milk is produced to the self-owned retail  
499 store without any:  
500 (i) intervening storage;  
501 (ii) change of ownership; or  
502 (iii) loss of physical control;  
503 (c) stores the milk at 41 degrees Fahrenheit or a lower temperature in a display case  
504 equipped with a properly calibrated thermometer at the self-owned retail store;  
505 (d) places a sign above the display case at the self-owned retail store that reads, "Raw

506 Unpasteurized Milk";

507 (e) labels the milk with:

508 (i) a date, no more than nine days after the milk is produced, by which the milk should

509 be sold;

510 (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

511 (iii) handling instructions to preserve quality and avoid contamination or spoilage; and

512 (iv) any other information required by rule;

513 (f) refrains from offering the milk for sale until:

514 (i) each batch of milk is tested for standard plate count and coliform count from an

515 official sample taken at the self-owned retail store and tested by a third party certified by the

516 department; and

517 (ii) the test results meet the minimum standards established for those tests;

518 (g) (i) maintains a database of the milk sales; and

519 (ii) makes the database available to the Department of Health during the self-owned

520 retail store's business hours for purposes of epidemiological investigation;

521 (h) refrains from offering any pasteurized milk at the self-owned retail store;

522 (i) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah

523 Wholesome Food Act, and the rules governing food establishments enacted under Section

524 4-5-9;

525 (j) participates in a hazard analysis critical control point system as established by the

526 United States Food and Drug Administration;

527 (k) conducts monthly tests on a sample taken from a batch of milk for:

528 (i) *Listeria monocytogenes*;

529 (ii) *Salmonella typhimurium*;

530 (iii) *Salmonella dublin*;

531 (iv) *Campylobacter jejuni*; and

532 (v) *E. Coli* 0157:H7; and

533 (l) complies with all applicable rules adopted as authorized by this chapter.

534 (4) The person conducting the tests required by Subsection (3) shall send a copy of the  
535 test results to the department as soon as the test results are available.

536 (5) (a) The department shall adopt rules, as authorized by Section 4-3-2, governing the  
537 sale of raw whole milk at a self-owned retail store.

538 (b) The rules adopted by the department shall include rules regarding:

539 (i) permits;

540 (ii) building and premises requirements;

541 (iii) sanitation and operating requirements, including bulk milk tanks requirements;

542 (iv) additional tests, including a test for pathogens;

543 (v) frequency of inspections, including random cooler checks;

544 (vi) recordkeeping; and

545 (vii) packaging and labeling.

546 (c) (i) The department shall establish a fee for the tests and inspections required by  
547 this section and by rule by following the procedures and requirements of Section [~~63J-1-303~~]  
548 63J-1-504.

549 (ii) Notwithstanding Section [~~63J-1-303~~] 63J-1-504, the department shall retain the  
550 fees as dedicated credits and may only use the fees to administer and enforce this section.

551 (6) (a) The department shall suspend a permit issued under Section 4-3-8 if a producer  
552 violates any provision of this section or any rules adopted as authorized by this section.

553 (b) The department may reissue a permit that has been suspended under Subsection  
554 (6)(a) if the producer has complied with all of the requirements of this section and rules  
555 adopted as authorized by this section.

556 (7) For 2008 and 2009, the Department of Health and the Department of Agriculture  
557 and Food shall report on or before November 30th to the Natural Resources, Agriculture, and  
558 Environment Interim Committee and the Health and Human Services Interim Committee on  
559 any health problems resulting from the sale of raw whole milk at self-owned retail stores.

560 (8) (a) If any subsection of this section or the application of any subsection to any  
561 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,

562 the remainder of the section may not be given effect without the invalid subsection or  
563 application.

564 (b) The provisions of this section may not be severed.

565 Section 5. Section **4-14-3** is amended to read:

566 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**  
567 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

568 (1) (a) No person may distribute a pesticide in this state that is not registered with the  
569 department.

570 (b) Application for registration shall be made to the department upon forms prescribed  
571 and furnished by it accompanied with an annual registration fee determined by the department  
572 pursuant to Subsection 4-2-2(2) for each pesticide registered.

573 (c) Upon receipt by the department of a proper application and payment of the  
574 appropriate fee, the commissioner shall issue a registration to the applicant allowing  
575 distribution of the registered pesticide in this state through June 30 of each year, subject to  
576 suspension or revocation for cause.

577 (d) (i) Each registration is renewable for a period of one year upon the payment of an  
578 annual registration renewal fee in an amount equal to the current applicable original  
579 registration fee.

580 (ii) Each renewal fee shall be paid on or before June 30 of each year.

581 (2) The application shall include the following information:

582 (a) the name and address of the applicant and the name and address of the person  
583 whose name will appear on the label, if other than the applicant's name;

584 (b) the name of the pesticide;

585 (c) a complete copy of the label which will appear on the pesticide; and

586 (d) any information prescribed by rule of the department considered necessary for the  
587 safe and effective use of the pesticide.

588 (3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30  
589 days before their registration expires.

590 (b) A registration in effect on June 30 for which a renewal application has been filed  
591 and the registration fee tendered shall continue in effect until the applicant is notified either  
592 that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.

593 (4) The department may, before approval of any registration, require the applicant to  
594 submit the complete formula of any pesticide including active and inert ingredients and may  
595 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on  
596 which restrictions are being considered, require a complete description of all tests and test  
597 results that support the claims made by the applicant or the manufacturer of the pesticide.

598 (5) A registrant who desires to register a pesticide to meet special local needs  
599 according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and  
600 (2), satisfy the department that:

601 (a) a special local need exists;

602 (b) the pesticide warrants the claims made for it;

603 (c) the pesticide, if used in accordance with commonly accepted practices, will not  
604 cause unreasonable adverse effects on the environment; and

605 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

606 (6) No registration is required for a pesticide distributed in this state pursuant to an  
607 experimental use permit issued by the EPA or under Section 4-14-5.

608 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a  
609 license.

610 (8) A person must receive a license before applying:

611 (a) a restricted use pesticide; or

612 (b) a general use pesticide for hire or in exchange for compensation.

613 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be  
614 obtained by:

615 (i) submitting an application on a form provided by the department;

616 (ii) paying the license fee determined by the department according to Subsection  
617 4-2-2(2); and

618 (iii) complying with the rules adopted as authorized by this chapter.

619 (b) A person may apply for a license that expires on December 31:

620 (i) of the calendar year in which the license is issued; or

621 (ii) of the second calendar year after the calendar year in which the license is issued.

622 (c) (i) Notwithstanding Section [~~63J-1-303~~] 63J-1-504, the department shall retain the  
623 fees as dedicated credits and may only use the fees to administer and enforce this chapter.

624 (ii) The Legislature may annually designate the revenue generated from the fee as  
625 nonlapsing in an appropriations act.

626 Section 6. Section ~~4-14-13~~ is amended to read:

627 **4-14-13. Registration required for a pesticide business.**

628 (1) A pesticide applicator business shall register with the department by:

629 (a) submitting an application on a form provided by the department;

630 (b) paying the registration fee; and

631 (c) certifying that the business is in compliance with this chapter and departmental  
632 rules authorized by this chapter.

633 (2) (a) By following the procedures and requirements of Section [~~63J-1-303~~]  
634 63J-1-504, the department shall establish a registration fee based on the number of pesticide  
635 applicators employed by the pesticide applicator business.

636 (b) (i) Notwithstanding Section [~~63J-1-303~~] 63J-1-504, the department shall retain the  
637 fees as dedicated credits and may only use the fees to administer and enforce this chapter.

638 (ii) The Legislature may annually designate the revenue generated from the fee as  
639 nonlapsing in an appropriations act.

640 (3) (a) The department shall issue a pesticide applicator business a registration  
641 certificate if the pesticide applicator business:

642 (i) has complied with the requirements of this section; and

643 (ii) meets the qualifications established by rule.

644 (b) The department shall notify the pesticide applicator business in writing that the  
645 registration is denied if the pesticide applicator business does not meet the registration

646 qualifications.

647 (4) A registration certificate expires on December 31 of the second calendar year after  
648 the calendar year in which the registration certificate is issued.

649 (5) (a) The department may suspend a registration certificate if the pesticide applicator  
650 business violates this chapter or any rules authorized by it.

651 (b) A pesticide applicator business whose registration certificate has been suspended  
652 may apply to the department for reinstatement of the registration certificate by demonstrating  
653 compliance with this chapter and rules authorized by it.

654 (6) A pesticide applicator business shall:

655 (a) only employ a pesticide applicator who has received a license from the department,  
656 as required by Section 4-14-3; and

657 (b) ensure that all employees comply with this chapter and the rules authorized by it.

658 Section 7. Section **4-37-201** is amended to read:

659 **4-37-201. Certificate of registration required to operate an aquaculture facility.**

660 (1) A person may not operate an aquaculture facility without first obtaining a  
661 certificate of registration from the department.

662 (2) (a) Each application for a certificate of registration to operate an aquaculture  
663 facility shall be accompanied by a fee.

664 (b) The fee shall be established by the department in accordance with Section  
665 [~~63J-1-303~~] 63J-1-504.

666 (3) The department shall coordinate with the Division of Wildlife Resources:

667 (a) on the suitability of the proposed site relative to potential impacts on adjacent  
668 aquatic wildlife populations; and

669 (b) in determining which species the holder of the certificate of registration may  
670 propagate, possess, transport, or sell.

671 (4) The department shall list on the certificate of registration the species which the  
672 holder may propagate, possess, transport, or sell.

673 Section 8. Section **4-37-301** is amended to read:

674 **4-37-301. Certificate of registration required to operate a fee fishing facility.**

675 (1) A person may not operate a fee fishing facility without first obtaining a certificate  
676 of registration from the department.

677 (2) (a) Each application for a certificate of registration to operate a fee fishing facility  
678 shall be accompanied by a fee.

679 (b) The fee shall be established by the department in accordance with Section  
680 [~~63J-1-303~~] 63J-1-504.

681 (3) The department shall coordinate with the Division of Wildlife Resources:

682 (a) on the suitability of the proposed site relative to potential impacts on adjacent  
683 aquatic wildlife populations; and

684 (b) in determining which species the holder of the certificate of registration may  
685 possess or transport to or stock into the facility.

686 (4) The department shall list on the certificate of registration the species which the  
687 holder may possess or transport to or stock into the facility.

688 (5) A person holding a certificate of registration for an aquaculture facility may also  
689 operate a fee fishing facility without obtaining an additional certificate of registration, if the  
690 fee fishing facility:

691 (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected  
692 with the aquaculture facility;

693 (b) contains only those aquatic animals specified on the certificate of registration for  
694 the aquaculture facility; and

695 (c) is designated on the certificate of registration for the aquaculture facility.

696 Section 9. Section **4-39-203** is amended to read:

697 **4-39-203. License required to operate a domesticated elk facility.**

698 (1) A person may not operate a domesticated elk facility without first obtaining a  
699 license from the department.

700 (2) (a) Each application for a license to operate a domesticated elk facility shall be  
701 accompanied by a fee.

702 (b) The fee shall be established by the department in accordance with Section  
703 [~~63J-1-303~~] 63J-1-504.

704 (3) Each applicant for a domesticated elk facility license shall submit an application  
705 providing all information in the form and manner as required by the department.

706 (4) (a) No license shall be issued until the department has inspected and approved the  
707 facility.

708 (b) The department shall:

709 (i) notify the Division of Wildlife Resources at least 48 hours prior to a scheduled  
710 inspection so that a Division of Wildlife Resources representative may be present at the  
711 inspection; and

712 (ii) provide the Division of Wildlife Resources with copies of all licensing and  
713 inspection reports.

714 (5) Each separate location of the domesticated elk operation shall be licensed  
715 separately.

716 (6) (a) If a domesticated elk facility is operated under more than one business name  
717 from a single location, the name of each operation shall be listed with the department in the  
718 form and manner required by the department.

719 (b) The department shall require that a separate fee be paid for each business name  
720 listed.

721 (c) If a domesticated elk facility operates under more than one business name from a  
722 single location, the facility shall maintain separate records.

723 (7) Each person or business entity with an equity interest in the domesticated elk shall  
724 be listed on the application for license.

725 (8) Each domesticated elk facility license shall expire on July 1 in the year following  
726 the year of issuance.

727 (9) Each licensee shall report to the department, in the form and manner required by  
728 the department, any change in the information provided in the licensee's application or in the  
729 reports previously submitted, within 15 days of each change.

730 (10) Licenses issued pursuant to this section are not transferable.

731 Section 10. Section **12-1-10** is amended to read:

732 **12-1-10. Applications -- Fees.**

733 (1) Each application for registration under this chapter shall be made on a form  
734 provided by the Division of Corporations and Commercial Code.

735 (2) Each applicant shall pay to the Division of Corporations and Commercial Code an  
736 application fee determined under Section [~~63J-1-303~~] 63J-1-504.

737 Section 11. Section **13-1-2** is amended to read:

738 **13-1-2. Creation and functions of department -- Divisions created -- Fees.**

739 (1) (a) There is created the Department of Commerce.

740 (b) The department shall execute and administer state laws regulating business  
741 activities and occupations affecting the public interest.

742 (2) Within the department the following divisions are created:

743 (a) the Division of Occupational and Professional Licensing;

744 (b) the Division of Real Estate;

745 (c) the Division of Securities;

746 (d) the Division of Public Utilities;

747 (e) the Division of Consumer Protection; and

748 (f) the Division of Corporations and Commercial Code.

749 (3) (a) Unless otherwise provided by statute, the department may adopt a schedule of  
750 fees assessed for services provided by the department by following the procedures and  
751 requirements of Section [~~63J-1-303~~] 63J-1-504.

752 (b) The department shall submit each fee established in this manner to the Legislature  
753 for its approval as part of the department's annual appropriations request.

754 (c) (i) All fees collected by each division and by the department shall be deposited in a  
755 restricted account within the General Fund known as the Commerce Service Fund.

756 (ii) At the end of each fiscal year, the director of the Division of Finance shall transfer  
757 into the General Fund any fee collections that are greater than the legislative appropriations

758 from the Commerce Service Fund for that year.

759 (d) The department may not charge or collect any fee nor expend monies from this  
760 fund without approval by the Legislature.

761 Section 12. Section **13-1a-9** is amended to read:

762 **13-1a-9. Fees of Division of Corporations and Commercial Code.**

763 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit  
764 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the  
765 Division of Corporations and Commercial Code shall receive and determine fees pursuant to  
766 Section [~~63J-1-303~~] 63J-1-504 for filing articles of incorporation or amendments of insurance  
767 corporations, of canal or irrigation corporations organized for furnishing water to lands owned  
768 by the members thereof exclusively, or of water users' associations organized in conformity  
769 with the requirements of the United States under the Reclamation Act of June 17, 1902, and  
770 which are authorized to furnish water only to their stockholders. No license fee may be  
771 imposed on insurance corporations, canal or irrigation corporations organized for furnishing  
772 water to lands owned by the members thereof exclusively, or water users' associations  
773 organized in conformity with the requirements of the United States under the Reclamation Act  
774 of June 17, 1902, and which are authorized to furnish water only to the stockholders at the  
775 time any such corporation files its articles of incorporation, articles of amendment increasing  
776 the number of authorized shares, or articles of merger or consolidation, any provision of Title  
777 16, Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding.

778 Section 13. Section **13-14-105** is amended to read:

779 **13-14-105. Registration -- Fees.**

780 (1) A franchisee or franchisor doing business in this state shall:

781 (a) annually register or renew its registration with the department in a manner  
782 established by the department; and

783 (b) pay an annual registration fee in an amount determined by the department in  
784 accordance with Sections 13-1-2 and [~~63J-1-303~~] 63J-1-504.

785 (2) The department shall register or renew the registration of a franchisee or franchisor

786 if the franchisee or franchisor complies with this chapter and rules made by the department  
787 under this chapter.

788 (3) A franchisee or franchisor registered under this section shall comply with this  
789 chapter and any rules made by the department under this chapter including any amendments to  
790 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

791 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and  
792 deposited into the Commerce Service Fund.

793 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of  
794 a franchisor does not need to be registered under this section if the franchisor is registered  
795 under this section.

796 Section 14. Section **13-15-4** is amended to read:

797 **13-15-4. Information to be filed by seller -- Representations.**

798 (1) Any seller of an assisted marketing plan shall file the following information with  
799 the division:

800 (a) the name, address, and principal place of business of the seller, and the name,  
801 address, and principal place of business of the parent or holding company of the seller, if any,  
802 who is responsible for statements made by the seller;

803 (b) all trademarks, trade names, service marks, or advertising or other commercial  
804 symbols that identify the products, equipment, supplies, or services to be offered, sold, or  
805 distributed by the prospective purchaser;

806 (c) an individual detailed statement covering the past five years of the business  
807 experience of each of the seller's current directors and executive officers and an individual  
808 statement covering the same period for the seller and the seller's parent company, if any,  
809 including the length of time each:

810 (i) has conducted a business of the type advertised or solicited for operation by a  
811 prospective purchaser;

812 (ii) has offered or sold the assisted marketing plan; and

813 (iii) has offered for sale or sold assisted marketing plans in other lines of business,

814 together with a description of the other lines of business;

815 (d) a statement of the total amount that must be paid by the purchaser to obtain or  
816 commence the business opportunity such as initial fees, deposits, down payments, prepaid  
817 rent, and equipment and inventory purchases; provided, that if all or part of these fees or  
818 deposits are returnable, the conditions under which they are returnable shall also be disclosed;

819 (e) a complete statement of the actual services the seller will perform for the  
820 purchaser;

821 (f) a complete statement of all oral, written, or visual representations that will be made  
822 to prospective purchasers about specific levels of potential sales, income, gross and net profits,  
823 or any other representations that suggest a specific level;

824 (g) a complete description of the type and length of any training promised to  
825 prospective purchasers;

826 (h) a complete description of any services promised to be performed by the seller in  
827 connection with the placement of the equipment, products, or supplies at any location from  
828 which they will be sold or used; and a complete description of those services together with any  
829 agreements that will be made by the seller with the owner or manager of the location where the  
830 purchaser's equipment, products, or supplies will be placed;

831 (i) a statement that discloses any person identified in Subsection (1)(a) who:

832 (i) has been convicted of a felony or misdemeanor or pleaded nolo contendere to a  
833 felony or misdemeanor charge if the felony or misdemeanor involved fraud, embezzlement,  
834 fraudulent conversion, or misappropriation of property;

835 (ii) has been held liable or consented to the entry of a stipulated judgment in any civil  
836 action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property,  
837 or the use of untrue or misleading representations in the sale or attempted sale of any real or  
838 personal property, or upon the use of any unfair, unlawful or deceptive business practice; or

839 (iii) is subject to an injunction or restrictive order relating to business activity as the  
840 result of an action brought by a public agency;

841 (j) a financial statement of the seller signed by one of the seller's officers, directors,

842 trustees, or general or limited partners, under a declaration that certifies that to the signatory's  
843 knowledge and belief the information in the financial statement is true and accurate; a  
844 financial statement that is more than 13 months old is unacceptable;

845 (k) a copy of the entire marketing plan contract;

846 (l) the number of marketing plans sold to date, and the number of plans under  
847 negotiation;

848 (m) geographical information including all states in which the seller's assisted  
849 marketing plans have been sold, and the number of plans in each such state;

850 (n) the total number of marketing plans that were cancelled by the seller in the past 12  
851 months; and

852 (o) the number of marketing plans that were voluntarily terminated by purchasers  
853 within the past 12 months and the total number of such voluntary terminations to date.

854 (2) The seller of an assisted marketing plan filing information under Subsection (1)  
855 shall pay a fee as determined by the department in accordance with Section [~~63J-1-303~~]  
856 63J-1-504.

857 (3) Before commencing business in this state, the seller of an assisted marketing plan  
858 shall file the information required under Subsection (1) and receive from the division proof of  
859 receipt of the filing.

860 (4) A seller of an assisted marketing plan claiming an exemption from filing under this  
861 chapter shall file a notice of claim of exemption from filing with the division. A seller  
862 claiming an exemption from filing bears the burden of proving the exemption. The division  
863 shall collect a fee for filing a notice of claim of exemption, as determined by the department in  
864 accordance with Section [~~63J-1-303~~] 63J-1-504.

865 (5) A representation described in Subsection (1)(f) shall be relevant to the geographic  
866 market in which the business opportunity is to be located. When the statements or  
867 representations are made, a warning after the representation in not less than 12 point upper and  
868 lower case boldface type shall appear as follows:

869 CAUTION

870 No guarantee of earnings or ranges of earnings can be made. The number of purchasers  
871 who have earned through this business an amount in excess of the amount of their initial  
872 payment is at least \_\_\_\_\_ which represents \_\_\_\_\_% of the total number of purchasers of this  
873 business opportunity.

874 Section 15. Section **13-15-4.5** is amended to read:

875 **13-15-4.5. Notice of exemption filing.**

876 (1) (a) Any franchise exempt from this chapter pursuant to Subsection  
877 13-15-2(1)(b)(iii) shall, prior to offering for sale or selling a franchise to be located in this  
878 state or to a resident of this state, file with the division a notice that the franchisor is in  
879 substantial compliance with the requirements of the Federal Trade Commission rule found at  
880 Title 16, Chapter I, Subchapter d, Trade Regulation Rules, Part 436, Disclosure Requirements  
881 and Prohibitions Concerning Franchising and Business Opportunity Ventures, together with a  
882 filing fee determined by the department pursuant to Section [~~63J-1-303~~] 63J-1-504, not to  
883 exceed \$100.

884 (b) The notice shall state:

885 (i) the name of the applicant;

886 (ii) the name of the franchise;

887 (iii) the name under which the applicant intends to or does transact business, if  
888 different than the name of the franchise;

889 (iv) the applicant's principal business address; and

890 (v) the applicant's federal employer identification number.

891 (2) (a) The initial exemption granted under this section is for a period of one year from  
892 the date of filing the notice.

893 (b) The exemption may be renewed each year for an additional one-year period upon  
894 filing a notice for renewal and paying a renewal fee determined pursuant to Section  
895 [~~63J-1-303~~] 63J-1-504, not to exceed \$100.

896 (3) The division may make rules to implement this section.

897 Section 16. Section **13-21-3** is amended to read:

898           **13-21-3. Credit services organizations -- Prohibitions.**

899           (1) A credit services organization, its salespersons, agents, and representatives, and  
900 independent contractors who sell or attempt to sell the services of a credit services  
901 organization may not do any of the following:

902           (a) conduct any business regulated by this chapter without first:

903           (i) securing a certificate of registration from the division; and

904           (ii) unless exempted under Section 13-21-4, posting a bond, letter of credit, or  
905 certificate of deposit with the division in the amount of \$100,000;

906           (b) make a false statement, or fail to state a material fact, in connection with an  
907 application for registration with the division;

908           (c) charge or receive any money or other valuable consideration prior to full and  
909 complete performance of the services the credit services organization has agreed to perform for  
910 the buyer;

911           (d) dispute or challenge, or assist a person in disputing or challenging an entry in a  
912 credit report prepared by a consumer reporting agency without a factual basis for believing  
913 and obtaining a written statement for each entry from the person stating that that person  
914 believes that the entry contains a material error or omission, outdated information, inaccurate  
915 information, or unverifiable information;

916           (e) charge or receive any money or other valuable consideration solely for referral of  
917 the buyer to a retail seller who will or may extend credit to the buyer, if the credit that is or  
918 will be extended to the buyer is upon substantially the same terms as those available to the  
919 general public;

920           (f) make, or counsel or advise any buyer to make, any statement that is untrue or  
921 misleading and that is known, or that by the exercise of reasonable care should be known, to  
922 be untrue or misleading, to a credit reporting agency or to any person who has extended credit  
923 to a buyer or to whom a buyer is applying for an extension of credit, with respect to a buyer's  
924 creditworthiness, credit standing, or credit capacity;

925           (g) make or use any untrue or misleading representations in the offer or sale of the

926 services of a credit services organization or engage, directly or indirectly, in any act, practice,  
927 or course of business that operates or would operate as fraud or deception upon any person in  
928 connection with the offer or sale of the services of a credit services organization; and

929 (h) transact any business as a credit services organization, as defined in Section  
930 13-21-2, without first having registered with the division by paying an annual fee set pursuant  
931 to Section [~~63J-1-303~~] 63J-1-504 and filing proof that it has obtained a bond or letter of credit  
932 as required by Subsection [~~(1)~~] (2).

933 (2) (a) A bond, letter of credit from a Utah depository, or certificate of deposit posted  
934 with the division shall be used to cover the losses of any person arising from a violation of this  
935 chapter by the posting credit services organization. A bond, letter of credit, or certificate of  
936 deposit may also be used to satisfy administrative fines and civil damages arising from any  
937 enforcement action against the posting credit service organization.

938 (b) A bond, letter of credit, or certificate of deposit shall remain in force:

939 (i) until replaced by a bond, letter of credit, or certificate of deposit of identical or  
940 superior coverage; or

941 (ii) for one year after the credit servicing organization notifies the division in writing  
942 that it has ceased all activities regulated by this chapter.

943 Section 17. Section **13-22-6** is amended to read:

944 **13-22-6. Application for registration.**

945 (1) An applicant for registration or renewal of registration as a charitable organization  
946 shall:

947 (a) pay an application fee as determined under Section [~~63J-1-303~~] 63J-1-504; and

948 (b) submit an application on a form approved by the division which shall include:

949 (i) the organization's name, address, telephone number, facsimile number, if any, and  
950 the names and addresses of any organizations or persons controlled by, controlling, or  
951 affiliated with the applicant;

952 (ii) the specific legal nature of the organization, that is, whether it is an individual,  
953 joint venture, partnership, limited liability company, corporation, association, or other entity;

- 954 (iii) the names and residence addresses of the officers and directors of the  
955 organization;
- 956 (iv) the name and address of the registered agent for service of process and a consent  
957 to service of process;
- 958 (v) the purpose of the solicitation and use of the contributions to be solicited;
- 959 (vi) the method by which the solicitation will be conducted and the projected length of  
960 time it is to be conducted;
- 961 (vii) the anticipated expenses of the solicitation, including all commissions, costs of  
962 collection, salaries, and any other items;
- 963 (viii) a statement of what percentage of the contributions collected as a result of the  
964 solicitation are projected to remain available for application to the charitable purposes  
965 declared in the application, including a satisfactory statement of the factual basis for the  
966 projected percentage;
- 967 (ix) a statement of total contributions collected or received by the organization within  
968 the calendar year immediately preceding the date of the application, including a description of  
969 the expenditures made from or the use made of the contributions;
- 970 (x) a copy of any written agreements with any professional fund raiser involved with  
971 the solicitation;
- 972 (xi) disclosure of any injunction, judgment, or administrative order or conviction of  
973 any crime involving moral turpitude with respect to any officer, director, manager, operator, or  
974 principal of the organization;
- 975 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party  
976 regarding the use of proceeds for the solicitation or fundraising;
- 977 (xiii) a statement of whether or not the charity, or its parent foundation, will be using  
978 the services of a professional fund raiser or of a professional fund raising counsel or  
979 consultant;
- 980 (xiv) if either the charity or its parent foundation will be using the services of a  
981 professional fund raiser or a professional fund raising counsel or consultant:

982 (A) a copy of all agreements related to the services; and

983 (B) an acknowledgment that fund raising in the state will not commence until both the  
984 charitable organization, its parent foundation, if any, and the professional fund raiser or  
985 professional fund raising counsel or consultant are registered and in compliance with this  
986 chapter; and

987 (xv) any additional information the division may require by rule.

988 (2) If any information contained in the application for registration becomes incorrect  
989 or incomplete, the applicant or registrant shall, within 30 days after the information becomes  
990 incorrect or incomplete, correct the application or file the complete information required by  
991 the division.

992 (3) In addition to the registration fee, an organization failing to file a registration  
993 application or renewal by the due date or filing an incomplete registration application or  
994 renewal shall pay an additional fee of \$25 for each month or part of a month after the date on  
995 which the registration application or renewal were due to be filed.

996 (4) Notwithstanding Subsection (1), the registration fee for a certified local museum  
997 under Section 9-6-603 is 65% of the registration fee established under Subsection (1).

998 Section 18. Section **13-22-8** is amended to read:

999 **13-22-8. Exemptions.**

1000 (1) Section 13-22-5 does not apply to:

1001 (a) a solicitation that an organization conducts among its own established and bona  
1002 fide membership exclusively through the voluntarily donated efforts of other members or  
1003 officers of the organization;

1004 (b) a bona fide religious, ecclesiastical, or denominational organization if:

1005 (i) the solicitation is made for a church, missionary, religious, or humanitarian  
1006 purpose; and

1007 (ii) the organization is either:

1008 (A) a lawfully organized corporation, institution, society, church, or established  
1009 physical place of worship, at which nonprofit religious services and activities are regularly

1010 conducted and carried on;

1011 (B) a bona fide religious group:

1012 (I) that does not maintain specific places of worship;

1013 (II) that is not subject to federal income tax; and

1014 (III) not required to file an IRS Form 990 under any circumstance; or

1015 (C) a separate group or corporation that is an integral part of an institution that is an

1016 income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) and is not primarily supported

1017 by funds solicited outside its own membership or congregation;

1018 (c) a solicitation by a broadcast media owned or operated by an educational institution

1019 or governmental entity, or any entity organized solely for the support of that broadcast media;

1020 (d) except as provided in Subsection 13-22-21(1), a solicitation for the relief of any

1021 person sustaining a life-threatening illness or injury specified by name at the time of

1022 solicitation if the entire amount collected without any deduction is turned over to the named

1023 person;

1024 (e) a political party authorized to transact its affairs within this state and any candidate

1025 and campaign worker of the party if the content and manner of any solicitation make clear that

1026 the solicitation is for the benefit of the political party or candidate;

1027 (f) a political action committee or group soliciting funds relating to issues or

1028 candidates on the ballot if the committee or group is required to file financial information with

1029 a federal or state election commission;

1030 (g) any school accredited by the state, any accredited institution of higher learning, or

1031 club or parent, teacher, or student organization within and authorized by the school in support

1032 of the operations or extracurricular activities of the school;

1033 (h) a public or higher education foundation established under Title 53A or 53B;

1034 (i) a television station, radio station, or newspaper of general circulation that donates

1035 air time or print space for no consideration as part of a cooperative solicitation effort on behalf

1036 of a charitable organization, whether or not that organization is required to register under this

1037 chapter;

1038 (j) a volunteer fire department, rescue squad, or local civil defense organization whose  
1039 financial oversight is under the control of a local governmental entity;

1040 (k) any governmental unit of any state or the United States; and

1041 (l) any corporation:

1042 (i) established by an act of the United States Congress; and

1043 (ii) that is required by federal law to submit an annual report:

1044 (A) on the activities of the corporation, including an itemized report of all receipts and  
1045 expenditures of the corporation; and

1046 (B) to the United States Secretary of Defense to be:

1047 (I) audited; and

1048 (II) submitted to the United States Congress.

1049 (2) Any organization claiming an exemption under this section bears the burden of  
1050 proving its eligibility for, or the applicability of, the exemption claimed.

1051 (3) Each organization exempt from registration pursuant to this section that makes a  
1052 material change in its legal status, officers, address, or similar changes shall file a report  
1053 informing the division of its current legal status, business address, business phone, officers,  
1054 and primary contact person within 30 days of the change.

1055 (4) The division may by rule:

1056 (a) require organizations exempt from registration pursuant to this section to file a  
1057 notice of claim of exemption;

1058 (b) prescribe the contents of the notice of claim; and

1059 (c) require a filing fee for the notice, as determined under Section [~~63J-1-303~~]

1060 63J-1-504.

1061 Section 19. Section **13-22-9** is amended to read:

1062 **13-22-9. Professional fund raiser's or fund raising counsel's or consultant's**  
1063 **permit.**

1064 (1) It is unlawful for any person or entity to act as a professional fund raiser or  
1065 professional fund raising counsel or consultant, whether or not representing an organization

1066 exempt from registration under Section 13-22-8, without first obtaining a permit from the  
1067 division by complying with all of the following application requirements:

1068 (a) pay an application fee as determined under Section [~~63J-1-303~~] 63J-1-504; and

1069 (b) submit a written application, verified under oath, on a form approved by the  
1070 division that includes:

1071 (i) the applicant's name, address, telephone number, facsimile number, if any;

1072 (ii) the name and address of any organization or person controlled by, controlling, or  
1073 affiliated with the applicant;

1074 (iii) the applicant's business, occupation, or employment for the three-year period  
1075 immediately preceding the date of the application;

1076 (iv) whether it is an individual, joint venture, partnership, limited liability company,  
1077 corporation, association, or other entity;

1078 (v) the names and residence addresses of any officer or director of the applicant;

1079 (vi) the name and address of the registered agent for service of process and a consent  
1080 to service of process;

1081 (vii) if a professional fund raiser:

1082 (A) the purpose of the solicitation and use of the contributions to be solicited;

1083 (B) the method by which the solicitation will be conducted and the projected length of  
1084 time it is to be conducted;

1085 (C) the anticipated expenses of the solicitation, including all commissions, costs of  
1086 collection, salaries, and any other items;

1087 (D) a statement of what percentage of the contributions collected as a result of the  
1088 solicitation are projected to remain available to the charitable organization declared in the  
1089 application, including a satisfactory statement of the factual basis for the projected percentage  
1090 and projected anticipated revenues provided to the charitable organization, and if a flat fee is  
1091 charged, documentation to support the reasonableness of the flat fee; and

1092 (E) a statement of total contributions collected or received by the professional fund  
1093 raiser within the calendar year immediately preceding the date of the application, including a

1094 description of the expenditures made from or the use made of the contributions;

1095 (viii) if a professional fund raising counsel or consultant:

1096 (A) the purpose of the plan, management, advise, counsel or preparation of materials

1097 for, or respect to the solicitation and use of the contributions solicited;

1098 (B) the method by which the plan, management, advise, counsel, or preparation of

1099 materials for, or respect to the solicitation will be organized or coordinated and the projected

1100 length of time of the solicitation;

1101 (C) the anticipated expenses of the plan, management, advise, counsel, or preparation

1102 of materials for, or respect to the solicitation, including all commissions, costs of collection,

1103 salaries, and any other items;

1104 (D) a statement of total fees to be earned or received from the charitable organization

1105 declared in the application, and what percentage of the contributions collected as a result of

1106 the plan, management, advise, counsel, or preparation of materials for, or respect to the

1107 solicitation are projected after deducting the total fees to be earned or received remain

1108 available to the charitable organization declared in the application, including a satisfactory

1109 statement of the factual basis for the projected percentage and projected anticipated revenues

1110 provided to the charitable organization, and if a flat fee is charged, documentation to support

1111 the reasonableness of such flat fee; and

1112 (E) a statement of total net fees earned or received within the calendar year

1113 immediately preceding the date of the application, including a description of the expenditures

1114 made from or the use of the net earned or received fees in the planning, management, advising,

1115 counseling, or preparation of materials for, or respect to the solicitation and use of the

1116 contributions solicited for the charitable organization;

1117 (ix) disclosure of any injunction, judgment, or administrative order against the

1118 applicant or the applicant's conviction of any crime involving moral turpitude;

1119 (x) a copy of any written agreements with any charitable organization;

1120 (xi) the disclosure of any injunction, judgment, or administrative order or conviction

1121 of any crime involving moral turpitude with respect to any officer, director, manager, operator,

1122 or principal of the applicant;

1123 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party  
1124 regarding the use of proceeds;

1125 (xiii) an acknowledgment that fund raising in the state will not commence until both  
1126 the professional fund raiser or professional fund raising counsel or consultant and the charity,  
1127 its parent foundation, if any, are registered and in compliance with this chapter; and

1128 (xiv) any additional information the division may require by rule.

1129 (2) If any information contained in the application for a permit becomes incorrect or  
1130 incomplete, the applicant or registrant shall, within 30 days after the information becomes  
1131 incorrect or incomplete, correct the application or file the complete information required by  
1132 the division.

1133 (3) In addition to the permit fee, an applicant failing to file a permit application or  
1134 renewal by the due date or filing an incomplete permit application or renewal shall pay an  
1135 additional fee of \$25 for each month or part of a month after the date on which the permit  
1136 application or renewal were due to be filed.

1137 Section 20. Section **13-23-5** is amended to read:

1138 **13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required --**  
1139 **Penalties.**

1140 (1) (a) (i) It is unlawful for any health spa facility to operate in this state unless the  
1141 facility is registered with the division.

1142 (ii) Registration is effective for one year. If the health spa facility renews its  
1143 registration, the registration shall be renewed at least 30 days prior to its expiration.

1144 (iii) The division shall provide by rule for the form, content, application process, and  
1145 renewal process of the registration.

1146 (b) Each health spa registering in this state shall designate a registered agent for  
1147 receiving service of process. The registered agent shall be reasonably available from 8 a.m.  
1148 until 5 p.m. during normal working days.

1149 (c) The division shall charge and collect a fee for registration under guidelines

1150 provided in Section [~~63J-1-303~~] 63J-1-504.

1151 (d) If an applicant fails to file a registration application or renewal by the due date, or  
1152 files an incomplete registration application or renewal, the applicant shall pay a fee of \$25 for  
1153 each month or part of a month after the date on which the registration application or renewal  
1154 were due to be filed, in addition to the registration fee described in Subsection (1)(c).

1155 (2) (a) Each health spa shall obtain and maintain:

1156 (i) a performance bond issued by a surety authorized to transact surety business in this  
1157 state;

1158 (ii) an irrevocable letter of credit issued by a financial institution authorized to do  
1159 business in this state; or

1160 (iii) a certificate of deposit.

1161 (b) The bond, letter of credit, or certificate of deposit shall be payable to the division  
1162 for the benefit of any consumer who incurs damages as the result of:

1163 (i) the health spa's violation of this chapter; or

1164 (ii) the health spa's going out of business or relocating and failing to offer an alternate  
1165 location within five miles.

1166 (c) (i) The division may recover from the bond, letter of credit, or certificate of deposit  
1167 the costs of collecting and distributing funds under this section, up to 10% of the face value of  
1168 the bond, letter of credit, or certificate of deposit but only if the consumers have fully  
1169 recovered their damages first.

1170 (ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit  
1171 may not exceed the amount of the bond, letter of credit, or certificate of deposit.

1172 (iii) The health spa shall maintain a bond, letter of credit, or certificate of deposit in  
1173 force for one year after it notifies the division in writing that it has ceased all activities  
1174 regulated by this chapter.

1175 (d) A health spa providing services at more than one location shall comply with the  
1176 requirements of Subsection (2)(a) for each separate location.

1177 (e) The division may impose a fine against a health spa that fails to comply with the

1178 requirements of Subsection (2)(a) of up to \$100 per day that the health spa remains out of  
1179 compliance. All penalties received shall be deposited into the Consumer Protection Education  
1180 and Training Fund created in Section 13-2-8.

1181 (3) (a) The minimum principal amount of the bond, letter of credit, or certificate of  
1182 credit required under Subsection (2) shall be based on the number of unexpired contracts for  
1183 health spa services to which the health spa is a party, in accordance with the following  
1184 schedule:

1185 Principal Amount of	Number of Contracts
1186 Bond, Letter of Credit,	
1187 or Certificate of Deposit	
1188 \$15,000	500 or fewer
1189 35,000	501 to 1,500
1190 50,000	1,500 to 3,000
1191 75,000	3,001 or more

1192 (b) A health spa that is not exempt under Section 13-23-6 shall comply with  
1193 Subsection (3)(a) with respect to all of the health spa's unexpired contracts for health spa  
1194 services, regardless of whether a portion of those contracts satisfy the criteria in Section  
1195 13-23-6.

1196 (4) Each health spa shall obtain the bond, letter of credit, or certificate of deposit and  
1197 furnish a certified copy of the bond, letter of credit, or certificate of deposit to the division  
1198 prior to selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any  
1199 contract to provide health spa services. A health spa is considered to be in compliance with  
1200 this section only if the proof provided to the division shows that the bond, letter of credit, or  
1201 certificate of credit is current.

1202 (5) Each health spa shall:

1203 (a) maintain accurate records of the bond, letter of credit, or certificate of credit and of  
1204 any payments made, due, or to become due to the issuer; and

1205 (b) open the records to inspection by the division at any time during normal business

1206 hours.

1207 (6) If a health spa changes ownership, ceases operation, discontinues facilities, or  
1208 relocates and fails to offer an alternate location within five miles within 30 days after its  
1209 closing, the health spa is subject to the requirements of this section as if it were a new health  
1210 spa coming into being at the time the health spa changed ownership. The former owner may  
1211 not release, cancel, or terminate the owner's liability under any bond, letter of credit, or  
1212 certificate of deposit previously filed with the division, unless:

1213 (a) the new owner has filed a new bond, letter of credit, or certificate of deposit for the  
1214 benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of  
1215 deposit; or

1216 (b) the former owner has refunded all unearned payments to consumers.

1217 (7) If a health spa ceases operation or relocates and fails to offer an alternative location  
1218 within five miles, the health spa shall provide the division with 45 days prior notice.

1219 Section 21. Section **13-26-3** is amended to read:

1220 **13-26-3. Registration and bond required.**

1221 (1) (a) Unless exempt under Section 13-26-4, each telephone soliciting business shall  
1222 register annually with the division before engaging in telephone solicitations if:

1223 (i) the telephone soliciting business engages in telephone solicitations that:

1224 (A) originate in Utah; or

1225 (B) are received in Utah; or

1226 (ii) the telephone soliciting business conducts any business operations in Utah.

1227 (b) The registration form shall designate an agent residing in this state who is  
1228 authorized by the telephone soliciting business to receive service of process in any action  
1229 brought by this state or a resident of this state.

1230 (c) If a telephone soliciting business fails to designate an agent to receive service or  
1231 fails to appoint a successor to the agent:

1232 (i) the business' application for an initial or renewal registration shall be denied; and

1233 (ii) any current registration shall be suspended until an agent is designated.

1234           (2) The division may impose an annual registration fee set pursuant to Section  
1235 [~~63J-1-303~~] 63J-1-504.

1236           (3) (a) Each telephone soliciting business engaging in telephone solicitation or sales in  
1237 this state shall obtain and maintain the following security:

1238           (i) a performance bond issued by a surety authorized to transact surety business in this  
1239 state;

1240           (ii) an irrevocable letter of credit issued by a financial institution authorized to do  
1241 business in this state; or

1242           (iii) a certificate of deposit held in this state in a depository institution regulated by  
1243 the Department of Financial Institutions.

1244           (b) The bond, letter of credit, or certificate of deposit shall be payable to the division  
1245 for the benefit of any consumer who incurs damages as the result of any telephone solicitation  
1246 or sales violation of this chapter.

1247           (c) The division may recover from the bond, letter of credit, or certificate of deposit  
1248 investigative costs, [~~attorneys'~~] attorney fees, and other costs of collecting and distributing  
1249 funds under this section and the costs of promoting consumer education, but only if the  
1250 consumer has first recovered full damages.

1251           (d) A telephone soliciting business shall keep a bond, certificate of deposit, or letter of  
1252 credit in force for one year after it notifies the division in writing that it has ceased all  
1253 activities regulated by this chapter.

1254           (e) The amount to be posted in the form of a bond, irrevocable letter of credit, or  
1255 certificate of deposit shall be:

1256           (i) \$25,000 if:

1257           (A) neither the telephone soliciting business nor any affiliated person has violated this  
1258 chapter within three years preceding the date of the application; and

1259           (B) the telephone soliciting business has fewer than ten employees;

1260           (ii) \$50,000 if:

1261           (A) neither the telephone soliciting business nor any affiliated person has violated this

1262 chapter within three years preceding the date of the application; and

1263 (B) the telephone soliciting business has ten or more employees; or

1264 (iii) \$75,000 if the telephone soliciting business or any affiliated person has violated  
1265 this chapter within three years preceding the date of the application.

1266 (f) For purposes of Subsection (3)(e) an "affiliated person" means a contractor,  
1267 director, employee, officer, owner, or partner of the telephone soliciting business.

1268 (4) The division may establish by rule the registration requirements for telephone  
1269 soliciting businesses under the terms of Title 63G, Chapter 3, Utah Administrative  
1270 Rulemaking Act. An administrative proceeding conducted by the division under this chapter  
1271 shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act.

1272 (5) The division director may revoke a registration under this section for any violation  
1273 of this chapter.

1274 Section 22. Section **13-32a-111** is amended to read:

1275 **13-32a-111. Fees to fund training and central database.**

1276 (1) On and after January 1, 2005, each pawnshop or secondhand merchandise dealer  
1277 in operation shall annually pay \$250 to the division, to be deposited in the account.

1278 (2) On and after January 1, 2005, each law enforcement agency that participates in the  
1279 use of the database shall annually pay to the division a fee of \$2 per sworn law enforcement  
1280 officer who is employed by the agency as of January 1 of that year. The fee shall be deposited  
1281 in the account.

1282 (3) The fees under Subsections (1) and (2) shall be paid to the account annually on or  
1283 before January 30.

1284 (4) (a) If a law enforcement agency outside Utah requests access to the central  
1285 database, the requesting agency shall pay a yearly fee of \$750 for the fiscal year beginning  
1286 July 1, 2006, which shall be deposited in the account.

1287 (b) The board may establish the fee amount for fiscal years beginning on and after July  
1288 1, 2007 under Section [~~63J-1-303~~] 63J-1-504.

1289 Section 23. Section **13-34-107** is amended to read:

1290           **13-34-107. Advertising, recruiting, or operating a proprietary school -- Required**  
1291 **registration statement or exemption -- Certificate of registration -- Registration does not**  
1292 **constitute endorsement.**

1293           (1) (a) Unless an institution complies with Subsection (1)(b), the institution may not  
1294 do any of the following in this state:

- 1295           (i) advertise a proprietary school;
- 1296           (ii) recruit students for a proprietary school; or
- 1297           (iii) operate a proprietary school.

1298           (b) An institution may not engage in an activity described in Subsection (1)(a) unless  
1299 the institution:

1300           (i) (A) files with the division a registration statement relating to the proprietary school  
1301 that is in compliance with:

- 1302           (I) applicable rules made by the division; and
- 1303           (II) the requirements set forth in this chapter; and
- 1304           (B) obtains a certificate of registration; or
- 1305           (ii) establishes an exemption with the division.

1306           (2) (a) The registration statement or exemption described in Subsection (1) shall be:

1307           (i) verified by the oath or affirmation of the owner or a responsible officer of the  
1308 proprietary school filing the registration statement or exemption; and

1309           (ii) include a certification as to whether any of the following has violated laws, federal  
1310 regulations, or state rules as determined in a criminal, civil, or administrative proceeding:

- 1311           (A) the proprietary school; or
- 1312           (B) any of the following with respect to the proprietary school:
  - 1313           (I) an owner;
  - 1314           (II) an officer;
  - 1315           (III) a director;
  - 1316           (IV) an administrator;
  - 1317           (V) a faculty member;

- 1318 (VI) a staff member; or  
1319 (VII) an agent.
- 1320 (b) The proprietary school shall:  
1321 (i) make available, upon request, a copy of the registration statement, showing the date  
1322 upon which it was filed; and  
1323 (ii) display the certificate of registration obtained from the division in a conspicuous  
1324 place on the proprietary school's premises.
- 1325 (3) (a) A registration statement and the accompanying certificate of registration are not  
1326 transferable.
- 1327 (b) In the event of a change in ownership or in the governing body of the proprietary  
1328 school, the new owner or governing body, within 30 days after the change, shall file a new  
1329 registration statement.
- 1330 (4) Except as provided in Subsection (3)(b), a registration statement or a renewal  
1331 statement and the accompanying certificate of registration are effective for a period of two  
1332 years after the date of filing and issuance.
- 1333 (5) (a) The division shall establish a graduated fee structure for the filing of  
1334 registration statements by various classifications of institutions pursuant to Section  
1335 ~~[63J-1-303]~~ 63J-1-504.
- 1336 (b) Fees are not refundable.
- 1337 (c) Fees shall be deposited in the Commerce Service Fund pursuant to Section 13-1-2.
- 1338 (6) (a) Each proprietary school shall:  
1339 (i) demonstrate fiscal responsibility at the time the proprietary school files its  
1340 registration statement as prescribed by rules of the division; and  
1341 (ii) provide evidence to the division that the proprietary school:  
1342 (A) is financially sound; and  
1343 (B) can reasonably fulfill commitments to and obligations the proprietary school has  
1344 incurred with students and creditors.
- 1345 (b) A proprietary school applying for an initial certificate of registration to operate

1346 shall prepare and submit financial statements and supporting documentation as requested by  
1347 the division.

1348 (c) A proprietary school applying for renewal of a certificate of registration to operate  
1349 or renewal under new ownership must provide audited financial statements.

1350 (d) The division may require evidence of financial status at other times when it is in  
1351 the best interest of students to require such information.

1352 (7) (a) A proprietary school applying for an initial certificate of registration or seeking  
1353 renewal shall provide in a form approved by the division:

1354 (i) a surety bond;

1355 (ii) a certificate of deposit; or

1356 (iii) an irrevocable letter of credit.

1357 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1358 the division may make rules providing for:

1359 (i) the amount of the bond, certificate, or letter of credit required under Subsection  
1360 (7)(a), not to exceed in amount the anticipated tuition and fees to be received by the  
1361 proprietary school during a school year;

1362 (ii) the execution of the bond, certificate, or letter of credit;

1363 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the  
1364 registration term; and

1365 (iv) any other matters related to providing the bond, certificate, or letter of credit  
1366 required under Subsection (7)(a).

1367 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of  
1368 advanced tuition, book fees, supply fees, or equipment fees:

1369 (i) collected by the proprietary school from a student or a student's parent, guardian, or  
1370 sponsor prior to the completion of the program or courses for which it was collected; or

1371 (ii) for which the student is liable.

1372 (8) (a) Except as provided in Section 13-34-113, the division may not refuse  
1373 acceptance of a registration statement that is:

- 1374 (i) tendered for filing and, based on a preliminary review, appears to be in compliance  
1375 with Subsections (1), (2), and (6); and
- 1376 (ii) accompanied by:
- 1377 (A) the required fee; and
- 1378 (B) one of the following required by Subsection (7):
- 1379 (I) surety bond;
- 1380 (II) certificate of deposit; or
- 1381 (III) irrevocable letter of credit.
- 1382 (b) A certificate of registration is effective upon the date of issuance.
- 1383 (c) The responsibility of compliance is upon the proprietary school and not upon the  
1384 division.
- 1385 (d) (i) If it appears to the division that a registration statement on file may not be in  
1386 compliance with this chapter, the division may advise the proprietary school as to the apparent  
1387 deficiencies.
- 1388 (ii) After a proprietary school has been notified of a deficiency under Subsection  
1389 (8)(d)(i), a new or amended statement may be presented for filing by the proprietary school,  
1390 accompanied by:
- 1391 (A) the required fee; and
- 1392 (B) one of the following required by Subsection (7):
- 1393 (I) surety bond;
- 1394 (II) certificate of deposit; or
- 1395 (III) irrevocable letter of credit.
- 1396 (9) The following does not constitute and may not be represented by any person to  
1397 constitute, an endorsement or approval of the proprietary school by either the division or the  
1398 state:
- 1399 (a) an acceptance of:
- 1400 (i) a registration statement;
- 1401 (ii) a renewal statement; or

1402 (iii) an amended registration statement; and

1403 (b) issuance of a certificate of registration.

1404 Section 24. Section **13-35-105** is amended to read:

1405 **13-35-105. Registration -- Fees.**

1406 (1) A franchisee or franchisor doing business in this state shall:

1407 (a) annually register or renew its registration with the department in a manner  
1408 established by the department; and

1409 (b) pay an annual registration fee in an amount determined by the department in  
1410 accordance with Sections 13-1-2 and [~~63J-1-303~~] 63J-1-504.

1411 (2) The department shall register or renew the registration of a franchisee or franchisor  
1412 if the franchisee or franchisor complies with this chapter and rules made by the department  
1413 under this chapter.

1414 (3) A franchisee or franchisor registered under this section shall comply with this  
1415 chapter and any rules made by the department under this chapter including any amendments to  
1416 this chapter or the rules made after a franchisee or franchisor enter into a franchise agreement.

1417 (4) The fee imposed under Subsection (1)(b) shall be collected by the department and  
1418 deposited into the Commerce Service Fund.

1419 (5) Notwithstanding Subsection (1), an agent, officer, or field or area representative of  
1420 a franchisor does not need to be registered under this section if the franchisor is registered  
1421 under this section.

1422 Section 25. Section **13-39-201** is amended to read:

1423 **13-39-201. Establishment of child protection registry.**

1424 (1) The division shall:

1425 (a) establish and operate a child protection registry to compile and secure a list of  
1426 contact points the division has received pursuant to this section; or

1427 (b) contract with a third party to establish and secure the registry described in  
1428 Subsection (1)(a).

1429 (2) (a) The division shall implement the registry described in this section with respect

1430 to email addresses beginning on July 1, 2005.

1431 (b) The division shall implement the registry described in this section with respect to  
1432 instant message identities.

1433 (c) The division shall implement the registry described in this section with respect to  
1434 mobile or other telephone numbers.

1435 (3) (a) A person may register a contact point with the division pursuant to rules  
1436 established by the division under Subsection 13-39-203(1) if:

1437 (i) the contact point belongs to a minor;

1438 (ii) a minor has access to the contact point; or

1439 (iii) the contact point is used in a household in which a minor is present.

1440 (b) A school or other institution that primarily serves minors may register its domain  
1441 name with the division pursuant to rules made by the division under Subsection 13-39-203(1).

1442 (c) The division shall provide a disclosure in a confirmation message sent to a person  
1443 who registers a contact point under this section that reads: "No solution is completely secure.  
1444 The most effective way to protect children on the Internet is to supervise use and review all  
1445 email messages and other correspondence. Under law, theft of a contact point from the Child  
1446 Protection Registry is a second degree felony. While every attempt will be made to secure the  
1447 Child Protection Registry, registrants and their guardians should be aware that their contact  
1448 points may be at a greater risk of being misappropriated by marketers who choose to disobey  
1449 the law."

1450 (4) A person desiring to send a communication described in Subsection 13-39-202(1)  
1451 to a contact point or domain shall:

1452 (a) use a mechanism established by rule made by the division under Subsection  
1453 13-39-203(2); and

1454 (b) pay a fee for use of the mechanism described in Subsection (4)(a) determined by  
1455 the division in accordance with Section [~~63J-1-303~~] 63J-1-504.

1456 (5) The division may implement a program to offer discounted compliance fees to  
1457 senders who meet enhanced security conditions established and verified by the division, the

1458 third party registry provider, or a designee.

1459 (6) The contents of the registry, and any complaint filed about a sender who violates  
1460 this chapter, are not subject to public disclosure under Title 63G, Chapter 2, Government  
1461 Records Access and Management Act.

1462 (7) The state shall promote the registry on the state's official Internet website.

1463 Section 26. Section **13-42-105** is amended to read:

1464 **13-42-105. Application for registration -- Form, fee, and accompanying**  
1465 **documents.**

1466 (1) An application for registration as a provider must be in a form prescribed by the  
1467 administrator.

1468 (2) Subject to adjustment of dollar amounts pursuant to Subsection 13-42-132(6), an  
1469 application for registration as a provider must be accompanied by:

1470 (a) the fee established by the administrator in accordance with Section [~~63J-1-303~~]  
1471 63J-1-504;

1472 (b) the bond required by Section 13-42-113;

1473 (c) identification of all trust accounts required by Section 13-42-122 and an  
1474 irrevocable consent authorizing the administrator to review and examine the trust accounts;

1475 (d) evidence of insurance in the amount of \$250,000:

1476 (i) against the risks of dishonesty, fraud, theft, and other misconduct on the part of the  
1477 applicant or a director, employee, or agent of the applicant;

1478 (ii) issued by an insurance company authorized to do business in this state and rated at  
1479 least A by a nationally recognized rating organization;

1480 (iii) with no deductible;

1481 (iv) payable to the applicant, the individuals who have agreements with the applicant,  
1482 and this state, as their interests may appear; and

1483 (v) not subject to cancellation by the applicant without the approval of the  
1484 administrator;

1485 (e) a record consenting to the jurisdiction of this state containing:

1486 (i) the name, business address, and other contact information of its registered agent in  
1487 this state for purposes of service of process; or

1488 (ii) the appointment of the administrator as agent of the provider for purposes of  
1489 service of process; and

1490 (f) if the applicant is organized as a not-for-profit entity or is exempt from taxation,  
1491 evidence of not-for-profit and tax-exempt status applicable to the applicant under the Internal  
1492 Revenue Code, 26 U.S.C. Section 501.

1493 Section 27. Section **13-42-109** is amended to read:

1494 **13-42-109. Certification of registration -- Issuance or denial.**

1495 (1) Except as otherwise provided in Subsections (2) and (3), the administrator shall  
1496 issue a certificate of registration as a provider to a person that complies with Sections  
1497 13-42-105 and 13-42-106.

1498 (2) The administrator may deny registration if:

1499 (a) the application contains information that is materially erroneous or incomplete;

1500 (b) an officer, director, or owner of the applicant has been convicted of a crime, or  
1501 suffered a civil judgment, involving dishonesty or the violation of state or federal securities  
1502 laws;

1503 (c) the applicant or any of its officers, directors, or owners has defaulted in the  
1504 payment of money collected for others; or

1505 (d) the administrator finds that the financial responsibility, experience, character, or  
1506 general fitness of the applicant or its owners, directors, employees, or agents does not warrant  
1507 belief that the business will be operated in compliance with this chapter.

1508 (3) The administrator shall deny registration if:

1509 (a) the application is not accompanied by the fee established by the administrator in  
1510 accordance with Section [~~63J-1-303~~] 63J-1-504; or

1511 (b) with respect to an applicant that is organized as a not-for-profit entity or has  
1512 obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. Section 501, the  
1513 applicant's board of directors is not independent of the applicant's employees and agents.

1514 (4) Subject to adjustment of the dollar amount pursuant to Subsection 13-42-132(6), a  
1515 board of directors is not independent for purposes of Subsection (3) if more than one-fourth of  
1516 its members:

1517 (a) are affiliates of the applicant, as defined in Subsection 13-42-102(2)(a) or  
1518 13-42-102(2)(b)(i), (ii), (iv), (v), (vi), or (vii); or

1519 (b) after the date ten years before first becoming a director of the applicant, were  
1520 employed by or directors of a person that received from the applicant more than \$25,000 in  
1521 either the current year or the preceding year.

1522 Section 28. Section **13-42-111** is amended to read:

1523 **13-42-111. Renewal of registration.**

1524 (1) A provider must obtain a renewal of its registration annually.

1525 (2) An application for renewal of registration as a provider must be in a form  
1526 prescribed by the administrator, signed under penalty of perjury, and:

1527 (a) be filed no fewer than 30 and no more than 60 days before the registration expires;

1528 (b) be accompanied by the fee established by the administrator in accordance with  
1529 Section [~~63J-1-303~~] 63J-1-504 and the bond required by Section 13-42-113;

1530 (c) contain the matter required for initial registration as a provider by Subsections  
1531 13-42-106(8) and (9) and a financial statement, audited by an accountant licensed to conduct  
1532 audits, for the applicant's fiscal year immediately preceding the application;

1533 (d) disclose any changes in the information contained in the applicant's application for  
1534 registration or its immediately previous application for renewal, as applicable;

1535 (e) supply evidence of insurance in an amount equal to the larger of \$250,000 or the  
1536 highest daily balance in the trust account required by Section 13-42-122 during the six-month  
1537 period immediately preceding the application:

1538 (i) against risks of dishonesty, fraud, theft, and other misconduct on the part of the  
1539 applicant or a director, employee, or agent of the applicant;

1540 (ii) issued by an insurance company authorized to do business in this state and rated at  
1541 least A by a nationally recognized rating organization;

1542 (iii) with no deductible;

1543 (iv) payable to the applicant, the individuals who have agreements with the applicant,  
1544 and this state, as their interests may appear; and

1545 (v) not subject to cancellation by the applicant without the approval of the  
1546 administrator;

1547 (f) disclose the total amount of money received by the applicant pursuant to plans  
1548 during the preceding 12 months from or on behalf of individuals who reside in this state and  
1549 the total amount of money distributed to creditors of those individuals during that period;

1550 (g) disclose, to the best of the applicant's knowledge, the gross amount of money  
1551 accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals  
1552 who reside in this state and with whom the applicant has agreements; and

1553 (h) provide any other information that the administrator reasonably requires to perform  
1554 the administrator's duties under this section.

1555 (3) Except for the information required by Subsections 13-42-106(7), (14), and (17)  
1556 and the addresses required by Subsection 13-42-106(4), the administrator shall make the  
1557 information in an application for renewal of registration as a provider available to the public.

1558 (4) If a registered provider files a timely and complete application for renewal of  
1559 registration, the registration remains effective until the administrator, in a record, notifies the  
1560 applicant of a denial and states the reasons for the denial.

1561 (5) If the administrator denies an application for renewal of registration as a provider,  
1562 the applicant, within 30 days after receiving notice of the denial, may appeal and request a  
1563 hearing pursuant to Title 63G, Chapter 4, Administrative Procedures Act. Subject to Section  
1564 13-42-134, while the appeal is pending the applicant shall continue to provide  
1565 debt-management services to individuals with whom it has agreements. If the denial is  
1566 affirmed, subject to the administrator's order and Section 13-42-134, the applicant shall  
1567 continue to provide debt-management services to individuals with whom it has agreements  
1568 until, with the approval of the administrator, it transfers the agreements to another registered  
1569 provider or returns to the individuals all unexpended money that is under the applicant's

1570 control.

1571 Section 29. Section **13-42-132** is amended to read:

1572 **13-42-132. Powers of administrator.**

1573 (1) The administrator may act on its own initiative or in response to complaints and  
1574 may receive complaints, take action to obtain voluntary compliance with this chapter, refer  
1575 cases to the attorney general, and seek or provide remedies as provided in this chapter.

1576 (2) The administrator may investigate and examine, in this state or elsewhere, by  
1577 subpoena or otherwise, the activities, books, accounts, and records of a person that provides or  
1578 offers to provide debt-management services, or a person to which a provider has delegated its  
1579 obligations under an agreement or this chapter, to determine compliance with this chapter.  
1580 Information that identifies individuals who have agreements with the provider shall not be  
1581 disclosed to the public. In connection with the investigation, the administrator may:

1582 (a) charge the person the reasonable expenses necessarily incurred to conduct the  
1583 examination;

1584 (b) require or permit a person to file a statement under oath as to all the facts and  
1585 circumstances of a matter to be investigated; and

1586 (c) seek a court order authorizing seizure from a bank at which the person maintains a  
1587 trust account required by Section 13-42-122, any or all money, books, records, accounts, and  
1588 other property of the provider that is in the control of the bank and relates to individuals who  
1589 reside in this state.

1590 (3) The administrator may adopt rules to implement the provisions of this chapter in  
1591 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1592 (4) The administrator may enter into cooperative arrangements with any other federal  
1593 or state agency having authority over providers and may exchange with any of those agencies  
1594 information about a provider, including information obtained during an examination of the  
1595 provider.

1596 (5) The administrator shall establish fees in accordance with Section [~~63J-1-303~~]  
1597 63J-1-504 to be paid by providers for the expense of administering this chapter.

1598           (6) The administrator, by rule, shall adopt dollar amounts instead of those specified in  
1599 Sections 13-42-102, 13-42-105, 13-42-109, 13-42-113, 13-42-123, 13-42-133, and 13-42-135  
1600 to reflect inflation, as measured by the United States Bureau of Labor Statistics Consumer  
1601 Price Index for All Urban Consumers or, if that index is not available, another index adopted  
1602 by rule by the administrator. The administrator shall adopt a base year and adjust the dollar  
1603 amounts, effective on July 1 of each year, if the change in the index from the base year, as of  
1604 December 31 of the preceding year, is at least 10%. The dollar amount must be rounded to the  
1605 nearest \$100, except that the amounts in Section 13-42-123 must be rounded to the nearest  
1606 dollar.

1607           (7) The administrator shall notify registered providers of any change in dollar amounts  
1608 made pursuant to Subsection (6) and make that information available to the public.

1609           Section 30. Section **15-9-109** is amended to read:

1610           **15-9-109. Registration and renewal fees.**

1611           (1) An application for registration or renewal of registration must be accompanied by a  
1612 fee in an amount determined by the division in accordance with Section [~~63J-1-303~~]  
1613 63J-1-504.

1614           (2) The division shall establish fees for:

1615           (a) an initial application for registration;

1616           (b) an application for registration based upon a certificate of registration or licensure  
1617 issued by another state;

1618           (c) an application for renewal of registration; and

1619           (d) an application for renewal of registration based upon an application for renewal of  
1620 registration or licensure submitted in another state.

1621           Section 31. Section **16-6a-107** is amended to read:

1622           **16-6a-107. Fees.**

1623           (1) Unless otherwise provided by statute, the division shall charge and collect a fee for  
1624 services established by the division in accordance with Section [~~63J-1-303~~] 63J-1-504  
1625 including fees:

1626 (a) for furnishing a certified copy of any document, instrument, or paper relating to a  
1627 domestic or foreign nonprofit corporation; and

1628 (b) for the certificate and affixing the seal to a certified copy described in Subsection  
1629 (1)(a).

1630 (2) (a) The division shall provide expedited, 24-hour processing of any item under this  
1631 section upon request.

1632 (b) The division shall charge and collect additional fees established by the division in  
1633 accordance with Section [~~63J-1-303~~] 63J-1-504 for expedited service provided under  
1634 Subsection (2)(a).

1635 (3) (a) The division shall charge and collect a fee determined by the division in  
1636 accordance with Section [~~63J-1-303~~] 63J-1-504 at the time of any service of process on the  
1637 director of the division as resident agent of a domestic or foreign nonprofit corporation.

1638 (b) The fee paid under Subsection (3)(a) may be recovered as taxable costs by the  
1639 party to the suit or action causing the service to be made if the party prevails in the suit or  
1640 action.

1641 Section 32. Section **16-7-11** is amended to read:

1642 **16-7-11. Fees for filing documents and issuing certificates.**

1643 The division shall charge and collect a fee determined by it pursuant to Section  
1644 [~~63J-1-303~~] 63J-1-504 for:

1645 (1) filing articles of incorporation of a corporation sole and issuing a certificate of  
1646 incorporation;

1647 (2) filing articles of amendment and issuing a certificate of amendment;

1648 (3) issuing each additional certificate of incorporation or amendment;

1649 (4) filing a certificate of authorized agent and issuing the agent's certificate;

1650 (5) filing a revocation of authority;

1651 (6) furnishing a certified copy of any document, instrument, or paper relating to a  
1652 corporation sole and affixing its seal;

1653 (7) issuing a certificate of dissolution; and

1654 (8) issuing a certificate of merger or consolidation.

1655 Section 33. Section **16-10a-122** is amended to read:

1656 **16-10a-122. Fees.**

1657 Unless otherwise provided by statute, the division shall charge and collect fees for  
1658 services as provided in Section [~~63J-1-303~~] 63J-1-504.

1659 Section 34. Section **16-12-3** is amended to read:

1660 **16-12-3. Declaration of trust -- Filing fee.**

1661 An original and one copy of the declaration of trust of a real estate investment trust  
1662 shall be delivered to the Division of Corporations and Commercial Code, and the division  
1663 shall endorse on the original and one copy the word "filed." The Division of Corporations and  
1664 Commercial Code shall file the original in the division's office, and shall return the copy to the  
1665 trustees or their representatives. The Division of Corporations and Commercial Code may  
1666 charge a fee pursuant to Section [~~63J-1-303~~] 63J-1-504 for the filing.

1667 Section 35. Section **16-13-12** is amended to read:

1668 **16-13-12. Licensing, supervision, and examination by commissioner of financial**  
1669 **institutions -- Fees.**

1670 A development corporation shall be licensed, supervised, and examined by the  
1671 commissioner of financial institutions and shall make such report of its condition from time to  
1672 time as the commissioner shall require. A development corporation shall pay a fee determined  
1673 by the commissioner pursuant to Section [~~63J-1-303~~] 63J-1-504 for a license and for each  
1674 examination.

1675 Section 36. Section **16-15-105** is amended to read:

1676 **16-15-105. Filing of certificate -- Fees.**

1677 (1) A business trust is registered when two copies of the certificate of registration are  
1678 filed with the division. The documents to be filed shall be true copies made by photographic,  
1679 xerographic, electronic, or other process that provides similar copy accuracy of a document  
1680 that has been properly executed.

1681 (2) The division shall endorse the original and one copy of a certificate of registration

1682 and:

1683 (a) file the original in the division office; and

1684 (b) return the copy to the trustee or the trustee's representative.

1685 (3) The division may charge a fee in accordance with Section [~~63J-1-303~~] 63J-1-504

1686 for the filing.

1687 Section 37. Section **16-15-107** is amended to read:

1688 **16-15-107. Expiration of filing -- Notice.**

1689 (1) A filing under this chapter shall be effective for a period of three years from the  
1690 date of filing plus the notice period provided in Subsection (2).

1691 (2) (a) If no new filing is made by or on behalf of the trust who made the original  
1692 filing within three years of the date of filing, the division shall send a notice by regular mail,  
1693 postage prepaid, to the address shown for the registered office in the filing indicating that it  
1694 will expire 30 days after the division mailed the notice.

1695 (b) If no new filing is made within 30 days after the date of the division mailing the  
1696 notice, the business trust's registration expires.

1697 (3) If the registration of a business trust has expired or has been canceled for failure to  
1698 maintain a registered agent, the business trust may not conduct business in this state until it  
1699 has newly registered with the division under this chapter.

1700 (4) The division may charge a fee in accordance with Section [~~63J-1-303~~] 63J-1-504  
1701 for the renewal of a registration.

1702 Section 38. Section **16-15-108** is amended to read:

1703 **16-15-108. When amendments are required.**

1704 (1) An amended certificate shall be filed with the division not later than 30 days after  
1705 any change in:

1706 (a) any person acting as a trustee of the trust, or the address of any trustee;

1707 (b) the registered agent of the trust;

1708 (c) the registered office of the business trust; or

1709 (d) in any information required to be filed with the division under this chapter.

1710 (2) The amended certificate shall be signed by each trustee of the business trust and  
1711 filed in the same manner as a certificate of registration under Section 16-15-105.

1712 (3) The division may charge a fee in accordance with Section [~~63J-1-303~~] 63J-1-504  
1713 for amending a certificate of registration.

1714 Section 39. Section **16-16-208** is amended to read:

1715 **16-16-208. Filing fees.**

1716 The filing fee for records filed under this part by the division shall be established by  
1717 the division in accordance with Section [~~63J-1-303~~] 63J-1-504.

1718 Section 40. Section **16-17-201** is amended to read:

1719 **16-17-201. Fees.**

1720 Unless otherwise provided by statute, the division shall charge and collect fees for  
1721 services as provided in Section [~~63J-1-303~~] 63J-1-504.

1722 Section 41. Section **19-1-201** is amended to read:

1723 **19-1-201. Powers of department.**

1724 (1) The department shall:

1725 (a) enter into cooperative agreements with the Department of Health to delineate  
1726 specific responsibilities to assure that assessment and management of risk to human health  
1727 from the environment are properly administered;

1728 (b) consult with the Department of Health and enter into cooperative agreements, as  
1729 needed, to ensure efficient use of resources and effective response to potential health and  
1730 safety threats from the environment, and to prevent gaps in protection from potential risks  
1731 from the environment to specific individuals or population groups; and

1732 (c) coordinate implementation of environmental programs to maximize efficient use of  
1733 resources by developing, with local health departments, a Comprehensive Environmental  
1734 Service Delivery Plan that:

1735 (i) recognizes that the department and local health departments are the foundation for  
1736 providing environmental health programs in the state;

1737 (ii) delineates the responsibilities of the department and each local health department

1738 for the efficient delivery of environmental programs using federal, state, and local authorities,  
1739 responsibilities, and resources;

1740 (iii) provides for the delegation of authority and pass through of funding to local  
1741 health departments for environmental programs, to the extent allowed by applicable law,  
1742 identified in the plan, and requested by the local health department; and

1743 (iv) is reviewed and updated annually.

1744 (2) The department may:

1745 (a) investigate matters affecting the environment;

1746 (b) investigate and control matters affecting the public health when caused by  
1747 environmental hazards;

1748 (c) prepare, publish, and disseminate information to inform the public concerning  
1749 issues involving environmental quality;

1750 (d) establish and operate programs, as authorized by this title, necessary for protection  
1751 of the environment and public health from environmental hazards;

1752 (e) use local health departments in the delivery of environmental health programs to  
1753 the extent provided by law;

1754 (f) enter into contracts with local health departments or others to meet responsibilities  
1755 established under this title;

1756 (g) acquire real and personal property by purchase, gift, devise, and other lawful  
1757 means;

1758 (h) prepare and submit to the governor a proposed budget to be included in the budget  
1759 submitted by the governor to the Legislature;

1760 (i) (i) establish a schedule of fees that may be assessed for actions and services of the  
1761 department according to the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504;  
1762 and

1763 (ii) in accordance with Section [~~63J-1-303~~] 63J-1-504, all fees shall be reasonable,  
1764 fair, and reflect the cost of services provided;

1765 (j) prescribe by rule reasonable requirements not inconsistent with law relating to

1766 environmental quality for local health departments;

1767 (k) perform the administrative functions of the boards established by Section  
1768 19-1-106, including the acceptance and administration of grants from the federal government  
1769 and from other sources, public or private, to carry out the board's functions; and

1770 (l) upon the request of any board or the executive secretary, provide professional,  
1771 technical, and clerical staff and field and laboratory services, the extent of which are limited  
1772 by the funds available to the department for the staff and services.

1773 Section 42. Section **19-1-403** is amended to read:

1774 **19-1-403. Clean Fuels and Vehicle Technology Fund -- Contents -- Loans or**  
1775 **grants made with fund monies.**

1776 (1) (a) There is created a revolving fund known as the Clean Fuels and Vehicle  
1777 Technology Fund.

1778 (b) The fund consists of:

1779 (i) appropriations to the fund;

1780 (ii) other public and private contributions made under Subsection (1)(d);

1781 (iii) interest earnings on cash balances; and

1782 (iv) all monies collected for loan repayments and interest on loans.

1783 (c) All money appropriated to the fund is nonlapsing.

1784 (d) The department may accept contributions from other public and private sources for  
1785 deposit into the fund.

1786 (2) (a) Except as provided in Subsection (3), the department may make a loan or a  
1787 grant with monies available in the fund for:

1788 (i) the conversion of a private sector business vehicle or a government vehicle to use a  
1789 clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a);

1790 (ii) the purchase of:

1791 (A) an OEM vehicle for use as a private sector business vehicle or government  
1792 vehicle; or

1793 (B) a vehicle, certified by the Air Quality Board under Subsection 19-1-405(1)(d), for

1794 use as a private sector business vehicle or government vehicle;

1795           (iii) the retrofit, certified by the Air Quality Board under Subsection 19-1-405(1)(d),

1796 of a private sector business vehicle or government vehicle;

1797           (iv) a fuel system, certified by the Air Quality Board under Subsection 19-1-405(1)(d),

1798 for a private sector business vehicle or government vehicle; or

1799           (v) a state match of a federal or nonfederal grant for any item under this Subsection

1800 (2)(a).

1801           (b) The amount of a loan for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A)

1802 may not exceed:

1803           (i) the actual cost of the vehicle conversion;

1804           (ii) the incremental cost of purchasing the OEM vehicle; or

1805           (iii) the cost of purchasing the OEM vehicle if there is no documented incremental

1806 cost.

1807           (c) The amount of a grant for any vehicle under Subsection (2)(a)(i) or (2)(a)(ii)(A)

1808 may not exceed:

1809           (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit

1810 claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant is requested;

1811 or

1812           (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of

1813 any tax credit claimed under Section 59-7-605 or 59-10-1009 for the vehicle for which a grant

1814 is requested.

1815           (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in

1816 the fund, the department may make a loan for the purchase of vehicle refueling equipment for

1817 a private sector business vehicle or a government vehicle.

1818           (ii) The maximum amount loaned per installation of refueling equipment may not

1819 exceed the actual cost of the refueling equipment.

1820           (iii) Except as provided in Subsection (3) and subject to the availability of monies in

1821 the fund, the department may make a grant for a state match of a federal or nonfederal grant

1822 for the purchase of vehicle refueling equipment for a private sector business vehicle or a  
1823 government vehicle.

1824 (3) The department may not make a loan or grant under this part for an electric-hybrid  
1825 vehicle.

1826 (4) The department may:

1827 (a) reimburse itself for the costs incurred in administering the fund from:

1828 (i) the fund; or

1829 (ii) application fees; and

1830 (b) establish an application fee for a loan or grant from the fund by following the  
1831 procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.

1832 (5) (a) The fund balance may not exceed \$10,000,000.

1833 (b) Interest on cash balances and repayment of loans in excess of the amount necessary  
1834 to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

1835 (6) (a) Loans made from monies in the fund shall be supported by loan documents  
1836 evidencing the intent of the borrower to repay the loan.

1837 (b) The original loan documents shall be filed with the Division of Finance and a copy  
1838 shall be filed with the department.

1839 Section 43. Section **19-2-105.3** is amended to read:

1840 **19-2-105.3. Clean fuel requirements for fleets.**

1841 (1) As used in this section:

1842 (a) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.

1843 (b) "Clean fuel" means:

1844 (i) propane, compressed natural gas, or electricity;

1845 (ii) other fuel the Air Quality Board created in Title 19, Chapter 2, Air Conservation  
1846 Act, determines annually on or before July 1 is at least as effective as fuels under Subsection

1847 (1)(b)(i) in reducing air pollution; and

1848 (iii) other fuel that meets the clean fuel vehicle standards in the 1990 Clean Air Act.

1849 (c) "Fleet" means ten or more vehicles:

- 1850 (i) owned or operated by a single entity as defined by board rule; and  
1851 (ii) capable of being fueled or that are fueled at a central location.  
1852 (d) "Fleet" does not include motor vehicles that are:  
1853 (i) held for lease or rental to the general public;  
1854 (ii) held for sale or used as demonstration vehicles by motor vehicle dealers;  
1855 (iii) used by motor vehicle manufacturers for product evaluations or tests;  
1856 (iv) authorized emergency vehicles as defined in Section 41-6a-102;  
1857 (v) registered under Title 41, Chapter 1a, Part 2, Registration, as farm vehicles;  
1858 (vi) special mobile equipment as defined in Section 41-1a-102;  
1859 (vii) heavy duty trucks with a gross vehicle weight rating of more than 26,000 pounds;  
1860 (viii) regularly used by employees to drive to and from work, parked at the employees'  
1861 personal residences when they are not at their employment, and not practicably fueled at a  
1862 central location;  
1863 (ix) owned, operated, or leased by public transit districts; or  
1864 (x) exempted by board rule.  
1865 (2) (a) After evaluation of reasonably available pollution control strategies, and as part  
1866 of the state implementation plan demonstrating attainment of the national ambient air quality  
1867 standards, the board may by rule, subject to Subsection (2)(c), require fleets in specified  
1868 geographical areas to use clean fuels if the board determines fleet use of clean fuels is:  
1869 (i) necessary to demonstrate attainment of the national ambient air quality standards in  
1870 any area where they are required; and  
1871 (ii) reasonably cost effective when compared to other similarly beneficial control  
1872 strategies for demonstrating attainment of the national ambient air quality standards.  
1873 (b) State implementation plans developed prior to July 1, 1995, may require fleets to  
1874 use clean fuels no earlier than July 1, 1995, unless the board determines fleet use of clean fuels  
1875 is necessary prior to July 1, 1995, to demonstrate attainment of the national ambient air quality  
1876 standards in any area by an attainment date established by federal law.  
1877 (c) The board may not require more than 50% of those trucks in a fleet that are heavy

1878 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than  
1879 26,000 pounds to convert to clean fuels under Subsection (2)(b).

1880 (3) (a) After evaluation of reasonably available pollution control strategies, and as part  
1881 of a state implementation plan demonstrating only maintenance of the national ambient air  
1882 quality standards, the board may by rule, subject to Subsection (3)(b), require fleets in  
1883 specified geographical areas to use clean fuels if the board determines fleet use of clean fuels  
1884 is:

1885 (i) necessary to demonstrate maintenance of the national ambient air quality standards  
1886 in any area where they are required; and

1887 (ii) reasonably cost effective as compared with other similarly beneficial control  
1888 strategies for demonstrating maintenance of the national ambient air quality standards.

1889 (b) Under Subsection (3)(a) the board may require no more than:

1890 (i) 30% of a fleet to use clean fuels before January 1, 1998;

1891 (ii) 50% of a fleet to use clean fuels before January 1, 1999; and

1892 (iii) 70% of a fleet to use clean fuels before January 1, 2000.

1893 (c) The board may not require more than 50% of those trucks in a fleet that are heavy  
1894 duty trucks having a gross vehicle weight rating of more than 8,500 pounds and not more than  
1895 26,000 pounds to convert to clean fuels under Subsection (3)(b).

1896 (4) Rules the board makes under this section may include:

1897 (a) dates by which fleets are required to convert to clean fuels under the provisions of  
1898 this section;

1899 (b) definitions of fleet owners or operators;

1900 (c) definitions of vehicles exempted from this section by rule;

1901 (d) certification requirements for persons who install clean fuel conversion equipment,  
1902 including testing and certification standards regarding installers; and

1903 (e) certification fees for installers, established under Section [~~63J-1-303~~] 63J-1-504.

1904 (5) Implementation of this section and rules made under this section are subject to the  
1905 reasonable availability of clean fuel in the local market as determined by the board.

1906 Section 44. Section **19-2-109.1** is amended to read:  
1907 **19-2-109.1. Operating permit required -- Emissions fee -- Implementation.**  
1908 (1) As used in this section and Sections 19-2-109.2 and 19-2-109.3:  
1909 (a) "EPA" means the federal Environmental Protection Agency.  
1910 (b) "1990 Clean Air Act" means the federal Clean Air Act as amended in 1990.  
1911 (c) "Operating permit" means a permit issued by the executive secretary to sources of  
1912 air pollution that meet the requirements of Titles IV and V of the 1990 Clean Air Act.  
1913 (d) "Program" means the air pollution operating permit program established under this  
1914 section to comply with Title V of the 1990 Clean Air Act.  
1915 (e) "Regulated pollutant" has the same meaning as defined in Title V of the 1990  
1916 Clean Air Act and implementing federal regulations.  
1917 (2) (a) A person may not operate any source of air pollution required to have a permit  
1918 under Title V of the 1990 Clean Air Act without having obtained an operating permit from the  
1919 executive secretary under procedures the board establishes by rule.  
1920 (b) A person is not required to submit an operating permit application until the  
1921 governor has submitted an operating permit program to the EPA.  
1922 (c) Any operating permit issued under this section may not become effective until the  
1923 day after the EPA issues approval of the permit program or November 15, 1995, whichever  
1924 occurs first.  
1925 (3) (a) Operating permits issued under this section shall be for a period of five years  
1926 unless the board makes a written finding, after public comment and hearing, and based on  
1927 substantial evidence in the record, that an operating permit term of less than five years is  
1928 necessary to protect the public health and the environment of the state.  
1929 (b) The executive secretary may issue, modify, or renew an operating permit only after  
1930 providing public notice, an opportunity for public comment, and an opportunity for a public  
1931 hearing.  
1932 (c) The executive secretary shall, in conformity with the 1990 Clean Air Act and  
1933 implementing federal regulations, revise the conditions of issued operating permits to

1934 incorporate applicable federal regulations in conformity with Section 502(b)(9) of the 1990  
1935 Clean Air Act, if the remaining period of the permit is three or more years.

1936 (d) The executive secretary may terminate, modify, revoke, or reissue an operating  
1937 permit for cause.

1938 (4) (a) The board shall establish a proposed annual emissions fee that conforms with  
1939 Title V of the 1990 Clean Air Act for each ton of regulated pollutant, applicable to all sources  
1940 required to obtain a permit. The emissions fee established under this section is in addition to  
1941 fees assessed under Section 19-2-108 for issuance of an approval order.

1942 (b) In establishing the fee the board shall comply with the provisions of Section  
1943 [~~63J-1-303~~] 63J-1-504 that require a public hearing and require the established fee to be  
1944 submitted to the Legislature for its approval as part of the department's annual appropriations  
1945 request.

1946 (c) The fee shall cover all reasonable direct and indirect costs required to develop and  
1947 administer the program and the small business assistance program established under Section  
1948 19-2-109.2. The board shall prepare an annual report of the emissions fees collected and the  
1949 costs covered by those fees under this Subsection (4).

1950 (d) The fee shall be established uniformly for all sources required to obtain an  
1951 operating permit under the program and for all regulated pollutants.

1952 (e) The fee may not be assessed for emissions of any regulated pollutant if the  
1953 emissions are already accounted for within the emissions of another regulated pollutant.

1954 (f) An emissions fee may not be assessed for any amount of a regulated pollutant  
1955 emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

1956 (5) Emissions fees for the period:

1957 (a) of July 1, 1992, through June 30, 1993, shall be based on the most recent  
1958 emissions inventory prepared by the executive secretary; and

1959 (b) on and after July 1, 1993, but prior to issuance of an operating permit, shall be  
1960 based on the most recent emissions inventory, unless a source elects prior to July 1, 1992, to  
1961 base the fee on allowable emissions, if applicable for a regulated pollutant.

1962           (6) After an operating permit is issued the emissions fee shall be based on actual  
1963 emissions for a regulated pollutant unless a source elects, prior to the issuance or renewal of a  
1964 permit, to base the fee during the period of the permit on allowable emissions for that  
1965 regulated pollutant.

1966           (7) If the owner or operator of a source subject to this section fails to timely pay an  
1967 annual emissions fee, the executive secretary may:

1968           (a) impose a penalty of not more than 50% of the fee, in addition to the fee, plus  
1969 interest on the fee computed at 12% annually; or

1970           (b) revoke the operating permit.

1971           (8) The owner or operator of a source subject to this section may contest an emissions  
1972 fee assessment or associated penalty in an adjudicative hearing under the Title 63G, Chapter 4,  
1973 Administrative Procedures Act, as provided in this Subsection (8).

1974           (a) The owner or operator must pay the fee under protest prior to being entitled to a  
1975 hearing. Payment of an emissions fee or penalty under protest is not a waiver of the right to  
1976 contest the fee or penalty under this section.

1977           (b) A request for a hearing under this Subsection (8) shall be made after payment of  
1978 the emissions fee and within six months after the emissions fee was due.

1979           (9) To reinstate an operating permit revoked under Subsection (7) the owner or  
1980 operator shall pay all outstanding emissions fees, a penalty of not more than 50% of all  
1981 outstanding fees, and interest on the outstanding emissions fees computed at 12% annually.

1982           (10) All emissions fees and penalties collected by the department under this section  
1983 shall be deposited in the General Fund as the Air Pollution Operating Permit Program  
1984 dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred  
1985 by the department in developing and administering the program and the small business  
1986 assistance program under Section 19-2-109.2.

1987           (11) Failure of the executive secretary to act on any operating permit application or  
1988 renewal is a final administrative action only for the purpose of obtaining judicial review by  
1989 any of the following persons to require the executive secretary to take action on the permit or

1990 its renewal without additional delay:

1991 (a) the applicant;

1992 (b) any person who participated in the public comment process; or

1993 (c) any other person who could obtain judicial review of that action under applicable

1994 law.

1995 Section 45. Section **19-2-109.5** is amended to read:

1996 **19-2-109.5. Private sector air quality permitting professionals certification**

1997 **program.**

1998 (1) As used in this section, "AQPP" means an air quality permitting professional.

1999 (2) The board may establish a program to certify private sector AQPPs, including  
2000 consultants and employees of companies that may seek air quality permits from the division.

2001 Any program established under this section shall include:

2002 (a) a training program established and operated by the department, which describes  
2003 and explains the state law and rules regarding the air quality permit application and approval  
2004 procedure under this chapter;

2005 (b) the requirement to pass an exam to measure qualifications of AQPP applicants;

2006 (c) an option for certification of an AQPP by passing the exam without undergoing  
2007 any training required under the program;

2008 (d) an application process, including a fee established under Section [~~63J-1-303~~]  
2009 63J-1-504 that covers the costs of the training, testing, and application process and the  
2010 department's maintenance of a list of certified AQPPs;

2011 (e) certification of qualified AQPP applicants;

2012 (f) maintenance by the department of a current list of certified AQPPs, which is  
2013 available to the public;

2014 (g) procedures for the expedited review by the department of air quality permit  
2015 applications submitted by certified AQPPs; and

2016 (h) professional standards for AQPPs.

2017 (3) The board may not require AQPP certification as a condition of preparing or

2018 submitting a notice of intent or operating permit application under this chapter.

2019 (4) Any program under this section shall provide for revocation of any certification  
2020 issued under this section if the department determines, through an administrative hearing  
2021 conducted under Title 63G, Chapter 4, Administrative Procedures Act, that the AQPP:

2022 (a) knowingly or negligently submitted false information or data as part of an air  
2023 quality permit application;

2024 (b) prepared more than three air quality permit applications in one calendar year in a  
2025 manner that each did not substantially comply with department application requirements; or

2026 (c) prepared any air quality permit application in violation of the professional  
2027 standards defined by department rule.

2028 Section 46. Section **19-3-104** is amended to read:

2029 **19-3-104. Registration and licensing of radiation sources by department --**  
2030 **Assessment of fees -- Rulemaking authority and procedure -- Siting criteria.**

2031 (1) As used in this section:

2032 (a) "Decommissioning" includes financial assurance.

2033 (b) "Source material" and "byproduct material" have the same definitions as in 42  
2034 U.S.C.A. 2014, Atomic Energy Act of 1954, as amended.

2035 (2) The board may require the registration or licensing of radiation sources that  
2036 constitute a significant health hazard.

2037 (3) All sources of ionizing radiation, including ionizing radiation producing machines,  
2038 shall be registered or licensed by the department.

2039 (4) The board may make rules:

2040 (a) necessary for controlling exposure to sources of radiation that constitute a  
2041 significant health hazard;

2042 (b) to meet the requirements of federal law relating to radiation control to ensure the  
2043 radiation control program under this part is qualified to maintain primacy from the federal  
2044 government;

2045 (c) to establish:

2046 (i) board accreditation requirements and procedures for mammography facilities; and

2047 (ii) certification procedure and qualifications for persons who survey mammography

2048 equipment and oversee quality assurance practices at mammography facilities; and

2049 (d) as necessary regarding the possession, use, transfer, or delivery of source and

2050 byproduct material and the disposal of byproduct material to establish requirements for:

2051 (i) the licensing, operation, decontamination, and decommissioning, including

2052 financial assurances; and

2053 (ii) the reclamation of sites, structures, and equipment used in conjunction with the

2054 activities described in this Subsection (4).

2055 (5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and

2056 byproduct material and the disposal of byproduct material at uranium mills or commercial

2057 waste facilities, as provided in this Subsection (5).

2058 (b) On and after January 1, 2003 through March 30, 2003:

2059 (i) \$6,667 per month for uranium mills or commercial sites disposing of or

2060 reprocessing byproduct material; and

2061 (ii) \$4,167 per month for those uranium mills the executive secretary has determined

2062 are on standby status.

2063 (c) On and after March 31, 2003 through June 30, 2003 the same fees as in Subsection

2064 (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an

2065 amendment for agreement state status for uranium recovery regulation on or before March 30,

2066 2003.

2067 (d) If the Nuclear Regulatory Commission does not grant the amendment for state

2068 agreement status on or before March 30, 2003, fees under Subsection (5)(e) do not apply and

2069 are not required to be paid until on and after the later date of:

2070 (i) October 1, 2003; or

2071 (ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for

2072 agreement state status for uranium recovery regulation.

2073 (e) For the payment periods beginning on and after July 1, 2003, the department shall

2074 establish the fees required under Subsection (5)(a) under Section [~~63J-1-303~~] 63J-1-504,  
2075 subject to the restrictions under Subsection (5)(d).

2076 (f) The department shall deposit fees it receives under this Subsection (5) into the  
2077 Environmental Quality Restricted Account created in Section 19-1-108.

2078 (6) (a) The department shall assess fees for registration, licensing, and inspection of  
2079 radiation sources under this section.

2080 (b) The department shall comply with the requirements of Section [~~63J-1-303~~]  
2081 63J-1-504 in assessing fees for licensure and registration.

2082 (7) The department shall coordinate its activities with the Department of Health rules  
2083 made under Section 26-21a-203.

2084 (8) (a) Except as provided in Subsection (9), the board may not adopt rules, for the  
2085 purpose of the state assuming responsibilities from the United States Nuclear Regulatory  
2086 Commission with respect to regulation of sources of ionizing radiation, that are more stringent  
2087 than the corresponding federal regulations which address the same circumstances.

2088 (b) In adopting those rules, the board may incorporate corresponding federal  
2089 regulations by reference.

2090 (9) (a) The board may adopt rules more stringent than corresponding federal  
2091 regulations for the purpose described in Subsection (8) only if it makes a written finding after  
2092 public comment and hearing and based on evidence in the record that corresponding federal  
2093 regulations are not adequate to protect public health and the environment of the state.

2094 (b) Those findings shall be accompanied by an opinion referring to and evaluating the  
2095 public health and environmental information and studies contained in the record which form  
2096 the basis for the board's conclusion.

2097 (10) (a) The board shall by rule:

2098 (i) authorize independent qualified experts to conduct inspections required under this  
2099 chapter of x-ray facilities registered with the division; and

2100 (ii) establish qualifications and certification procedures necessary for independent  
2101 experts to conduct these inspections.

2102 (b) Independent experts under this Subsection (10) are not considered employees or  
2103 representatives of the division or the state when conducting the inspections.

2104 (11) (a) The board may by rule establish criteria for siting commercial low-level  
2105 radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section  
2106 19-3-103.7.

2107 (b) Subject to Subsection 19-3-105(10), any facility under Subsection (11)(a) for  
2108 which a radioactive material license is required by this section shall comply with those criteria.

2109 (c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive  
2110 material license until siting criteria have been established by the board. The criteria also apply  
2111 to facilities that have applied for but not received a radioactive material license.

2112 (12) The board shall by rule establish financial assurance requirements for closure  
2113 and postclosure care of radioactive waste land disposal facilities, taking into account existing  
2114 financial assurance requirements.

2115 Section 47. Section **19-3-106.4** is amended to read:

2116 **19-3-106.4. Generator site access permits.**

2117 (1) A generator or broker may not transfer radioactive waste to a commercial  
2118 radioactive waste treatment or disposal facility in the state without first obtaining a generator  
2119 site access permit from the executive secretary.

2120 (2) The board may make rules pursuant to Section 19-3-104 governing a generator site  
2121 access permit program.

2122 (3) (a) Except as provided in Subsection (3)(b), the department shall establish fees for  
2123 generator site access permits in accordance with Section [~~63J-1-303~~] 63J-1-504.

2124 (b) On and after July 1, 2001 through June 30, 2002, the fees are:

2125 (i) \$1,300 for generators transferring 1,000 or more cubic feet of radioactive waste per  
2126 year;

2127 (ii) \$500 for generators transferring less than 1,000 cubic feet of radioactive waste per  
2128 year; and

2129 (iii) \$5,000 for brokers.

2130 (c) The department shall deposit fees received under this section into the  
2131 Environmental Quality Restricted Account created in Section 19-1-108.

2132 (4) This section does not apply to a generator or broker transferring radioactive waste  
2133 to a uranium mill licensed under 10 C.F.R. Part 40, Domestic Licensing of Source Material.

2134 Section 48. Section **19-3-308** is amended to read:

2135 **19-3-308. Application fee and annual fees.**

2136 (1) (a) Any application for a waste transfer, storage, decay in storage, treatment, or  
2137 disposal facility shall be accompanied by an initial fee of \$5,000,000.

2138 (b) The applicant shall subsequently pay an additional fee to cover the costs to the  
2139 state associated with review of the application, including costs to the state and the state's  
2140 contractors for permitting, technical, administrative, legal, safety, and emergency response  
2141 reviews, planning, training, infrastructure, and other impact analyses, studies, and services  
2142 required to evaluate a proposed facility.

2143 (2) For the purpose of funding the state oversight and inspection of any waste transfer,  
2144 storage, decay in storage, treatment, or disposal facility, and to establish state infrastructure,  
2145 including, but not limited to providing for state Department of Environmental Quality, state  
2146 Department of Transportation, state Department of Public Safety, and other state agencies'  
2147 technical, administrative, legal, infrastructure, maintenance, training, safety, socio-economic,  
2148 law enforcement, and emergency resources necessary to respond to these facilities, the owner  
2149 or operator shall pay to the state a fee as established by department rule under Section  
2150 [~~63J-1-303~~] 63J-1-504, to be assessed:

2151 (a) per ton of storage cask and high level nuclear waste per year for storage, decay in  
2152 storage, treatment, or disposal of high level nuclear waste;

2153 (b) per ton of transportation cask and high level nuclear waste for each transfer of high  
2154 level nuclear waste;

2155 (c) per ton of storage cask and greater than class C radioactive waste for the storage,  
2156 decay in storage, treatment, or disposal of greater than class C radioactive waste; and

2157 (d) per ton of transportation cask and greater than class C radioactive waste for each

2158 transfer of greater than class C radioactive waste.

2159 (3) Funds collected under Subsection (2) shall be placed in the Nuclear Accident and  
2160 Hazard Compensation Account, created in Subsection 19-3-309(3).

2161 (4) The owner or operator of the facility shall pay the fees imposed under this section  
2162 to the department on or before the 15th day of the month following the month in which the fee  
2163 accrued.

2164 (5) Annual fees due under this part accrue on July 1 of each year and shall be paid to  
2165 the department by July 15 of that year.

2166 Section 49. Section **19-3-315** is amended to read:

2167 **19-3-315. Transportation requirements.**

2168 (1) A person may not transport wastes in the state, including on highways, roads, rail,  
2169 by air, or otherwise, without:

2170 (a) having received approval from the state Department of Transportation; and

2171 (b) having demonstrated compliance with rules of the state Department of  
2172 Transportation.

2173 (2) The Department of Transportation may:

2174 (a) make rules requiring a transport and route approval permit, weight restrictions,  
2175 tracking systems, and state escort; and

2176 (b) assess appropriate fees as established under Section [~~63J-1-303~~] 63J-1-504 for  
2177 each shipment of waste, consistent with the requirements and limitations of federal law.

2178 (3) The Department of Environmental Quality shall establish any other transportation  
2179 rules as necessary to protect the public health, safety, and environment.

2180 (4) Unless expressly authorized by the governor, with the concurrence of the  
2181 Legislature, an easement or other interest in property may not be granted upon any lands  
2182 within the state for a right of way for any carrier transportation system that:

2183 (a) is not a class I common or contract rail carrier organized and doing business prior  
2184 to January 1, 1999; and

2185 (b) transports high level nuclear waste or greater than class C radioactive waste to a

2186 storage facility within the state.

2187 Section 50. Section **19-5-120** is amended to read:

2188 **19-5-120. Sewage permit program fee.**

2189 (1) The department may assess a fee established under Section [~~63J-1-303~~] 63J-1-504  
2190 against persons required to obtain a permit under Section 19-5-108 for the management of  
2191 sewage sludge, to be applied to the costs of administering the sewage permit program required  
2192 by this chapter.

2193 (2) The total of the combined fees assessed against all permittees under this section  
2194 may not be more than \$28,000 annually.

2195 (3) In establishing the fee for each sludge disposal permit holder, the department shall  
2196 take into account the proportionate size of the population served by the permit holder.

2197 (4) All proceeds from the fee shall be applied to the administering of the sewage  
2198 permit program required by this chapter.

2199 Section 51. Section **19-5-121** is amended to read:

2200 **19-5-121. Underground wastewater disposal systems -- Certification required to**  
2201 **design, inspect, maintain, or conduct percolation or soil tests -- Exemptions -- Rules --**  
2202 **Fees.**

2203 (1) As used in this section, "maintain" does not include the pumping of an  
2204 underground wastewater disposal system.

2205 (2) (a) Except as provided in Subsections (2)(b) and (2)(c), beginning January 1, 2002,  
2206 a person may not design, inspect, maintain, or conduct percolation or soil tests for an  
2207 underground wastewater disposal system, without first obtaining certification from the board.

2208 (b) An individual is not required to obtain certification from the board to maintain an  
2209 underground wastewater disposal system that serves a noncommercial, private residence  
2210 owned by the individual or a member of the individual's family and in which the individual or  
2211 a member of the individual's family resides or an employee of the individual resides without  
2212 payment of rent.

2213 (c) The board shall make rules allowing an uncertified individual to conduct

2214 percolation or soil tests for an underground wastewater disposal system that serves a  
2215 noncommercial, private residence owned by the individual and in which the individual resides  
2216 or intends to reside, or which is intended for use by an employee of the individual without  
2217 payment of rent, if the individual:

2218 (i) has the capability of properly conducting the tests; and

2219 (ii) is supervised by a certified individual when conducting the tests.

2220 (3) (a) The board shall adopt and enforce rules for the certification and recertification  
2221 of individuals who design, inspect, maintain, or conduct percolation or soil tests for  
2222 underground wastewater disposal systems.

2223 (b) (i) The rules shall specify requirements for education and training and the type and  
2224 duration of experience necessary to obtain certification.

2225 (ii) The rules shall recognize the following in meeting the requirements for  
2226 certification:

2227 (A) the experience of a contractor licensed under Title 58, Chapter 55, Utah  
2228 Construction Trades Licensing Act, who has five or more years of experience installing  
2229 underground wastewater disposal systems;

2230 (B) the experience of an environmental health scientist licensed under Title 58,  
2231 Chapter 20a, Environmental Health Scientist Act; or

2232 (C) the educational background of a professional engineer licensed under Title 58,  
2233 Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

2234 (iii) If eligibility for certification is based on experience, the applicant for certification  
2235 must show proof of experience.

2236 (4) The department may establish fees in accordance with Section [~~63J-1-303~~]  
2237 63J-1-504 for the testing and certification of individuals who design, inspect, maintain, or  
2238 conduct percolation or soil tests for underground wastewater disposal systems.

2239 Section 52. Section **19-5-122** is amended to read:

2240 **19-5-122. Underground wastewater disposal systems -- Fee imposed on new**  
2241 **systems.**

2242 (1) Beginning July 1, 2001, a one-time fee is imposed on each new underground  
2243 wastewater disposal system installed.

2244 (2) (a) From July 1, 2001 through June 30, 2002, the fee shall be \$25.

2245 (b) Beginning July 1, 2002, the fee shall be established by the department in  
2246 accordance with Section [~~63J-1-303~~] 63J-1-504.

2247 (3) (a) The fee shall be paid when plans and specifications for the construction of a  
2248 new underground wastewater disposal system are approved by the local health department or  
2249 the Department of Environmental Quality.

2250 (b) A local health department shall remit the fee revenue to the Division of Finance  
2251 quarterly.

2252 (4) The fee revenue shall be:

2253 (a) deposited into the Underground Wastewater Disposal Restricted Account created  
2254 in Section 19-5-123; and

2255 (b) used to pay for costs of underground wastewater disposal system training  
2256 programs.

2257 Section 53. Section **19-6-408** is amended to read:

2258 **19-6-408. Underground storage tank registration fee -- Processing fee for tanks**  
2259 **not in the program.**

2260 (1) The department may assess an annual underground storage tank registration fee  
2261 against owners or operators of underground storage tanks that have not been closed. These  
2262 fees shall be:

2263 (a) billed per facility;

2264 (b) due on July 1 annually;

2265 (c) deposited with the department as dedicated credits;

2266 (d) used by the department for the administration of the underground storage tank  
2267 program outlined in this part; and

2268 (e) established under Section [~~63J-1-303~~] 63J-1-504.

2269 (2) (a) In addition to the fee under Subsection (1), an owner or operator who elects to

2270 demonstrate financial assurance through a mechanism other than the Environmental  
2271 Assurance Program shall pay a processing fee of:

2272 (i) for fiscal year 1997-98, \$1,000 for each financial assurance mechanism document  
2273 submitted to the division for review; and

2274 (ii) on and after July 1, 1998, a processing fee established under Section [~~63J-1-303~~  
2275 63J-1-504].

2276 (b) If a combination of financial assurance mechanisms is used to demonstrate  
2277 financial assurance, the fee under Subsection (2)(a) shall be paid for each document  
2278 submitted.

2279 (c) As used in this Subsection (2), "financial assurance mechanism document" may be  
2280 a single document that covers more than one facility through a single financial assurance  
2281 mechanism.

2282 (3) Any funds provided for administration of the underground storage tank program  
2283 under this section that are not expended at the end of the fiscal year lapse into the Petroleum  
2284 Storage Tank Restricted Account created in Section 19-6-405.5.

2285 (4) The executive secretary shall provide all owners or operators who pay the annual  
2286 underground storage tank registration fee a certificate of registration.

2287 (5) (a) The executive secretary may issue a notice of agency action assessing a civil  
2288 penalty of \$1,000 per facility if an owner or operator of an underground storage tank facility  
2289 fails to pay the required fee within 60 days after the July 1 due date.

2290 (b) The registration fee and late payment penalty accrue interest at 12% per annum.

2291 (c) If the registration fee, late payment penalty, and interest accrued under this  
2292 Subsection (5) are not paid in full within 60 days after the July 1 due date any certificate of  
2293 compliance issued prior to the July 1 due date lapses. The executive secretary may not reissue  
2294 the certificate of compliance until full payment under this Subsection (5) is made to the  
2295 department.

2296 (d) The executive secretary may waive any penalty assessed under this Subsection (5)  
2297 if no fuel has been dispensed from the tank on or after July 1, 1991.

2298 Section 54. Section **19-6-806** is amended to read:

2299 **19-6-806. Registration of waste tire transporters and recyclers.**

2300 (1) (a) The executive secretary shall register each applicant for registration to act as a  
2301 waste tire transporter if the applicant meets the requirements of this section.

2302 (b) An applicant for registration as a waste tire transporter shall:

2303 (i) submit an application in a form prescribed by the executive secretary;

2304 (ii) pay a fee as determined by the board under Section [~~63J-1-303~~] 63J-1-504;

2305 (iii) provide the name and business address of the operator;

2306 (iv) provide proof of liability insurance or other form of financial responsibility in an  
2307 amount determined by board rule, but not more than \$300,000, for any liability the waste tire  
2308 transporter may incur in transporting waste tires; and

2309 (v) meet requirements established by board rule.

2310 (c) The holder of a registration under this section shall advise the executive secretary  
2311 in writing of any changes in application information provided to the executive secretary within  
2312 20 days of the change.

2313 (d) If the executive secretary has reason to believe a waste tire transporter has disposed  
2314 of tires other than as allowed under this part, the executive secretary shall conduct an  
2315 investigation and, after complying with the procedural requirements of Title 63G, Chapter 4,  
2316 Administrative Procedures Act, may revoke the registration.

2317 (2) (a) The executive secretary shall register each applicant for registration to act as a  
2318 waste tire recycler if the applicant meets the requirements of this section.

2319 (b) An applicant for registration as a waste tire recycler shall:

2320 (i) submit an application in a form prescribed by the executive secretary;

2321 (ii) pay a fee as determined by the board under Section [~~63J-1-303~~] 63J-1-504;

2322 (iii) provide the name and business address of the operator of the recycling business;

2323 (iv) provide proof of liability insurance or other form of financial responsibility in an  
2324 amount determined by board rule, but not more than \$300,000, for any liability the waste tire  
2325 recycler may incur in storing and recycling waste tires;

2326 (v) engage in activities as described under the definition of recycler in Section  
2327 19-6-803; and  
2328 (vi) meet requirements established by board rule.  
2329 (c) The holder of a registration under this section shall advise the executive secretary  
2330 in writing of any changes in application information provided to the executive secretary within  
2331 20 days of the change.

2332 (d) If the executive secretary has reason to believe a waste tire recycler has falsified  
2333 any information provided in an application for partial reimbursement under this section, the  
2334 executive secretary shall, after complying with the procedural requirements of Title 63G,  
2335 Chapter 4, Administrative Procedures Act, revoke the registration.

2336 (3) The board shall establish a uniform fee for registration which shall be imposed by  
2337 any unit of local government or local health department that requires a registration fee as part  
2338 of the registration of waste tire transporters or waste tire recyclers.

2339 Section 55. Section **19-6-1003** is amended to read:

2340 **19-6-1003. Board and executive secretary powers.**

2341 (1) By following the procedures and requirements of Title 63G, Chapter 3, Utah  
2342 Administrative Rulemaking Act, the board shall make rules:

- 2343 (a) governing administrative proceedings under this part;
- 2344 (b) specifying the terms and conditions under which the executive secretary shall  
2345 approve, disapprove, revoke, or review a plan submitted by a manufacturer; and
- 2346 (c) governing reports and educational materials required by this part.

2347 (2) These rules shall include:

- 2348 (a) time requirements for plan submission, review, approval, and implementation;
- 2349 (b) a public notice and comment period for a proposed plan; and
- 2350 (c) safety standards for the collection, packaging, transportation, storage, recycling,  
2351 and disposal of mercury switches.

2352 (3) The board may request the attorney general to bring an action for injunctive relief  
2353 and enforcement of this part, including, without limitation, imposition of the penalty provided

2354 in Section 19-6-1006.

2355 (4) As authorized by the board, the executive secretary may:

2356 (a) review and approve or disapprove plans, specifications, or other data related to  
2357 mercury switch removal;

2358 (b) enforce a rule by issuing a notice, an order, or both, which may be subsequently  
2359 amended or revoked by the board; and

2360 (c) initiate an administrative action to compel compliance with this part and any rules  
2361 adopted under this part.

2362 (5) The executive secretary shall establish a fee to cover the costs of a plan's review by  
2363 following the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.

2364 Section 56. Section **19-8-117** is amended to read:

2365 **19-8-117. Program report and budget allocations -- Fee schedule.**

2366 (1) (a) For applications submitted on or after May 5, 1997 through June 30, 1998, the  
2367 application fee under this chapter is \$2,000.

2368 (b) Regarding applications submitted on and after July 1, 1998, the executive director  
2369 shall annually calculate the costs to administer the voluntary cleanup program under this  
2370 chapter and shall establish the fees for the program under Section [~~63J-1-303~~] 63J-1-504.

2371 (2) All fees under Subsection (1) shall be deposited in the account created under  
2372 Section 19-8-103.

2373 Section 57. Section **23-14-18** is amended to read:

2374 **23-14-18. Establishment of seasons, locations, limits, and regulations by Wildlife**  
2375 **Board.**

2376 (1) To provide an adequate and flexible system of protection, propagation,  
2377 introduction, increase, control, harvest, management, and conservation of protected wildlife in  
2378 this state and to provide for the use and development of protected wildlife for public recreation  
2379 and food supply while maintaining a sustainable population of protected wildlife, the Wildlife  
2380 Board shall determine the circumstances, time, location, means, and the amounts, and  
2381 numbers of protected wildlife which may be taken.

2382 (2) The Wildlife Board shall, except as otherwise specified in this code:  
2383 (a) fix seasons and shorten, extend, or close seasons on any species of protected  
2384 wildlife in any locality, or in the entire state, if the board finds that the action is necessary to  
2385 effectuate proper wildlife management and control;  
2386 (b) close or open areas to fishing, trapping, or hunting;  
2387 (c) establish refuges and preserves;  
2388 (d) regulate and prescribe the means by which protected wildlife may be taken;  
2389 (e) regulate the transportation and storage of protected wildlife, or their parts, within  
2390 the boundaries of the state and the shipment or transportation out of the state;  
2391 (f) establish or change bag limits and possession limits;  
2392 (g) prescribe safety measures and establish other regulations as may be considered  
2393 necessary in the interest of wildlife conservation and the safety and welfare of hunters,  
2394 trappers, fishermen, landowners, and the public;  
2395 (h) (i) prescribe when licenses, permits, tags, and certificates of registration shall be  
2396 required and procedures for their issuance and use; and  
2397 (ii) establish forms and fees for licenses, permits, tags, and certificates of registration;  
2398 and  
2399 (i) prescribe rules and regulations as it may consider necessary to control the use and  
2400 harvest of protected wildlife by private associations, clubs, partnerships, or corporations,  
2401 provided the rules and regulations do not preclude the landowner from personally controlling  
2402 trespass upon the owner's properties nor from charging a fee to trespass for purposes of  
2403 hunting or fishing.  
2404 (3) The Wildlife Board may allow a season on protected wildlife to commence on any  
2405 day of the week except Sunday.  
2406 (4) The Wildlife Board shall establish fees for licenses, permits, tags, and certificates  
2407 of registration in accordance with Section [~~63J-1-303~~] 63J-1-504.  
2408 Section 58. Section **23-16-4** is amended to read:  
2409 **23-16-4. Compensation for damage to crops, fences, or irrigation equipment --**

2410 **Limitations -- Appeals.**

2411 (1) The division may provide compensation to claimants for damage caused by big  
2412 game to:

2413 (a) cultivated crops from or on cleared and planted land;

2414 (b) fences on private land; or

2415 (c) irrigation equipment on private land.

2416 (2) To be eligible to receive compensation as provided in this section, the claimant:

2417 (a) must notify the division of the damage within 72 hours after the damage is  
2418 discovered; and

2419 (b) allow division personnel reasonable access to the property to verify and alleviate  
2420 the depredation problem.

2421 (3) (a) The appraisal of the damage shall be made by the claimant and the division as  
2422 soon after notification as possible.

2423 (b) In determining damage payment, the division and claimant shall consider:

2424 (i) the extent of damage experienced; and

2425 (ii) any revenue the landowner derives from:

2426 (A) participation in a cooperative wildlife management unit;

2427 (B) use of landowner association permits;

2428 (C) use of mitigation permits; and

2429 (D) charging for hunter access.

2430 (c) In determining how to assess and compensate for damages to cultivated crops, the  
2431 division's determination shall be based on the:

2432 (i) full replacement value in the local market of the cultivated crops that actually have  
2433 been or will be damaged or consumed by big game animals; and

2434 (ii) cost of delivery of a replacement crop to the location of the damaged crop or other  
2435 location that is not farther from the source of the replacement crop.

2436 (d) If the claimant and the division are unable to agree on a fair and equitable damage  
2437 payment, they shall designate a third party, consisting of one or more persons familiar with the

2438 crops, fences, or irrigation equipment and the type of game animals doing the damage, to  
2439 appraise the damage.

2440 (4) (a) Notwithstanding Section [~~63J-1-303~~] 63J-1-504, the total amount of  
2441 compensation that may be provided by the division pursuant to this section and the total cost  
2442 of fencing materials provided by the division to prevent crop damage may not exceed the  
2443 legislative appropriation for fencing material and compensation for damaged crops, fences,  
2444 and irrigation equipment.

2445 (b) (i) Any claim of \$1,000 or less may be paid after appraisal of the damage as  
2446 provided in Subsection (3), unless the claim brings the total amount of claims submitted by  
2447 the claimant in the fiscal year to an amount in excess of \$1,000.

2448 (ii) Any claim for damage to irrigation equipment may be paid after appraisal of the  
2449 damage as provided in Subsection (3).

2450 (c) (i) Any claim in excess of \$1,000, or claim that brings the total amount of claims  
2451 submitted by the claimant in the fiscal year to an amount in excess of \$1,000, shall be treated  
2452 as follows:

2453 (A) \$1,000 may be paid pursuant to the conditions of this section; and

2454 (B) the amount in excess of \$1,000 may not be paid until the total amount of the  
2455 approved claims of all the claimants and expenses for fencing materials for the fiscal year are  
2456 determined.

2457 (ii) If the total exceeds the amount appropriated by the Legislature pursuant to  
2458 Subsection (4)(a), claims in excess of \$1,000, or any claim that brings the total amount of a  
2459 claimant's claims in a fiscal year to an amount in excess of \$1,000, shall be prorated.

2460 (5) The division may deny or limit compensation if the claimant:

2461 (a) has failed to exercise reasonable care and diligence to avoid the loss or minimize  
2462 the damage; or

2463 (b) has unreasonably restricted hunting on land under the claimant's control or passage  
2464 through the land to access public lands for the purpose of hunting, after receiving written  
2465 notification from the division of the necessity of allowing such hunting or access to control or

2466 mitigate damage by big game.

2467 (6) (a) The Wildlife Board shall make rules specifying procedures for the appeal of  
2468 division actions under this section.

2469 (b) Upon the petition of an aggrieved party to a final division action, the Wildlife  
2470 Board may review the action on the record and issue an order modifying or rescinding the  
2471 division action.

2472 (c) A qualified hearing examiner may be appointed for purposes of taking evidence  
2473 and making recommendations for a board order. The board shall consider the  
2474 recommendations of the examiner in making decisions.

2475 (d) Board review of final agency action and judicial review of final board action shall  
2476 be governed by Title 63G, Chapter 4, Administrative Procedures Act.

2477 Section 59. Section **26-1-6** is amended to read:

2478 **26-1-6. Fee schedule adopted by department.**

2479 (1) The department may adopt a schedule of fees that may be assessed for services  
2480 rendered by the department, provided that the fees are:

2481 (a) reasonable and fair; and

2482 (b) submitted to the Legislature as part of the department's annual appropriations  
2483 request.

2484 (2) When the department submits a fee schedule to the Legislature, the Legislature, in  
2485 accordance with Section [~~63J-1-303~~] 63J-1-504, may:

2486 (a) approve the fee;

2487 (b) increase or decrease and approve the fee; or

2488 (c) reject any fee submitted to it.

2489 (3) Fees approved by the Legislature pursuant to this section shall be paid into the  
2490 state treasury in accordance with Section [~~63J-1-404~~] 63J-1-104.

2491 Section 60. Section **26-2-22** is amended to read:

2492 **26-2-22. Inspection of vital records.**

2493 (1) (a) The vital records shall be open to inspection, but only in compliance with the

2494 provisions of this chapter, department rules, and Section 78B-6-144.

2495 (b) It is unlawful for any state or local officer or employee to disclose data contained  
2496 in vital records contrary to this chapter or department rule.

2497 (c) A custodian of vital records may permit inspection of a vital record or issue a  
2498 certified copy of a record or a part of a record when the custodian is satisfied that the applicant  
2499 has demonstrated a direct, tangible, and legitimate interest.

2500 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

2501 (a) the request is from:

2502 (i) the subject;

2503 (ii) a member of the subject's immediate family;

2504 (iii) the guardian of the subject;

2505 (iv) a designated legal representative of the subject; or

2506 (v) a person, including a child-placing agency as defined in Section 78B-6-103, with  
2507 whom a child has been placed pending finalization of an adoption of the child;

2508 (b) the request involves a personal or property right of the subject of the record;

2509 (c) the request is for official purposes of a state, local, or federal governmental agency;

2510 (d) the request is for a statistical or medical research program and prior consent has  
2511 been obtained from the state registrar; or

2512 (e) the request is a certified copy of an order of a court of record specifying the record  
2513 to be examined or copied.

2514 (3) For purposes of Subsection (2):

2515 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or  
2516 grandchild;

2517 (b) a designated legal representative means an attorney, physician, funeral service  
2518 director, genealogist, or other agent of the subject or the subject's immediate family who has  
2519 been delegated the authority to access vital records;

2520 (c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or  
2521 the immediate family member of a parent, who does not have legal or physical custody of or

2522 visitation or parent-time rights for a child because of the termination of parental rights  
2523 pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or  
2524 relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act,  
2525 may not be considered as having a direct, tangible, and legitimate interest; and

2526 (d) a commercial firm or agency requesting names, addresses, or similar information  
2527 may not be considered as having a direct, tangible, and legitimate interest.

2528 (4) Upon payment of a fee established in accordance with Section [~~63J-1-303~~]  
2529 63J-1-504, the following records shall be available to the public:

2530 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding  
2531 confidential information collected for medical and health use, if 100 years or more have  
2532 passed since the date of birth;

2533 (b) a death record if 50 years or more have passed since the date of death; and

2534 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have  
2535 passed since the date of the event upon which the record is based.

2536 Section 61. Section **26-21a-205** is amended to read:

2537 **26-21a-205. Department duties.**

2538 The department shall:

2539 (1) enforce rules established under this part;

2540 (2) authorize qualified department agents to conduct inspections of mammogram  
2541 facilities under department rules;

2542 (3) collect and credit fees for certification under Section [~~63J-1-303~~] 63J-1-504; and

2543 (4) provide necessary administrative and staff support to the committee.

2544 Section 62. Section **31A-3-103** is amended to read:

2545 **31A-3-103. Fees.**

2546 (1) For purposes of this section:

2547 (a) "Regulatory fee" is as defined in Section [~~63J-1-303~~] 63J-1-504.

2548 (b) "Services" means functions that are reasonable and necessary to enable the  
2549 commissioner to perform the duties imposed by this title including:

- 2550 (i) issuing and renewing licenses and certificates of authority;  
2551 (ii) filing policy forms;  
2552 (iii) reporting agent appointments and terminations; and  
2553 (iv) filing annual statements.
- 2554 (c) Fees related to the renewal of licenses may be imposed no more frequently than  
2555 once each year.
- 2556 (2) (a) A regulatory fee charged by the department shall be set in accordance with  
2557 Section [~~63J-1-303~~] 63J-1-504.
- 2558 (b) Fees shall be set and collected for services provided by the department.
- 2559 (3) (a) For a fee authorized by this chapter that is not a regulatory fee, the department  
2560 may adopt a schedule of fees provided that each fee in the schedule of fees is:
- 2561 (i) reasonable and fair; and  
2562 (ii) submitted to the Legislature as part of the department's annual appropriations  
2563 request.
- 2564 (b) If a fee schedule described in Subsection (3)(a) is submitted as part of the  
2565 department's annual appropriations request, the Legislature may, in a manner substantially  
2566 similar to Section [~~63J-1-303~~] 63J-1-504:
- 2567 (i) approve any fee in the fee schedule;  
2568 (ii) (A) increase or decrease any fee in the fee schedule; and  
2569 (B) approve any fee in the fee schedule as changed by the Legislature; or  
2570 (iii) reject any fee in the fee schedule.
- 2571 (c) (i) Except as provided in Subsection (3)(c)(ii), a fee approved by the Legislature  
2572 pursuant to this Subsection (3) shall be deposited into the General Fund for appropriation by  
2573 the Legislature.
- 2574 (ii) A fee approved by the Legislature pursuant to this Subsection (3) that relates to the  
2575 use of electronic or other similar technology to provide the services of the department shall be  
2576 deposited into the General Fund as a dedicated credit to be used by the department to provide  
2577 services through use of electronic commerce or other similar technology.

2578 (4) The commissioner shall separately publish the schedule of fees approved by the  
2579 Legislature and make it available upon request for \$1 per copy. This fee schedule shall also be  
2580 included in any compilation of rules promulgated by the commissioner.

2581 (5) The commissioner shall, by rule, establish the deadlines for payment of any fee  
2582 established by the department in accordance with this section.

2583 Section 63. Section **31A-3-304 (Superseded 07/01/10)** is amended to read:

2584 **31A-3-304 (Superseded 07/01/10). Annual fees -- Other taxes or fees prohibited.**

2585 (1) (a) A captive insurance company shall pay an annual fee imposed under this  
2586 section to obtain or renew a certificate of authority.

2587 (b) The commissioner shall:

2588 (i) determine the annual fee pursuant to Sections 31A-3-103 and [~~63J-1-303~~]  
2589 63J-1-504; and

2590 (ii) consider whether the annual fee is competitive with fees imposed by other states  
2591 on captive insurance companies.

2592 (2) A captive insurance company that fails to pay the fee required by this section is  
2593 subject to the relevant sanctions of this title.

2594 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter  
2595 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or  
2596 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance  
2597 company, and no other occupation tax or other tax or fee may be levied or collected from a  
2598 captive insurance company by the state or a county, city, or municipality within this state.

2599 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real  
2600 and personal property taxes.

2601 (4) A captive insurance company shall pay the fee imposed by this section to the  
2602 department by March 31 of each year.

2603 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the  
2604 General Fund as a dedicated credit to be used by the department to:

2605 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

2606 (ii) promote the captive insurance industry in Utah.

2607 (b) At the end of each fiscal year, funds received by the department in excess of

2608 \$250,000 shall be treated as free revenue in the General Fund.

2609 Section 64. Section **31A-3-304 (Effective 07/01/10)** is amended to read:

2610 **31A-3-304 (Effective 07/01/10). Annual fees -- Other taxes or fees prohibited.**

2611 (1) (a) A captive insurance company shall pay an annual fee imposed under this

2612 section to obtain or renew a certificate of authority.

2613 (b) The commissioner shall:

2614 (i) determine the annual fee pursuant to Sections 31A-3-103 and [~~63J-1-303~~]

2615 63J-1-504; and

2616 (ii) consider whether the annual fee is competitive with fees imposed by other states

2617 on captive insurance companies.

2618 (2) A captive insurance company that fails to pay the fee required by this section is

2619 subject to the relevant sanctions of this title.

2620 (3) (a) Except as provided in Subsection (3)(b) and notwithstanding Title 59, Chapter

2621 9, Taxation of Admitted Insurers, the fee provided for in this section constitutes the sole tax or

2622 fee under the laws of this state that may be otherwise levied or assessed on a captive insurance

2623 company, and no other occupation tax or other tax or fee may be levied or collected from a

2624 captive insurance company by the state or a county, city, or municipality within this state.

2625 (b) Notwithstanding Subsection (3)(a), a captive insurance company is subject to real

2626 and personal property taxes.

2627 (4) A captive insurance company shall pay the fee imposed by this section to the

2628 department by March 31 of each year.

2629 (5) (a) The funds received pursuant to Subsection (2) shall be deposited into the

2630 General Fund as a dedicated credit to be used by the department to:

2631 (i) administer and enforce Chapter 37, Captive Insurance Companies Act; and

2632 (ii) promote the captive insurance industry in Utah.

2633 (b) At the end of each fiscal year, funds received by the department in excess of

2634 \$750,000 shall be treated as free revenue in the General Fund.

2635 Section 65. Section **31A-34-104** is amended to read:

2636 **31A-34-104. Alliance -- Required license.**

2637 (1) A person must be licensed as an alliance pursuant to this chapter to directly or  
2638 indirectly make available or otherwise arrange for health insurance through multiple  
2639 unaffiliated insurers through the use of coordinated actuarial models, coordinated  
2640 underwriting, or coordinated marketing methodologies.

2641 (2) (a) A person may not hold itself out as a health insurance purchasing alliance,  
2642 purchasing alliance, health insurance purchasing cooperative, purchasing cooperative, or  
2643 otherwise use a similar name unless licensed by the commissioner as an alliance.

2644 (b) Notwithstanding Subsection (2)(a), a person may hold itself out as a voluntary  
2645 health insurance purchasing association without being licensed by the commissioner as  
2646 provided in Section 31A-34-105.

2647 (3) To apply for licensure as an alliance, a person shall complete an application in a  
2648 form designated by the commissioner and file it with the commissioner, together with the  
2649 applicable filing fees determined by the commissioner under Section [~~63J-1-303~~] 63J-1-504.

2650 Section 66. Section **31A-35-301** is amended to read:

2651 **31A-35-301. The commissioner's authority.**

2652 (1) The commissioner shall:

2653 (a) make rules as necessary for the administration of this chapter;

2654 (b) with information as provided by the board, issue or deny licensure under this  
2655 chapter;

2656 (c) take action regarding a license, including suspension or revocation; and

2657 (d) maintain and publish a current list of licensed bail bond surety companies and  
2658 producers.

2659 (2) The commissioner may establish fees for the issuance, renewal, and reinstatement  
2660 of a bail bond surety company license in accordance with Section [~~63J-1-303~~] 63J-1-504.

2661 Section 67. Section **31A-35-401** is amended to read:

2662           **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**  
2663 **-- Limitations.**

2664           (1) (a) A person may not engage in the bail bond surety insurance business unless that  
2665 person:

2666           (i) is a bail bond surety company licensed under this chapter;

2667           (ii) is a surety insurer that is granted a certificate under this section in the same  
2668 manner as other insurers doing business in this state are granted certificates of authority under  
2669 this title; or

2670           (iii) is a bail bond producer licensed in accordance with this section.

2671           (b) A bail bond surety company shall be licensed under this chapter as an agency.

2672           (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -  
2673 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

2674           (2) A person applying for a bail bond surety company license under this chapter shall  
2675 submit to the commissioner:

2676           (a) a completed application form as prescribed by the commissioner;

2677           (b) a fee as determined by the commissioner in accordance with Section [~~63J-1-303~~]  
2678 63J-1-504; and

2679           (c) any additional information required by rule.

2680           (3) Fees required under this section are not refundable.

2681           (4) Fees collected from a bail bond surety company shall be deposited in a restricted  
2682 account created in Section 31A-35-407.

2683           (5) (a) A bail bond surety company shall be domiciled in Utah.

2684           (b) A bail bond producer shall be a resident of Utah.

2685           (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only  
2686 issue bail bonds through a bail bond surety company licensed under this chapter.

2687           Section 68. Section **31A-35-406** is amended to read:

2688           **31A-35-406. Renewal and reinstatement.**

2689           (1) (a) To renew its license under this chapter, on or before the last day of the month in

2690 which the license expires a bail bond surety company shall:

2691 (i) complete and submit a renewal application to the department; and

2692 (ii) pay the department the applicable renewal fee established in accordance with

2693 Section [~~63J-1-303~~] 63J-1-504.

2694 (b) A bail bond surety company shall renew its license under this chapter annually as  
2695 established by department rule, regardless of when the license is issued.

2696 (2) A bail bond surety company may renew a bail bond surety company license not  
2697 renewed under Subsection (1) within 30 days after the expiration date by:

2698 (a) submitting a renewal application required by Subsection (1); and

2699 (b) paying a late renewal fee established in accordance with Section [~~63J-1-303~~]

2700 63J-1-504.

2701 (3) A bail bond surety company may apply for reinstatement of an expired bail bond  
2702 surety company license between 31 days and six months following the expiration of the license  
2703 under Subsection (1) by:

2704 (a) submitting the renewal application required by Subsection (1); and

2705 (b) paying a license reinstatement fee established in accordance with Section

2706 [~~63J-1-303~~] 63J-1-504.

2707 (4) If a bail bond surety company license has been expired for more than six months,  
2708 the person applying for reinstatement of the bail bond surety license shall:

2709 (a) submit an application form to the commissioner; and

2710 (b) pay the application fee established in accordance with Section [~~63J-1-303~~]

2711 63J-1-504.

2712 (5) If a bail bond surety company license is suspended, the applicant may not submit  
2713 an application for a bail bond surety company license until after the end of the period of  
2714 suspension.

2715 (6) Fees collected under this section shall be deposited in the restricted account  
2716 created in Section 31A-35-407.

2717 Section 69. Section **31A-37-202** is amended to read:

2718 **31A-37-202. Permissive areas of insurance.**

2719 (1) (a) Except as provided in Subsection (1)(b), when permitted by its articles of  
2720 incorporation or charter, a captive insurance company may apply to the commissioner for a  
2721 certificate of authority to do all insurance authorized by this title except workers'  
2722 compensation insurance.

2723 (b) Notwithstanding Subsection (1)(a):

2724 (i) a pure captive insurance company may not insure a risk other than a risk of:

2725 (A) its parent or affiliate;

2726 (B) a controlled unaffiliated business; or

2727 (C) a combination of Subsections (1)(b)(i)(A) and (B);

2728 (ii) an association captive insurance company may not insure a risk other than a risk

2729 of:

2730 (A) an affiliate;

2731 (B) a member organization of its association; and

2732 (C) an affiliate of a member organization of its association;

2733 (iii) an industrial insured captive insurance company may not insure a risk other than

2734 a risk of:

2735 (A) an industrial insured that is part of the industrial insured group;

2736 (B) an affiliate of an industrial insured that is part of the industrial insured group; and

2737 (C) a controlled unaffiliated business of:

2738 (I) an industrial insured that is part of the industrial insured group; or

2739 (II) an affiliate of an industrial insured that is part of the industrial insured group;

2740 (iv) a special purpose captive insurance company may only insure a risk of its parent;

2741 (v) a captive insurance company may not provide:

2742 (A) personal motor vehicle insurance coverage;

2743 (B) homeowner's insurance coverage; or

2744 (C) a component of a coverage described in this Subsection (1)(b)(v); and

2745 (vi) a captive insurance company may not accept or cede reinsurance except as

2746 provided in Section 31A-37-303.

2747 (c) Notwithstanding Subsection (1)(b)(iv), for a risk approved by the commissioner a  
2748 special purpose captive insurance company may provide:

2749 (i) insurance;

2750 (ii) reinsurance; or

2751 (iii) both insurance and reinsurance.

2752 (2) To conduct insurance business in this state a captive insurance company shall:

2753 (a) obtain from the commissioner a certificate of authority authorizing it to conduct  
2754 insurance business in this state;

2755 (b) hold at least once each year in this state:

2756 (i) a board of directors meeting; or

2757 (ii) in the case of a reciprocal insurer, a subscriber's advisory committee meeting;

2758 (c) maintain in this state:

2759 (i) the principal place of business of the captive insurance company; or

2760 (ii) in the case of a branch captive insurance company, the principal place of business  
2761 for the branch operations of the branch captive insurance company; and

2762 (d) except as provided in Subsection (3), appoint a resident registered agent to accept  
2763 service of process and to otherwise act on behalf of the captive insurance company in this  
2764 state.

2765 (3) Notwithstanding Subsection (2)(d), in the case of a captive insurance company  
2766 formed as a corporation or a reciprocal insurer, if the registered agent cannot with reasonable  
2767 diligence be found at the registered office of the captive insurance company, the commissioner  
2768 is the agent of the captive insurance company upon whom process, notice, or demand may be  
2769 served.

2770 (4) (a) Before receiving a certificate of authority, a captive insurance company:

2771 (i) formed as a corporation shall file with the commissioner:

2772 (A) a certified copy of:

2773 (I) articles of incorporation or the charter of the corporation; and

- 2774 (II) bylaws of the corporation;
- 2775 (B) a statement under oath of the president and secretary of the corporation showing  
2776 the financial condition of the corporation; and
- 2777 (C) any other statement or document required by the commissioner under Section  
2778 31A-37-106;
- 2779 (ii) formed as a reciprocal shall:
- 2780 (A) file with the commissioner:
- 2781 (I) a certified copy of the power of attorney of the attorney-in-fact of the reciprocal;
- 2782 (II) a certified copy of the subscribers' agreement of the reciprocal;
- 2783 (III) a statement under oath of the attorney-in-fact of the reciprocal showing the  
2784 financial condition of the reciprocal; and
- 2785 (IV) any other statement or document required by the commissioner under Section  
2786 31A-37-106; and
- 2787 (B) submit to the commissioner for approval a description of the:
- 2788 (I) coverages;
- 2789 (II) deductibles;
- 2790 (III) coverage limits;
- 2791 (IV) rates; and
- 2792 (V) any other information the commissioner requires under Section 31A-37-106.
- 2793 (b) (i) If there is a subsequent material change in an item in the description required  
2794 under Subsection (4)(a)(ii)(B) for a reciprocal captive insurance company, the reciprocal  
2795 captive insurance company shall submit to the commissioner for approval an appropriate  
2796 revision to the description required under Subsection (4)(a)(ii)(B).
- 2797 (ii) A reciprocal captive insurance company that is required to submit a revision under  
2798 Subsection (4)(b)(i) may not offer any additional types of insurance until the commissioner  
2799 approves a revision of the description.
- 2800 (iii) A reciprocal captive insurance company shall inform the commissioner of a  
2801 material change in a rate within 30 days of the adoption of the change.

2802 (c) In addition to the information required by Subsection (4)(a), an applicant captive  
2803 insurance company shall file with the commissioner evidence of:

2804 (i) the amount and liquidity of the assets of the applicant captive insurance company  
2805 relative to the risks to be assumed by the applicant captive insurance company;

2806 (ii) the adequacy of the expertise, experience, and character of the person who will  
2807 manage the applicant captive insurance company;

2808 (iii) the overall soundness of the plan of operation of the applicant captive insurance  
2809 company;

2810 (iv) the adequacy of the loss prevention programs for the following of the applicant  
2811 captive insurance company:

2812 (A) a parent;

2813 (B) a member organization; or

2814 (C) an industrial insured; and

2815 (v) any other factor the commissioner:

2816 (A) adopts by rule under Section 31A-37-106; and

2817 (B) considers relevant in ascertaining whether the applicant captive insurance  
2818 company will be able to meet the policy obligations of the applicant captive insurance  
2819 company.

2820 (d) In addition to the information required by Subsections (4)(a), (b), and (c), an  
2821 applicant sponsored captive insurance company shall file with the commissioner:

2822 (i) a business plan at the level of detail required by the commissioner under Section  
2823 31A-37-106 demonstrating:

2824 (A) the manner in which the applicant sponsored captive insurance company will  
2825 account for the losses and expenses of each protected cell; and

2826 (B) the manner in which the applicant sponsored captive insurance company will  
2827 report to the commissioner the financial history, including losses and expenses, of each  
2828 protected cell;

2829 (ii) a statement acknowledging that the applicant sponsored captive insurance

2830 company will make all financial records of the applicant sponsored captive insurance  
2831 company, including records pertaining to a protected cell, available for inspection or  
2832 examination by the commissioner;

2833 (iii) a contract or sample contract between the applicant sponsored captive insurance  
2834 company and a participant; and

2835 (iv) evidence that expenses will be allocated to each protected cell in an equitable  
2836 manner.

2837 (5) (a) Information submitted pursuant to Subsection (4) is classified as a protected  
2838 record under Title 63G, Chapter 2, Government Records Access and Management Act.

2839 (b) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
2840 Management Act, the commissioner may disclose information submitted pursuant to  
2841 Subsection (4) to a public official having jurisdiction over the regulation of insurance in  
2842 another state if:

2843 (i) the public official receiving the information agrees in writing to maintain the  
2844 confidentiality of the information; and

2845 (ii) the laws of the state in which the public official serves require the information to  
2846 be confidential.

2847 (c) This Subsection (5) does not apply to information provided by an industrial  
2848 insured captive insurance company insuring the risks of an industrial insured group.

2849 (6) (a) A captive insurance company shall pay to the department the following  
2850 nonrefundable fees established by the department under Sections 31A-3-103 and [~~63J-1-303~~]  
2851 63J-1-504:

2852 (i) a fee for examining, investigating, and processing, by a department employee, of an  
2853 application for a certificate of authority made by a captive insurance company;

2854 (ii) a fee for obtaining a certificate of authority for the year the captive insurance  
2855 company is issued a certificate of authority by the department; and

2856 (iii) a certificate of authority renewal fee.

2857 (b) The commissioner may:

2858 (i) retain legal, financial, and examination services from outside the department to  
2859 perform the services described in:

- 2860 (A) Subsection (6)(a); and
- 2861 (B) Section 31A-37-502; and

2862 (ii) charge the reasonable cost of services described in Subsection (6)(b)(i) to the  
2863 applicant captive insurance company.

2864 (7) If the commissioner is satisfied that the documents and statements filed by the  
2865 applicant captive insurance company comply with this chapter, the commissioner may grant a  
2866 certificate of authority authorizing the company to do insurance business in this state.

2867 (8) A certificate of authority granted under this section expires annually and must be  
2868 renewed by July 1 of each year.

2869 Section 70. Section **34A-1-106** is amended to read:

2870 **34A-1-106. Fees.**

2871 (1) Unless otherwise provided by statute, the commission may adopt a schedule of fees  
2872 assessed for services provided by the commission by following the procedures and  
2873 requirements of Section [~~63J-1-303~~] 63J-1-504.

2874 (2) The commission shall submit each fee established under this section to the  
2875 Legislature for its approval as part of the commission's annual appropriations request.

2876 Section 71. Section **34A-7-104** is amended to read:

2877 **34A-7-104. Fees.**

2878 The owner or user of a boiler required by this part to be inspected shall pay to the  
2879 commission fees for inspection or for permits to operate in amounts set by the commission  
2880 pursuant to Section [~~63J-1-303~~] 63J-1-504.

2881 Section 72. Section **34A-7-203** is amended to read:

2882 **34A-7-203. Requirements for operating an elevator or escalator -- Inspection --**  
2883 **Division duties.**

2884 (1) An elevator or escalator may not operate in this state unless:

- 2885 (a) the owner or operator of the elevator or escalator obtains an inspection certificate

2886 under Subsection (3); and

2887 (b) the inspection certificate described in Subsection (1)(a) has not:

2888 (i) expired under Subsection (3); or

2889 (ii) been suspended under Section 34A-7-204.

2890 (2) An elevator or escalator used or proposed to be used in this state shall be inspected  
2891 as to its safety to operate in accordance with the safety code:

2892 (a) every two years; or

2893 (b) more frequently than every two years if the division determines that more frequent  
2894 inspections are necessary.

2895 (3) (a) If upon inspection an elevator or escalator is safe to operate in accordance with  
2896 the safety code, the inspector shall issue to the owner or operator an inspection certificate.

2897 (b) An inspection certificate issued under Subsection (3)(a) shall expire two years  
2898 from the date the inspection certificate is issued.

2899 (4) An inspector employed by the division under this part shall at all times meet  
2900 nationally recognized standards of qualifications for inspectors of elevators and escalators, as  
2901 defined by rule by the division.

2902 (5) The owner or operator of an elevator or escalator that is used in the state shall pay  
2903 to the commission a fee in amounts set by the commission pursuant to Section [~~63J-1-303~~]  
2904 63J-1-504:

2905 (a) for inspection; and

2906 (b) for an inspection certificate.

2907 (6) The division:

2908 (a) shall provide for the inspection of elevators and escalators in accordance with this  
2909 section;

2910 (b) shall adopt by rule one or more nationally recognized standards or other safety  
2911 codes to be used in inspecting elevators or escalators; and

2912 (c) may adopt amendments to the safety code adopted under Subsection (6)(b).

2913 Section 73. Section **35A-1-106** is amended to read:

2914           **35A-1-106. Fees.**

2915           (1) Unless otherwise provided by statute, the department may adopt a schedule of fees  
2916 assessed for services provided by the department by following the procedures and  
2917 requirements of Section [~~63J-1-303~~] 63J-1-504.

2918           (2) The department shall submit each fee established under this section to the  
2919 Legislature for its approval as part of the department's annual appropriations request.

2920           Section 74. Section **36-12-13** is amended to read:

2921           **36-12-13. Office of Legislative Fiscal Analyst established -- Powers, functions,**  
2922 **and duties -- Qualifications.**

2923           (1) There is established an Office of Legislative Fiscal Analyst as a permanent staff  
2924 office for the Legislature.

2925           (2) The powers, functions, and duties of the Office of Legislative Fiscal Analyst under  
2926 the supervision of the fiscal analyst are:

2927           (a) to analyze in detail the executive budget before the convening of each legislative  
2928 session and make recommendations to the Legislature on each item or program appearing in  
2929 the executive budget;

2930           (b) to prepare cost estimates on all proposed bills that anticipate state government  
2931 expenditures;

2932           (c) to prepare cost estimates on all proposed bills that anticipate expenditures by  
2933 county, municipal, local district, or special service district governments;

2934           (d) to prepare cost estimates on all proposed bills that anticipate direct expenditures by  
2935 any Utah resident, and the cost to the overall impacted Utah resident population;

2936           (e) to prepare a review and analysis of revenue estimates for existing and proposed  
2937 revenue acts;

2938           (f) to report instances in which the administration may be failing to carry out the  
2939 expressed intent of the Legislature;

2940           (g) to direct attention to each new proposed service contained in the governor's  
2941 budget;

- 2942 (h) to direct attention to each budget item previously denied by the Legislature;
- 2943 (i) to propose and analyze statutory changes for more effective operational economies  
2944 or more effective administration;
- 2945 (j) to prepare, after each session of the Legislature, a summary showing the effect of  
2946 the final legislative program on the financial condition of the state;
- 2947 (k) to conduct organizational and management improvement studies;
- 2948 (l) to prepare and deliver upon request of any interim committee or the Legislative  
2949 Management Committee, reports on the finances of the state and on anticipated or proposed  
2950 requests for appropriations;
- 2951 (m) to recommend areas for research studies by the executive department or the  
2952 interim committees;
- 2953 (n) to assist in prescribing the format for the presentation of the governor's budget to  
2954 facilitate program and in-depth review of state expenditures in accordance with Sections  
2955 [~~63J-1-501~~] 63J-1-701 and [~~63J-1-502~~] 63J-1-702;
- 2956 (o) to recommend to the appropriations subcommittees the agencies or programs for  
2957 which an in-depth budget review should be requested, and to recommend to the Legislative  
2958 Management Committee the priority in which the request should be made;
- 2959 (p) to appoint and develop a professional staff within budget limitations; and
- 2960 (q) to prepare and submit the annual budget request for the office.
- 2961 (3) (a) In accordance with Subsection (3)(b) and subject to Subsection (3)(c), the  
2962 Office of Legislative Fiscal Analyst shall submit an annual report to the Executive  
2963 Appropriations Committee of the Legislature, at the committee's November meeting, on funds  
2964 expended by the state during the preceding state fiscal year to provide financial assistance or  
2965 services to low-income individuals and families.
- 2966 (b) The report described in Subsection (3)(a) shall:
- 2967 (i) separate the funds expended into categories by program, service, or population  
2968 served;
- 2969 (ii) indicate whether the expended funds described in Subsection (3)(a) are state or

2970 federal funds; and  
2971 (iii) include a total of all state funds and federal funds expended by the state in the  
2972 preceding fiscal year to provide financial assistance or services to low-income individuals and  
2973 families.

2974 (c) If the Executive Appropriations Committee of the Legislature does not meet in  
2975 November, the Office of Legislative Fiscal Analyst shall submit the report described in  
2976 Subsection (3)(a) at the committee's next meeting.

2977 (4) The legislative fiscal analyst shall have a master's degree in public administration,  
2978 political science, economics, accounting, or the equivalent in academic or practical  
2979 experience.

2980 (5) In carrying out the duties provided for in this section, the legislative fiscal analyst  
2981 may obtain access to all records, documents, and reports necessary to the scope of the  
2982 legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter  
2983 14, Legislative Subpoena Powers.

2984 Section 75. Section **38-1-27** is amended to read:

2985 **38-1-27. State Construction Registry -- Form and contents of notice of**  
2986 **commencement, preliminary notice, and notice of completion.**

2987 (1) As used in this section and Sections 38-1-30 through 38-1-37:

2988 (a) "Alternate filing" means a legible and complete filing made in a manner  
2989 established by the division under Subsection (2)(e) other than an electronic filing.

2990 (b) "Cancel" means to indicate that a filing is no longer given effect.

2991 (c) "Construction project," "project," or "improvement" means all labor, equipment,  
2992 and materials provided:

2993 (i) under an original contract; or

2994 (ii) by, or under contracts with, an owner-builder.

2995 (d) "Database" means the State Construction Registry created in this section.

2996 (e) (i) "Designated agent" means the third party the Division of Occupational and  
2997 Professional Licensing contracts with to create and maintain the State Construction Registry.

2998 (ii) The designated agent is not an agency, instrumentality, or a political subdivision  
2999 of the state.

3000 (f) "Division" means the Division of Occupational and Professional Licensing.

3001 (g) "Interested person" means a person who may be affected by a construction project.

3002 (h) "Program" means the State Construction Registry Program created in this section.

3003 (2) Subject to receiving adequate funding through a legislative appropriation and  
3004 contracting with an approved third party vendor who meets the requirements of Sections  
3005 38-1-30 through 38-1-37, there is created the State Construction Registry Program that shall:

3006 (a) (i) assist in protecting public health, safety, and welfare; and

3007 (ii) promote a fair working environment;

3008 (b) be overseen by the division with the assistance of the designated agent;

3009 (c) provide a central repository for notices of commencement, preliminary notices, and  
3010 notices of completion filed in connection with all privately owned construction projects as well  
3011 as all state and local government owned construction projects throughout Utah;

3012 (d) be accessible for filing and review by way of the program Internet website of:

3013 (i) notices of commencement;

3014 (ii) preliminary notices; and

3015 (iii) notices of completion;

3016 (e) accommodate:

3017 (i) electronic filing of the notices described in Subsection (2)(d); and

3018 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax,  
3019 or any other alternate method as provided by rule made by the division in accordance with  
3020 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

3021 (f) (i) provide electronic notification for up to three e-mail addresses for each  
3022 interested person or company who requests notice from the construction notice registry; and

3023 (ii) provide alternate means of notification for a person who makes an alternate filing,  
3024 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in  
3025 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

3026 (g) provide hard-copy printing of electronic receipts for an individual filing  
3027 evidencing the date and time of the individual filing and the content of the individual filing.

3028 (3) (a) The designated agent shall provide notice of all other filings for a project to any  
3029 person who files a notice of commencement, preliminary notice, or notice of completion for  
3030 that project, unless the person:

3031 (i) requests that the person not receive notice of other filings; or

3032 (ii) does not provide the designated agent with the person's contact information in a  
3033 manner that adequately informs the designated agent.

3034 (b) An interested person may request notice of filings related to a project.

3035 (c) The database shall be indexed by:

3036 (i) owner name;

3037 (ii) original contractor name;

3038 (iii) subdivision, development, or other project name, if any;

3039 (iv) project address;

3040 (v) lot or parcel number;

3041 (vi) unique project number assigned by the designated agent; and

3042 (vii) any other identifier that the division considers reasonably appropriate in  
3043 collaboration with the designated agent.

3044 (4) (a) In accordance with the process required by Section [~~63J-1-303~~] 63J-1-504, the  
3045 division shall establish the fees for:

3046 (i) a notice of commencement;

3047 (ii) a preliminary notice;

3048 (iii) a notice of completion;

3049 (iv) a request for notice;

3050 (v) providing a required notice by an alternate method of delivery;

3051 (vi) a duplicate receipt of a filing; and

3052 (vii) account setup for a person who wishes to be billed periodically for filings with  
3053 the database.

3054 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably  
3055 necessary to create and maintain the database.

3056 (c) The fees established by the division may vary by method of filing if one form of  
3057 filing is more costly to process than another form of filing.

3058 (d) The division may provide by contract that the designated agent may retain all fees  
3059 collected by the designated agent except that the designated agent shall remit to the division  
3060 the cost of the division's oversight under Subsection (2)(b).

3061 (5) (a) The database is classified as a public record under Title 63G, Chapter 2,  
3062 Government Records Access and Management Act, unless otherwise classified by the division.

3063 (b) A request for information submitted to the designated agent is not subject to Title  
3064 63G, Chapter 2, Government Records Access and Management Act.

3065 (c) Information contained in a public record contained in the database shall be  
3066 requested from the designated agent.

3067 (d) The designated agent may charge a commercially reasonable fee allowed by the  
3068 designated agent's contract with the division for providing information under Subsection  
3069 (5)(c).

3070 (e) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
3071 Management Act, if information is available in a public record contained in the database, a  
3072 person may not request the information from the division.

3073 (f) (i) A person may request information that is not a public record contained in the  
3074 database from the division in accordance with Title 63G, Chapter 2, Government Records  
3075 Access and Management Act.

3076 (ii) The division shall inform the designated agent of how to direct inquiries made to  
3077 the designated agent for information that is not a public record contained in the database.

3078 (6) The following are not an adjudicative proceeding under Title 63G, Chapter 4,  
3079 Administrative Procedures Act:

3080 (a) the filing of a notice permitted by this chapter;

3081 (b) the rejection of a filing permitted by this chapter; or

3082 (c) other action by the designated agent in connection with a filing of any notice  
3083 permitted by this chapter.

3084 (7) The division and the designated agent need not determine the timeliness of any  
3085 notice before filing the notice in the database.

3086 (8) (a) A person who is delinquent on the payment of a fee established under  
3087 Subsection (4) may not file a notice with the database.

3088 (b) A determination that a person is delinquent on the payment of a fee for filing  
3089 established under Subsection (4) shall be made in accordance with Title 63G, Chapter 4,  
3090 Administrative Procedures Act.

3091 (c) Any order issued in a proceeding described in Subsection (8)(b) may prescribe the  
3092 method of that person's payment of fees for filing notices with the database after issuance of  
3093 the order.

3094 (9) If a notice is filed by a third party on behalf of another, the notice is considered to  
3095 be filed by the person on whose behalf the notice is filed.

3096 (10) A person filing a notice of commencement, preliminary notice, or notice of  
3097 completion is responsible for verifying the accuracy of information entered into the database,  
3098 whether the person files electronically or by alternate or third party filing.

3099 Section 76. Section **38-11-201** is amended to read:

3100 **38-11-201. Residence Lien Recovery Fund.**

3101 (1) There is created a restricted special revenue fund called the "Residence Lien  
3102 Recovery Fund."

3103 (2) (a) The fund consists of all amounts collected by the division in accordance with  
3104 Section 38-11-202.

3105 (b) (i) The division shall deposit the funds in an account with the state treasurer.

3106 (ii) The division shall record the funds in the Residence Lien Recovery Fund.

3107 (c) The fund shall earn interest.

3108 (3) The division shall employ personnel and resources necessary to administer the  
3109 fund and shall use fund monies in accordance with Sections 38-11-203 and 38-11-204 and to

3110 pay the costs charged to the fund by the attorney general.

3111 (4) Costs incurred by the division for administering the fund shall be paid out of fund  
3112 monies.

3113 (5) The Division of Finance shall report annually to the Legislature, the division, and  
3114 the board. The report shall state:

3115 (a) amounts received by the fund;

3116 (b) disbursements from the fund;

3117 (c) interest earned and credited to the fund; and

3118 (d) the fund balance.

3119 (6) (a) For purposes of establishing and assessing regulatory fees under [~~Subsection~~  
3120 ~~63J-1-303(5)~~] Section 63J-1-504, the provisions of this chapter are considered a new program  
3121 for fiscal year 1995-96.

3122 (b) The department shall submit its fee schedule to the Legislature for its approval at  
3123 the 1996 Annual General Session.

3124 Section 77. Section **38-11-202** is amended to read:

3125 **38-11-202. Payments to the fund.**

3126 The Residence Lien Recovery Fund shall be supported solely from:

3127 (1) initial and special assessments collected by the division from licensed contractors  
3128 registered as qualified beneficiaries in accordance with Subsections 38-11-301(1) and (2) and  
3129 Section 38-11-206;

3130 (2) initial and special assessments collected by the division from other qualified  
3131 beneficiaries registering with the division in accordance with Subsection 38-11-301(3) and  
3132 Section 38-11-206;

3133 (3) fees determined by the division under Section [~~63J-1-303~~] 63J-1-504 collected  
3134 from laborers under Subsection 38-11-204[~~(8)~~](7) when the laborers obtain a recovery from  
3135 the fund;

3136 (4) amounts collected by subrogation under Section 38-11-205 on behalf of the fund  
3137 following a payment from the fund;

3138 (5) application fees determined by the division under Section [~~63J-1-303~~] 63J-1-504  
3139 collected from:

3140 (a) qualified beneficiaries or laborers under Subsection 38-11-204(1)(b) when  
3141 qualified beneficiaries or laborers make a claim against the fund; or

3142 (b) owners or agents of the owners seeking to obtain a certificate of compliance for the  
3143 owner;

3144 (6) registration fees determined by the division under Section [~~63J-1-303~~] 63J-1-504  
3145 collected from other qualified beneficiaries registering with the department in accordance with  
3146 Subsection 38-11-301(3)(a)(iii);

3147 (7) reinstatement fees determined by the division under Section [~~63J-1-303~~] 63J-1-504  
3148 collected from registrants in accordance with Subsection 38-11-302(5)(b);

3149 (8) civil fines authorized under Subsection 38-11-205(2) collected by the attorney  
3150 general for failure to reimburse the fund; and

3151 (9) any interest earned by the fund.

3152 Section 78. Section **38-11-204** is amended to read:

3153 **38-11-204. Claims against the fund -- Requirement to make a claim --**  
3154 **Qualifications to receive compensation -- Qualifications to receive a certificate of**  
3155 **compliance.**

3156 (1) To claim recovery from the fund a person shall:

3157 (a) meet the requirements of either Subsection (4) or (7);

3158 (b) pay an application fee determined by the division under Section [~~63J-1-303~~]  
3159 63J-1-504; and

3160 (c) file with the division a completed application on a form provided by the division  
3161 accompanied by supporting documents establishing:

3162 (i) that the person meets the requirements of either Subsection (4) or (7);

3163 (ii) that the person was a qualified beneficiary or laborer during the construction on  
3164 the owner-occupied residence; and

3165 (iii) the basis for the claim.

3166 (2) To recover from the fund, the application required by Subsection (1) shall be filed  
3167 no later than one year:

3168 (a) from the date the judgment required by Subsection (4)(d) is entered;

3169 (b) from the date the nonpaying party filed bankruptcy, if the claimant is precluded  
3170 from obtaining a judgment or from satisfying the requirements of Subsection (4)(d) because  
3171 the nonpaying party filed bankruptcy within one year after the entry of judgment; or

3172 (c) from the date the laborer, trying to recover from the fund, completed the laborer's  
3173 qualified services.

3174 (3) To obtain a certificate of compliance an owner or agent of the owner shall establish  
3175 with the division that the owner meets the requirements of Subsections (4)(a) and (4)(b).

3176 (4) To recover from the fund, regardless of whether the residence is occupied by the  
3177 owner, a subsequent owner, or the owner or subsequent owner's tenant or lessee, a qualified  
3178 beneficiary shall establish that:

3179 (a) (i) the owner of the owner-occupied residence or the owner's agent entered into a  
3180 written contract with an original contractor licensed or exempt from licensure under Title 58,  
3181 Chapter 55, Utah Construction Trades Licensing Act:

3182 (A) for the performance of qualified services;

3183 (B) to obtain the performance of qualified services by others; or

3184 (C) for the supervision of the performance by others of qualified services in  
3185 construction on that residence;

3186 (ii) the owner of the owner-occupied residence or the owner's agent entered into a  
3187 written contract with a real estate developer for the purchase of an owner-occupied residence;

3188 or

3189 (iii) the owner of the owner-occupied residence or the owner's agent entered into a  
3190 written contract with a factory built housing retailer for the purchase of an owner-occupied  
3191 residence;

3192 (b) the owner has paid in full the original contractor, licensed or exempt from  
3193 licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, real estate

3194 developer, or factory built housing retailer under Subsection (4)(a) with whom the owner has a  
3195 written contract in accordance with the written contract and any amendments to the contract;

3196 (c) (i) the original contractor, licensed or exempt from licensure under Title 58,  
3197 Chapter 55, Utah Construction Trades Licensing Act, the real estate developer, or the factory  
3198 built housing retailer subsequently failed to pay a qualified beneficiary who is entitled to  
3199 payment under an agreement with that original contractor or real estate developer licensed or  
3200 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act,  
3201 for services performed or materials supplied by the qualified beneficiary;

3202 (ii) a subcontractor who contracts with the original contractor, licensed or exempt  
3203 from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, the real  
3204 estate developer, or the factory built housing retailer failed to pay a qualified beneficiary who  
3205 is entitled to payment under an agreement with that subcontractor or supplier; or

3206 (iii) a subcontractor who contracts with a subcontractor or supplier failed to pay a  
3207 qualified beneficiary who is entitled to payment under an agreement with that subcontractor or  
3208 supplier;

3209 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing  
3210 within the applicable time, the qualified beneficiary filed an action against the nonpaying  
3211 party to recover monies owed to the qualified beneficiary within the earlier of:

3212 (A) 180 days from the date the qualified beneficiary filed a notice of claim under  
3213 Section 38-1-7; or

3214 (B) 270 days from the completion of the original contract pursuant to Subsection  
3215 38-1-7(1);

3216 (ii) the qualified beneficiary has obtained a judgment against the nonpaying party who  
3217 failed to pay the qualified beneficiary under an agreement to provide qualified services for  
3218 construction of that owner-occupied residence;

3219 (iii) (A) the qualified beneficiary has:

3220 (I) obtained from a court of competent jurisdiction the issuance of an order requiring  
3221 the judgment debtor, or if a corporation any officer of the corporation, to appear before the

3222 court at a specified time and place to answer concerning the debtor's or corporation's property;

3223 (II) received return of service of the order from a person qualified to serve documents  
3224 under the Utah Rules of Civil Procedure, Rule 4(b); and

3225 (III) made reasonable efforts to obtain asset information from the supplemental  
3226 proceedings; and

3227 (B) if assets subject to execution are discovered as a result of the order required under  
3228 Subsection (4)(d)(iii)(A) or for any other reason, to obtain the issuance of a writ of execution  
3229 from a court of competent jurisdiction; or

3230 (iv) the qualified beneficiary timely filed a proof of claim where permitted in the  
3231 bankruptcy action, if the nonpaying party has filed bankruptcy;

3232 (e) the qualified beneficiary is not entitled to reimbursement from any other person;  
3233 and

3234 (f) the qualified beneficiary provided qualified services to a contractor, licensed or  
3235 exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

3236 (5) The requirements of Subsections (4)(d) (ii) and (iii) need not be met if the  
3237 qualified beneficiary is prevented from compliance because the nonpaying party files  
3238 bankruptcy.

3239 (6) To recover from the fund a laborer shall:

3240 (a) establish that the laborer has not been paid wages due for the work performed at  
3241 the site of a construction on an owner-occupied residence; and

3242 (b) provide any supporting documents or information required by rule by the division.

3243 (7) A fee determined by the division under Section [~~63J-1-303~~] 63J-1-504 shall be  
3244 deducted from any recovery from the fund received by a laborer.

3245 (8) The requirements of Subsections (4)(a) and (4)(b) may be satisfied if an owner or  
3246 agent of the owner establishes to the satisfaction of the director that the owner of the  
3247 owner-occupied residence or the owner's agent entered into a written contract with an original  
3248 contractor who:

3249 (a) was a business entity that was not licensed under Title 58, Chapter 55, Utah

3250 Construction Trades Licensing Act, but was solely or partly owned by an individual who was  
3251 licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act; or

3252 (b) was a natural person who was not licensed under Title 58, Chapter 55, Utah  
3253 Construction Trades Licensing Act, but who was the sole or partial owner and qualifier of a  
3254 business entity that was licensed under Title 58, Chapter 55, Utah Construction Trades  
3255 Licensing Act.

3256 (9) The director shall have equitable power to determine if the requirements of  
3257 Subsections (4)(a) and (4)(b) have been met, but any decision by the director under this  
3258 chapter shall not alter or have any effect on any other decision by the division under Title 58,  
3259 Occupations and Professions.

3260 Section 79. Section **38-11-206** is amended to read:

3261 **38-11-206. Limitations on fund balance -- Payment of special assessments.**

3262 (1) (a) If on December 31 of any year the balance in the fund is less than \$1,500,000,  
3263 the division shall make a special assessment against all qualified beneficiaries in an amount  
3264 that will restore the unencumbered fund balance to not less than \$2,000,000 or more than  
3265 \$2,500,000.

3266 (b) The amount of the special assessment shall be determined by the division under  
3267 [~~Subsection 63J-1-303(5)~~] Section 63J-1-504 after consultation with the board.

3268 (2) Special assessments made under this section shall be due and payable on May 1  
3269 following assessment.

3270 (3) The fund balance limitations set forth in Subsection (1)(a) shall be used by the  
3271 division only for the purpose of determining the amount of any special assessment and do not  
3272 prohibit the fund balance from exceeding \$2,500,000 or falling below \$2,000,000.

3273 Section 80. Section **38-11-301** is amended to read:

3274 **38-11-301. Registration as a qualified beneficiary -- Initial regular assessment --**  
3275 **Affidavit.**

3276 (1) A person licensed as of July 1, 1995, as a contractor under the provisions of Title  
3277 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that

3278 regularly engage in providing qualified services shall be automatically registered as a qualified  
3279 beneficiary upon payment of the initial assessment.

3280 (2) A person applying for licensure as a contractor after July 1, 1995, in license  
3281 classifications that regularly engage in providing qualified services shall be automatically  
3282 registered as a qualified beneficiary upon issuance of a license and payment of the initial  
3283 assessment.

3284 (3) (a) After July 1, 1995, any person providing qualified services as other than a  
3285 contractor as provided in Subsection (1) or any person exempt from licensure under the  
3286 provisions of Title 58, Chapter 55, Utah Construction Trades Licensing Act, may register as a  
3287 qualified beneficiary by:

3288 (i) submitting an application in a form prescribed by the division;

3289 (ii) demonstrating registration with the Division of Corporations and Commercial  
3290 Code as required by state law;

3291 (iii) paying a registration fee determined by the division under Section [~~63J-1-303~~]  
3292 63J-1-504; and

3293 (iv) paying the initial assessment established under Subsection (4), and any special  
3294 assessment determined by the division under Subsection 38-11-206(1).

3295 (b) A person who does not register under Subsection (1), (2), or (3)(a) shall be  
3296 prohibited from recovering under the fund as a qualified beneficiary for work performed as  
3297 qualified services while not registered with the fund.

3298 (4) (a) An applicant shall pay an initial assessment determined by the division under  
3299 Section [~~63J-1-303~~] 63J-1-504.

3300 (b) The initial assessment to qualified registrants under Subsection (1) shall be made  
3301 not later than July 15, 1995, and shall be paid no later than November 1, 1995.

3302 (c) The initial assessment to qualified registrants under Subsections (2) and (3) shall  
3303 be paid at the time of application for license or registration, however, beginning on May 1,  
3304 1996, only one initial assessment or special assessments thereafter shall be required for  
3305 persons having multiple licenses under this section.

3306 (5) A person shall be considered to have been registered as a qualified beneficiary on  
3307 January 1, 1995, for purposes of meeting the requirements of Subsection 38-11-204(1)(c)(ii) if  
3308 the person:

3309 (a) (i) is licensed on or before July 1, 1995, as a contractor under the provisions of  
3310 Title 58, Chapter 55, Utah Construction Trades Licensing Act, in license classifications that  
3311 regularly engage in providing qualified services; or

3312 (ii) provides qualified services after July 1, 1995, as other than a contractor as  
3313 provided in Subsection (5)(a)(i) or is exempt from licensure under the provisions of Title 58,  
3314 Chapter 55, Utah Construction Trades Licensing Act; and

3315 (b) registers as a qualified beneficiary under Subsection (1) or (3) on or before  
3316 November 1, 1995.

3317 Section 81. Section **38-11-302** is amended to read:

3318 **38-11-302. Effective date and term of registration -- Penalty for failure to pay**  
3319 **assessments -- Reinstatement.**

3320 (1) (a) A registration as a qualified beneficiary under this chapter is effective on the  
3321 date the division receives the initial assessment of the qualified beneficiary.

3322 (b) A registrant shall be required to renew the registrant's registration upon imposition  
3323 of a special assessment under Subsection 38-11-206(1).

3324 (2) A registration automatically expires if a registrant fails to renew the registrant's  
3325 registration as required under Subsection (1).

3326 (3) The division shall notify a qualified beneficiary in accordance with procedures  
3327 established by rule when renewal of registration is required in connection with a special  
3328 assessment.

3329 (4) The license renewal notice to a contractor shall notify the licensee that failure to  
3330 renew the license will result in automatic expiration of the licensee's registration as a qualified  
3331 beneficiary and of the limitations set forth in Subsection (6) on qualified beneficiaries whose  
3332 registration has expired to make a claim upon the fund.

3333 (5) Registration may be reinstated by:

3334 (a) submitting an application for reinstatement in a form prescribed by the division;

3335 (b) paying a reinstatement fee determined by the division under Section [~~63J-1-303~~]

3336 63J-1-504; and

3337 (c) paying all unpaid assessments that were assessed during the period of the person's

3338 registration and all assessments made upon qualified beneficiaries during the period the

3339 applicant's registration was expired.

3340 (6) (a) A qualified beneficiary whose registration expires loses all rights to make a

3341 claim upon the fund or receive compensation from the fund resulting from providing qualified

3342 service during the period of expiration.

3343 (b) Except as provided by Section 58-55-401, a qualified beneficiary whose

3344 registration expires may make a claim upon the fund or receive compensation from the fund

3345 for qualified services provided during the period the qualified beneficiary was part of the fund.

3346 Section 82. Section **40-2-401** is amended to read:

3347 **40-2-401. Necessity of certificate.**

3348 (1) A person may not work in an occupation referred to in Section 40-2-402 unless

3349 granted a certificate by the commission.

3350 (2) (a) (i) The commission may grant a temporary coal mine foreman certificate or a

3351 temporary coal mine surface foreman certificate to an applicant who is:

3352 (A) recommended by a coal mine; and

3353 (B) interviewed and found competent by two panel members.

3354 (ii) A certificate granted under Subsection (2)(a)(i) remains in effect until:

3355 (A) the next scheduled certification test;

3356 (B) the person is retested; or

3357 (C) the commission terminates the certificate.

3358 (b) (i) The commission may grant a surface foreman certificate to a current holder of

3359 an underground mine foreman certificate, if the applicant has three years of varied surface

3360 mining experience.

3361 (ii) A surface foreman certificate applicant may receive credit for surface experience

3362 in any other industry that has substantially equivalent surface facilities, if the applicant has  
3363 performed or is presently performing the duties normally required of a surface foreman.

3364 (3) (a) The commission shall collect a fee described in Subsection (3)(b) for each  
3365 temporary certificate.

3366 (b) The commission shall establish the fee by following Section [~~63J-1-303~~]  
3367 63J-1-504.

3368 (4) (a) An owner, operator, contractor, lessee, or agent may not employ a worker in  
3369 any occupation referred to in Section 40-2-402 who is uncertified.

3370 (b) The certificate shall be on file and available for inspection to interested persons in  
3371 the office of the coal mine.

3372 (5) The commission shall grant a certificate to an applicant referred to in Section  
3373 40-2-402 who:

3374 (a) passes the certification test administered by the panel; and

3375 (b) meets the qualifications specified in Section 40-2-402.

3376 (6) (a) The commission may grant a certificate to an applicant involved in gilsonite or  
3377 other hydrocarbon mining as provided by rule.

3378 (b) The commission shall enact rules governing the certification procedure, test, and  
3379 qualifications for applicants involved in gilsonite or other hydrocarbon mining.

3380 (7) The commission may by rule require certification and recertification of other coal  
3381 mine occupations, including the certification of a new coal miner.

3382 Section 83. Section **40-2-402** is amended to read:

3383 **40-2-402. Certification requirements.**

3384 (1) The commission shall collect a fee for:

3385 (a) the taking of a certification test; or

3386 (b) the retaking of one or more sections of a certification test.

3387 (2) (a) The commission shall establish fees by following Section [~~63J-1-303~~]  
3388 63J-1-504.

3389 (b) Notwithstanding [~~Subsection 63J-1-303(2)(e)~~] Section 63J-1-504, the commission:

- 3390 (i) shall retain the fees as dedicated credits; and  
3391 (ii) may only use the fees to administer the certification test.  
3392 (3) An applicant who fails any section of the certification test may retake that section  
3393 of the test.  
3394 (4) (a) An applicant who wishes to obtain a mine foreman certificate shall have at least  
3395 four years varied underground coal mining experience, of which:  
3396 (i) two years' experience may be credited to a mining engineering graduate of an  
3397 accredited four-year college; or  
3398 (ii) one year's experience may be credited to a graduate of a two-year course in mining  
3399 technology.  
3400 (b) (i) An applicant who wishes to obtain a surface foreman certificate shall have at  
3401 least three years of varied surface experience.  
3402 (ii) The commission may grant a surface foreman certificate applicant credit for  
3403 surface experience in any other industry that has substantially equivalent surface facilities.  
3404 (c) An applicant who wishes to obtain a fire boss certificate shall have at least two  
3405 years of underground coal mining experience, of which:  
3406 (i) one year's experience may be credited to a mining engineering graduate of an  
3407 accredited four-year college; or  
3408 (ii) six months' experience may be credited to a graduate of a two-year course in  
3409 mining technology.  
3410 (d) An applicant who wishes to obtain an underground mine electrician certificate  
3411 shall have at least one year of varied electrical experience as specified in 30 C.F.R. Sec.  
3412 75.153.  
3413 (e) An applicant who wishes to obtain a surface mine electrician certificate shall have  
3414 at least one year of varied surface electrical experience as specified in 30 C.F.R. Sec. 77.103.  
3415 (5) A certificate granted under Section 40-2-401 and this section shall expire if the  
3416 certificate holder ceases to work in the mining industry or a mine related industry for more  
3417 than five consecutive years.

3418 Section 84. Section **40-6-14.5** is amended to read:

3419 **40-6-14.5. Oil and Gas Conservation Account created -- Contents -- Use of**  
3420 **account monies.**

3421 (1) There is created within the General Fund a restricted account known as the Oil and  
3422 Gas Conservation Account.

3423 (2) The contents of the account shall consist of:

3424 (a) revenues from the fee levied under Section 40-6-14, including any penalties or  
3425 interest charged for delinquent payments; and

3426 (b) interest and earnings on account monies.

3427 (3) Account monies shall be used to pay for the:

3428 (a) administration of this chapter; and

3429 (b) plugging and reclamation of abandoned oil or gas wells or bore, core, or  
3430 exploratory holes for which:

3431 (i) there is no reclamation surety; or

3432 (ii) the forfeited surety is insufficient for plugging and reclamation.

3433 (4) Priority in the use of the monies shall be given to paying for the administration of  
3434 this chapter.

3435 (5) Appropriations for plugging and reclamation of abandoned oil or gas wells or bore,  
3436 core, or exploratory holes shall be nonlapsing.

3437 (6) The balance of the Oil and Gas Conservation Account at the end of a fiscal year  
3438 may not exceed \$750,000. Any excess monies shall be transferred to the General Fund.

3439 (7) (a) As used in this Subsection (7), "excess fee revenue" means revenue collected in  
3440 fiscal year 1999-2000 from the fee levied under Section 40-6-14 that exceeds the fee revenue  
3441 appropriated to the Division of Oil, Gas, and Mining in fiscal year 1999-2000.

3442 (b) If there is a General Fund surplus for fiscal year 1999-2000, the Division of  
3443 Finance shall transfer General Fund surplus monies to the Oil and Gas Conservation Account  
3444 in an amount up to the excess fee revenue.

3445 (c) The transfer provided in Subsection (7)(b) shall be made after General Fund

3446 surplus monies are transferred to the General Fund Budget Reserve Account pursuant to  
3447 Section [~~63J-1-202~~] 63J-1-312.

3448 Section 85. Section **41-1a-115** is amended to read:

3449 **41-1a-115. Division records -- Copies.**

3450 (1) The division shall file each application received.

3451 (2) The division shall keep a record of each registration on a calendar year basis as  
3452 follows:

3453 (a) under a distinctive registration number assigned to the vehicle, vessel, or outboard  
3454 motor;

3455 (b) alphabetically, under the name of the owner of the vehicle, vessel, or outboard  
3456 motor;

3457 (c) under the identification number of the vehicle, vessel, or outboard motor; and

3458 (d) in any manner the division finds desirable for compiling statistical information or  
3459 of comparative value for use in determining registration fees in future years.

3460 (3) (a) The division shall maintain a current record of each certificate of title it issues.

3461 (b) (i) The division shall file and retain every surrendered certificate of title and every  
3462 application for title to permit the tracing of title of the vehicles designated in them.

3463 (ii) The retention period for division records shall be set by the Division of Archives  
3464 and Records Service in accordance with Title 63G, Chapter 2, Government Records Access  
3465 and Management Act.

3466 (4) (a) The commission and officers of the division the commission designates may  
3467 prepare under the seal of the division and deliver upon request a certified copy of any record  
3468 of the division, including microfilmed records, charging a fee, determined by the commission  
3469 pursuant to Section [~~63J-1-303~~] 63J-1-504, for each document authenticated.

3470 (b) The application shall include the requested information to identify the applicant.

3471 (c) Each certified copy is admissible in any proceeding in any court in the same  
3472 manner as the original.

3473 (5) The division shall comply with Title 63G, Chapter 2, Government Records Access

3474 and Management Act.

3475 Section 86. Section **41-1a-116** is amended to read:

3476 **41-1a-116. Records -- Access to records -- Fees.**

3477 (1) (a) All motor vehicle title and registration records of the division are protected  
3478 unless the division determines based upon a written request by the subject of the record that  
3479 the record is public.

3480 (b) In addition to the provisions of this section, access to all division records is  
3481 permitted for all purposes described in the federal Driver's Privacy Protection Act of 1994, 18  
3482 U.S.C. Chapter 123.

3483 (2) (a) Access to public records is determined by Section 63G-2-201.

3484 (b) A record designated as public under Subsection (1)(a) may be used for advertising  
3485 or solicitation purposes.

3486 (3) Access to protected records, except as provided in Subsection (4), is determined by  
3487 Section 63G-2-202.

3488 (4) In addition to those persons granted access to protected records under Section  
3489 63G-2-202, the division may disclose a protected record to a licensed private investigator,  
3490 holding a valid agency or registrant license, with a legitimate business need, a person with a  
3491 bona fide security interest, or the owner of a mobile home park subject to Subsection (5), only  
3492 upon receipt of a signed acknowledgment that the person receiving that protected record may  
3493 not:

3494 (a) resell or disclose information from that record to any other person except as  
3495 permitted in the federal Driver's Privacy Protection Act of 1994; or

3496 (b) use information from that record for advertising or solicitation purposes.

3497 (5) The division may disclose the name or address, or both, of the lienholder or mobile  
3498 home owner of record, or both of them, to the owner of a mobile home park, if all of the  
3499 following conditions are met:

3500 (a) a mobile home located within the mobile home park owner's park has been  
3501 abandoned under Section 57-16-13 or the resident is in default under the resident's lease;

3502 (b) the mobile home park owner has conducted a reasonable search, but is unable to  
3503 determine the name or address, or both, of the lienholder or mobile home owner of record; and

3504 (c) the mobile home park owner has submitted a written statement to the division  
3505 explaining the mobile home park owner's efforts to determine the name or address, or both, of  
3506 the lienholder or mobile home owner of record before the mobile home park owner contacted  
3507 the division.

3508 (6) The division may provide protected information to a statistic gathering entity  
3509 under Subsection (4) only in summary form.

3510 (7) A person allowed access to protected records under Subsection (4) may request  
3511 motor vehicle title or registration information from the division regarding any person, entity,  
3512 or motor vehicle by submitting a written application on a form provided by the division.

3513 (8) If a person regularly requests information for business purposes, the division may  
3514 by rule allow the information requests to be made by telephone and fees as required under  
3515 Subsection (9) charged to a division billing account to facilitate division service. The rules  
3516 shall require that the:

3517 (a) division determine if the nature of the business and the volume of requests merit  
3518 the dissemination of the information by telephone;

3519 (b) division determine if the credit rating of the requesting party justifies providing a  
3520 billing account; and

3521 (c) requestor submit to the division an application that includes names and signatures  
3522 of persons authorized to request information by telephone and charge the fees to the billing  
3523 account.

3524 (9) (a) The division shall charge a reasonable search fee determined under Section  
3525 [~~63J-1-303~~] 63J-1-504 for the research of each record requested.

3526 (b) Fees may not be charged for furnishing information to persons necessary for their  
3527 compliance with this chapter.

3528 (c) Law enforcement agencies have access to division records free of charge.

3529 Section 87. Section **41-1a-301** is amended to read:

3530 **41-1a-301. Apportioned registration and licensing of interstate vehicles.**

3531 (1) (a) An owner or operator of a fleet of commercial vehicles based in this state and  
3532 operating in two or more jurisdictions may register commercial vehicles for operation under  
3533 the International Registration Plan or the Uniform Vehicle Registration Proration and  
3534 Reciprocity Agreement by filing an application with the division.

3535 (b) The application shall include information that identifies the vehicle owner, the  
3536 vehicle, the miles traveled in each jurisdiction, and other information pertinent to the  
3537 registration of apportioned vehicles.

3538 (c) Vehicles operated exclusively in this state may not be apportioned.

3539 (2) (a) If no operations were conducted during the preceding year, the application shall  
3540 contain a statement of the proposed operations and an estimate of annual mileage for each  
3541 jurisdiction.

3542 (b) The division may adjust the estimate if the division is not satisfied with its  
3543 correctness.

3544 (c) At renewal, the registrant shall use the actual mileage from the preceding year in  
3545 computing fees due each jurisdiction.

3546 (3) The registration fee for apportioned vehicles shall be determined as follows:

3547 (a) divide the in-jurisdiction miles by the total miles generated during the preceding  
3548 year;

3549 (b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206;  
3550 and

3551 (c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under  
3552 Subsection (3)(a).

3553 (4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer  
3554 fleets" with the fees paid according to the total distance those trailers were towed in all  
3555 jurisdictions during the preceding year mileage reporting period.

3556 (5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has  
3557 been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and

3558 where necessary, license plate, will be issued for each unit listed on the application.

3559 (ii) An original registration must be carried in each vehicle at all times.

3560 (b) Original registration cards for trailers or semitrailers may be carried in the power  
3561 unit.

3562 (c) (i) In lieu of a permanent registration card or license plate, the division may issue  
3563 one temporary permit authorizing operation of new or unlicensed vehicles until the permanent  
3564 registration is completed.

3565 (ii) Once a temporary permit is issued, the registration process may not be cancelled.  
3566 Registration must be completed and the fees and any property tax or in lieu fee due must be  
3567 paid for the vehicle for which the permit was issued.

3568 (iii) Temporary permits may not be issued for renewals.

3569 (d) (i) The division shall issue one distinctive license plate that displays the letters  
3570 APP for apportioned vehicles.

3571 (ii) The plate shall be displayed on the front of an apportioned truck tractor or power  
3572 unit or on the rear of any apportioned vehicle.

3573 (iii) Distinctive decals displaying the word "apportioned" and the month and year of  
3574 expiration shall be issued for each apportioned vehicle.

3575 (e) A nonrefundable administrative fee, determined by the commission pursuant to  
3576 Section [~~63J-1-303~~] 63J-1-504, shall be charged for each temporary permit, registration, or  
3577 both.

3578 (6) Vehicles that are apportionally registered are fully registered for intrastate and  
3579 interstate movements, providing the proper interstate and intrastate authority has been  
3580 secured.

3581 (7) (a) Vehicles added to an apportioned fleet after the beginning of the registration  
3582 year shall be registered by applying the quotient under Subsection (3)(a) for the original  
3583 application to the fees due for the remainder of the registration year.

3584 (b) (i) The owner shall maintain and submit complete annual mileage for each vehicle  
3585 in each jurisdiction, showing all miles operated by the lessor and lessee.

3586 (ii) The fiscal mileage reporting period begins July 1, and continues through June 30  
3587 of the year immediately preceding the calendar year in which the registration year begins.

3588 (c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may  
3589 be registered in the name of the owner-operator.

3590 (ii) The identification plates and registration card shall be the property of the lessor  
3591 and may reflect both the owner-operator's name and that of the carrier as lessee.

3592 (iii) The allocation of fees shall be according to the operational records of the  
3593 owner-operator.

3594 (d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

3595 (ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name  
3596 shall appear on the registration.

3597 (iii) The allocation of fees shall be according to the records of the carrier.

3598 (8) (a) Any registrant whose application for apportioned registration has been accepted  
3599 shall preserve the records on which the application is based for a period of three years after the  
3600 close of the registration year.

3601 (b) The records shall be made available to the division upon request for audit as to  
3602 accuracy of computations, payments, and assessments for deficiencies, or allowances for  
3603 credits.

3604 (c) An assessment for deficiency or claim for credit may not be made for any period  
3605 for which records are no longer required.

3606 (d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid  
3607 from the date due until paid on deficiencies found due after audit.

3608 (e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

3609 (f) The division may enter into agreements with other International Registration Plan  
3610 jurisdictions for joint audits.

3611 (9) (a) Except as provided in Subsection (9)(b), all state fees collected under this  
3612 section shall be deposited in the Transportation Fund.

3613 (b) The following fees may be used by the commission as a dedicated credit to cover

3614 the costs of electronic credentialing as provided in Section 41-1a-303:

3615 (i) \$5 of each temporary registration permit fee paid under Subsection (12)(a)(i) for a  
3616 single unit; and

3617 (ii) \$10 of each temporary registration permit fee paid under Subsection (12)(a)(ii) for  
3618 multiple units.

3619 (10) If registration is for less than a full year, fees for apportioned registration shall be  
3620 assessed according to Section 41-1a-1207.

3621 (a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the  
3622 new vehicle is of the same weight category as the replaced vehicle, the registrant must file a  
3623 supplemental application.

3624 (ii) A registration card that transfers the license plate to the new vehicle shall be  
3625 issued.

3626 (iii) When a replacement vehicle is of greater weight than the replaced vehicle,  
3627 additional registration fees are due.

3628 (b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is  
3629 registered, the registrant shall notify the division and surrender the registration card and  
3630 license plate of the withdrawn vehicle.

3631 (11) (a) An out-of-state carrier with an apportionally registered vehicle who has not  
3632 presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or  
3633 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway  
3634 use tax computed as follows:

3635 (i) Multiply the number of vehicles or combination vehicles registered in each weight  
3636 class by the equivalent tax figure from the following tables:

3637 Vehicle or Combination

3638	Registered Weight	Age of Vehicle	Equivalent Tax
3639	12,000 pounds or less	12 or more years	
3640	\$10		
3641	12,000 pounds or less	9 or more years but less than 12 years	

3642	\$50	
3643	12,000 pounds or less	6 or more years but less than 9 years
3644	\$80	
3645	12,000 pounds or less	3 or more years but less than 6 years
3646	\$110	
3647	12,000 pounds or less	Less than 3 years
3648	\$150	

3649	Vehicle or Combination	Equivalent
3650	Registered Weight	Tax
3651	12,001 - 18,000 pounds	\$150
3652	18,001 - 34,000 pounds	200
3653	34,001 - 48,000 pounds	300
3654	48,001 - 64,000 pounds	450
3655	64,001 pounds and over	600

3656 (ii) Multiply the equivalent tax value for the total fleet determined under Subsection  
 3657 (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the  
 3658 registration year.

3659 (b) Fees shall be assessed as provided in Section 41-1a-1207.

3660 (12) (a) Commercial vehicles meeting the registration requirements of another  
 3661 jurisdiction may, as an alternative to full or apportioned registration, secure a temporary  
 3662 registration permit for a period not to exceed 96 hours or until they leave the state, whichever  
 3663 is less, for a fee of:

3664 (i) \$25 for a single unit; and

3665 (ii) \$50 for multiple units.

3666 (b) A state temporary permit or registration fee is not required from nonresident  
 3667 owners or operators of vehicles or combination of vehicles having a gross laden weight of  
 3668 26,000 pounds or less for each single unit or combination.

3669 Section 88. Section **41-1a-418** is amended to read:

3670 **41-1a-418. Authorized special group license plates.**

3671 (1) The division shall only issue special group license plates in accordance with this  
3672 section through Section 41-1a-422 to a person who is specified under this section within the  
3673 categories listed as follows:

3674 (a) disability special group license plates issued in accordance with Section  
3675 41-1a-420;

3676 (b) honor special group license plates, as in a war hero, which plates are issued for a:

3677 (i) survivor of the Japanese attack on Pearl Harbor;

3678 (ii) former prisoner of war;

3679 (iii) recipient of a Purple Heart;

3680 (iv) disabled veteran; or

3681 (v) recipient of a gold star award issued by the United States Secretary of Defense;

3682 (c) unique vehicle type special group license plates, as for historical, collectors value,  
3683 or other unique vehicle type, which plates are issued for:

3684 (i) a special interest vehicle;

3685 (ii) a vintage vehicle;

3686 (iii) a farm truck; or

3687 (iv) (A) until Subsection (1)(c)(iv)(B) applies, a vehicle powered by clean fuel as  
3688 defined in Section 59-13-102; or

3689 (B) beginning on the effective date of rules made by the Department of Transportation  
3690 authorized under Subsection 41-6a-702(5)(b), a vehicle powered by clean fuel that meets the  
3691 standards established by the Department of Transportation in rules authorized under  
3692 Subsection 41-6a-702(5)(b);

3693 (d) recognition special group license plates, as in a public official or an emergency  
3694 service giver, which plates are issued for a:

3695 (i) current member of the Legislature;

3696 (ii) current member of the United States Congress;

3697 (iii) current member of the National Guard;

- 3698 (iv) licensed amateur radio operator;
- 3699 (v) currently employed, volunteer, or retired firefighter;
- 3700 (vi) emergency medical technician;
- 3701 (vii) current member of a search and rescue team; or
- 3702 (viii) current honorary consulate designated by the United States Department of State;
- 3703 and
- 3704 (e) support special group license plates, as for a contributor to an institution or cause,
- 3705 which plates are issued for a contributor to:
  - 3706 (i) an institution's scholastic scholarship fund;
  - 3707 (ii) the Division of Wildlife Resources;
  - 3708 (iii) the Department of Veterans' Affairs;
  - 3709 (iv) the Division of Parks and Recreation;
  - 3710 (v) the Department of Agriculture and Food;
  - 3711 (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
  - 3712 (vii) the Boy Scouts of America;
  - 3713 (viii) spay and neuter programs through No More Homeless Pets in Utah;
  - 3714 (ix) the Boys and Girls Clubs of America;
  - 3715 (x) Utah public education;
  - 3716 (xi) programs that provide support to organizations that create affordable housing for
  - 3717 those in severe need through the Division of Real Estate;
  - 3718 (xii) the Department of Public Safety; or
  - 3719 (xiii) programs that support Zion National Park.
- 3720 (2) Beginning January 1, 2003, the division may not issue a new type of special group
- 3721 license plate unless the division receives:
  - 3722 (a) a start-up fee established under Section [~~63J-1-303~~] 63J-1-504 for production and
  - 3723 administrative costs for providing the new special group license plates; or
  - 3724 (b) a legislative appropriation for the start-up fee provided under Subsection (2)(a).
- 3725 (3) (a) A sponsoring organization that qualifies for tax-exempt status under Internal

3726 Revenue Code Section 501(c)(3) may request the commission to authorize a new type of  
3727 special group license plate for the sponsoring organization. The sponsoring organization shall:

- 3728 (i) collect a minimum of 200 applications; and
- 3729 (ii) pay a start-up fee established under Section [~~63J-1-303~~] 63J-1-504 for production  
3730 and administrative costs for providing the new type of special group license plates.

3731 (b) If the provisions of Subsection (3)(a) are met, the commission shall approve the  
3732 request and the division shall:

- 3733 (i) design a license plate in accordance with Section 41-1a-419; and
- 3734 (ii) issue the new type of special group license plates.

3735 Section 89. Section **41-1a-419** is amended to read:

3736 **41-1a-419. Plate design -- Vintage vehicle certification and registration --**  
3737 **Personalized special group license plates -- Rulemaking.**

3738 (1) (a) The design and maximum number of numerals or characters on special group  
3739 license plates shall be determined by the division in accordance with the requirements under  
3740 Subsection (1)(b).

3741 (b) Each special group license plate shall display:

- 3742 (i) the word Utah;
- 3743 (ii) the name or identifying slogan of the special group;
- 3744 (iii) a symbol decal not exceeding two positions in size representing the special group;

3745 and

3746 (iv) the combination of letters, numbers, or both uniquely identifying the registered  
3747 vehicle.

3748 (2) (a) The division shall, after consultation with a representative designated by the  
3749 special group, specify the word or words comprising the special group name and the symbol  
3750 decal to be displayed upon the special group license plates.

3751 (b) A special group license plate symbol decal may not be redesigned:

- 3752 (i) unless the division receives a redesign fee established by the division under Section  
3753 [~~63J-1-303~~] 63J-1-504; and

3754 (ii) more frequently than every five years.

3755 (c) (i) Except as provided in Subsection (2)(c)(ii), a special group license plate symbol  
3756 decal may not be reordered unless the division receives a symbol decal reorder fee established  
3757 by the division under Section [~~63J-1-303~~] 63J-1-504.

3758 (ii) A recognition special group license plate symbol decal for a currently employed,  
3759 volunteer, or retired firefighter issued in accordance with Subsection 41-1a-418(1)(d)(v) that  
3760 is reordered on or after July 1, 2007, but on or before June 30, 2008, is exempt from the  
3761 symbol decal reorder fee authorized under Subsection (2)(c)(i).

3762 (3) The license plates issued for horseless carriages prior to July 1, 1992, are valid  
3763 without renewal as long as the vehicle is owned by the registered owner and the license plates  
3764 may not be recalled by the division.

3765 (4) A person who meets the criteria established under Sections 41-1a-418 through  
3766 41-1a-422 for issuance of special group license plates may make application in the same  
3767 manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license  
3768 plates.

3769 (5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah  
3770 Administrative Rulemaking Act, to:

3771 (a) establish qualifying criteria for persons to receive, renew, or surrender special  
3772 group license plates; and

3773 (b) establish the maximum number of numerals or characters for special group license  
3774 plates.

3775 Section 90. Section **41-1a-422** is amended to read:

3776 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
3777 **contribution collection procedures.**

3778 (1) As used in this section:

3779 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
3780 has donated or in whose name at least \$25 has been donated to:

3781 (A) a scholastic scholarship fund of a single named institution;

- 3782 (B) the Department of Veterans' Affairs for veterans' programs;
- 3783 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
3784 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,  
3785 access, and management of wildlife habitat;
- 3786 (D) the Department of Agriculture and Food for the benefit of conservation districts;
- 3787 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;
- 3788 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah,  
3789 with the donation evenly divided between the two;
- 3790 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America  
3791 council as specified by the contributor;
- 3792 (H) No More Homeless Pets in Utah for distribution to organizations or individuals  
3793 that provide spay and neuter programs that subsidize the sterilization of domestic animals;
- 3794 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth  
3795 development programs;
- 3796 (J) the Utah Association of Public School Foundations to support public education;
- 3797 (K) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 to  
3798 assist people who have severe housing needs;
- 3799 (L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118  
3800 to support the families of fallen Utah Highway Patrol troopers and other Department of Public  
3801 Safety employees; or
- 3802 (M) the Division of Parks and Recreation for distribution to organizations that provide  
3803 support for Zion National Park.
- 3804 (ii) (A) For a veterans' special group license plate, "contributor" means a person who  
3805 has donated or in whose name at least a \$25 donation at the time of application and \$10  
3806 annual donation thereafter has been made.
- 3807 (B) For a Utah Housing Opportunity special group license plate, "contributor" means a  
3808 person who:
- 3809 (I) has donated or in whose name at least \$30 has been donated at the time of

3810 application and annually after the time of application; and

3811 (II) is a member of a trade organization for real estate licensees that has more than  
3812 15,000 Utah members.

3813 (C) For an Honoring Heroes special group license plate, "contributor" means a person  
3814 who has donated or in whose name at least \$35 has been donated at the time of application  
3815 and annually thereafter.

3816 (b) "Institution" means a state institution of higher education as defined under Section  
3817 53B-3-102 or a private institution of higher education in the state accredited by a regional or  
3818 national accrediting agency recognized by the United States Department of Education.

3819 (2) (a) An applicant for original or renewal collegiate special group license plates  
3820 under Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
3821 present the original contribution verification form under Subsection (2)(b) or make a  
3822 contribution to the division at the time of application under Subsection (3).

3823 (b) An institution with a support special group license plate shall issue to a contributor  
3824 a verification form designed by the commission containing:

- 3825 (i) the name of the contributor;
- 3826 (ii) the institution to which a donation was made;
- 3827 (iii) the date of the donation; and
- 3828 (iv) an attestation that the donation was for a scholastic scholarship.

3829 (c) The state auditor may audit each institution to verify that the moneys collected by  
3830 the institutions from contributors are used for scholastic scholarships.

3831 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
3832 commission shall charge the institution whose plate was issued, a fee determined in  
3833 accordance with Section [~~63J-1-303~~] 63J-1-504 for management and administrative expenses  
3834 incurred in issuing and renewing the collegiate license plates.

3835 (e) If the contribution is made at the time of application, the contribution shall be  
3836 collected, treated, and deposited as provided under Subsection (3).

3837 (3) (a) An applicant for original or renewal support special group license plates under

3838 this section must be a contributor to the sponsoring organization associated with the license  
3839 plate.

3840 (b) This contribution shall be:

3841 (i) unless collected by the named institution under Subsection (2), collected by the  
3842 division;

3843 (ii) considered a voluntary contribution for the funding of the activities specified  
3844 under this section and not a motor vehicle registration fee; and

3845 (iii) deposited into the appropriate account less actual administrative costs associated  
3846 with issuing the license plates.

3847 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior  
3848 to registration or renewal of registration.

3849 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
3850 the division when issuing original:

3851 (i) snowmobile license plates; or

3852 (ii) conservation license plates.

3853 (4) Veterans' license plates shall display one of the symbols representing the Army,  
3854 Navy, Air Force, Marines, Coast Guard, or American Legion.

3855 Section 91. Section **41-1a-1007** is amended to read:

3856 **41-1a-1007. Fees.**

3857 (1) A certified vehicle inspector may charge a fee in accordance with Section  
3858 [~~63J-1-303~~] 63J-1-504 for each inspection under Subsection 41-1a-1002(1).

3859 (2) To cover the costs of inspection and to defray the cost of certification, the fee  
3860 charged under this section by a certified vehicle inspector shall be retained by the Motor  
3861 Vehicle Enforcement Division as a dedicated credit.

3862 Section 92. Section **41-1a-1010** is amended to read:

3863 **41-1a-1010. Permit required to dismantle vehicle -- Duties upon receiving the**  
3864 **permit -- Exceptions.**

3865 (1) (a) A person may not scrap, dismantle, destroy, or otherwise change any vehicle so

3866 that it loses its character, until the person submits to the division:

3867 (i) the certificate of title for the vehicle for cancellation; and

3868 (ii) an application for a permit to dismantle the vehicle.

3869 (b) Upon approval of the application, the division shall issue a permit to dismantle the  
3870 vehicle.

3871 (2) Except as provided in Subsection (3), if a permit to dismantle is issued under this  
3872 section, the vehicle shall be destroyed and may not be rebuilt or reconstructed and may not be  
3873 retitled or registered.

3874 (3) A vehicle for which a permit to dismantle has been issued by the division may be  
3875 retitled and the permit to dismantle rescinded if:

3876 (a) prior to receiving a dismantling permit the vehicle had a Utah certificate of title;

3877 (b) the vehicle has not been dismantled;

3878 (c) an investigator for the Motor Vehicle Enforcement Division of the commission  
3879 determines after a physical inspection of the vehicle that it is the same vehicle for which the  
3880 permit to dismantle was issued; and

3881 (d) the applicant pays the fee under Subsection (4).

3882 (4) The commission may collect a fee established in accordance with Section  
3883 [~~63J-1-303~~] 63J-1-504 to cover the expenses of an inspection under Subsection (3).

3884 Section 93. Section **41-1a-1211** is amended to read:

3885 **41-1a-1211. License plate fees -- Application fees for issuance and renewal of**  
3886 **personalized and special group license plates -- Replacement fee for license plates --**  
3887 **Postage fees.**

3888 (1) (a) Except as provided in Subsections (11) and (12), a license plate fee of \$5 per  
3889 set shall be paid to the division for the issuance of any new license plate under Part 4, License  
3890 Plates and Registration Indicia.

3891 (b) The license plate fee shall be deposited as follows:

3892 (i) \$4 as provided in Section 41-1a-1201; and

3893 (ii) \$1 in the Transportation Fund.

3894 (2) An applicant for original issuance of personalized license plates issued under  
3895 Section 41-1a-410 shall pay a \$50 per set license plate application fee in addition to the fee  
3896 required in Subsection (1).

3897 (3) Beginning July 1, 2003, a person who applies for a special group license plate shall  
3898 pay a \$5 fee for the original set of license plates in addition to the fee required under  
3899 Subsection (1).

3900 (4) An applicant for original issuance of personalized special group license plates shall  
3901 pay the license plate application fees required in Subsection (2) in addition to the license plate  
3902 fees and license plate application fees established under Subsections (1) and (3).

3903 (5) An applicant for renewal of personalized license plates issued under Section  
3904 41-1a-410 shall pay a \$10 per set application fee.

3905 (6) (a) A fee of \$5 shall be paid to the division for the replacement of any license plate  
3906 issued under Part 4, License Plates and Registration Indicia.

3907 (b) The license plate fee shall be deposited as follows:

3908 (i) \$4 as provided in Section 41-1a-1201; and

3909 (ii) \$1 in the Transportation Fund.

3910 (7) The division may charge a fee established under Section [~~63J-1-303~~] 63J-1-504 to  
3911 recover its costs for the replacement of decals issued under Section 41-1a-418.

3912 (8) The division may charge a fee established under Section [~~63J-1-303~~] 63J-1-504 to  
3913 recover the cost of issuing stickers under Section 41-1a-416.

3914 (9) In addition to any other fees required by this section, the division shall assess a fee  
3915 established under Section [~~63J-1-303~~] 63J-1-504 to cover postage expenses if new or  
3916 replacement license plates are mailed to the applicant.

3917 (10) The fees required under this section are separate from and in addition to  
3918 registration fees required under Section 41-1a-1206.

3919 (11) (a) An applicant for a license plate issued under Section 41-1a-407 is not subject  
3920 to the license plate fee under Subsection (1).

3921 (b) An applicant for a Purple Heart special group license plate issued in accordance

3922 with Section 41-1a-421 is exempt from the fees under Subsections (1), (3), and (7).

3923 (12) A person is exempt from the fee under Subsection (1) or (6) if the person:

3924 (a) was issued a clean fuel special group license plate in accordance with Section  
3925 41-1a-418 prior to the effective date of rules made by the Department of Transportation under  
3926 Subsection 41-6a-702(5)(b);

3927 (b) beginning on the effective date of rules made by the Department of Transportation  
3928 authorized under Subsection 41-6a-702(5)(b), is no longer eligible for a clean fuel special  
3929 group license plate under the rules made by the Department of Transportation; and

3930 (c) upon renewal or reissuance, is required to replace the clean fuel special group  
3931 license plate with a new license plate.

3932 Section 94. Section **41-1a-1212** is amended to read:

3933 **41-1a-1212. Fee for replacement of license plate decals.**

3934 A fee established in accordance with Section [~~63J-1-303~~] 63J-1-504 shall be paid to  
3935 the division for the replacement of a license plate decal required by Section 41-1a-402.

3936 Section 95. Section **41-1a-1221** is amended to read:

3937 **41-1a-1221. Fees to cover the cost of electronic payments.**

3938 (1) As used in this section:

3939 (a) "Electronic payment" means use of any form of payment processed through  
3940 electronic means, including credit cards, debit cards, and automatic clearinghouse  
3941 transactions.

3942 (b) "Electronic payment fee" means the fee assessed to defray:

3943 (i) the charge, discount fee, or processing fee charged by credit card companies or  
3944 processing agents to process an electronic payment; or

3945 (ii) costs associated with the purchase of equipment necessary for processing  
3946 electronic payments.

3947 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all  
3948 registrations and renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).

3949 (b) The fee described in Subsection (2)(a):

3950 (i) shall be imposed regardless of the method of payment for a particular transaction;  
3951 and

3952 (ii) need not be separately identified from the fees imposed for registration and  
3953 renewals of registration under Subsections 41-1a-1206(1)(a), (1)(b), and (2).

3954 (3) The division shall establish the fee according to the procedures and requirements  
3955 of Section [~~63J-1-303~~] 63J-1-504.

3956 (4) A fee imposed under this section:

3957 (a) shall be used by the division as a dedicated credit to cover the costs of electronic  
3958 payments;

3959 (b) is nonlapsing; and

3960 (c) is not subject to Subsection 63J-2-202(2).

3961 Section 96. Section **41-3-601** is amended to read:

3962 **41-3-601. Fees.**

3963 (1) To pay for administering and enforcing this chapter, the administrator shall collect  
3964 fees determined by the commission under Section [~~63J-1-303~~] 63J-1-504 for each of the  
3965 following:

3966 (a) new motor vehicle dealer's license;

3967 (b) used motor vehicle dealer's license;

3968 (c) new motorcycle, off-highway vehicle, and small trailer dealer;

3969 (d) used motorcycle, off-highway vehicle, and small trailer dealer;

3970 (e) motor vehicle salesperson's license;

3971 (f) motor vehicle salesperson's transfer or reissue fee;

3972 (g) motor vehicle manufacturer's license;

3973 (h) motor vehicle transporter's license;

3974 (i) motor vehicle dismantler's license;

3975 (j) motor vehicle crusher's license;

3976 (k) motor vehicle remanufacturer's license;

3977 (l) body shop's license;

- 3978 (m) distributor or factory branch and distributor branch's license;
- 3979 (n) representative's license;
- 3980 (o) dealer plates;
- 3981 (p) dismantler plates;
- 3982 (q) manufacturer plates;
- 3983 (r) transporter plates;
- 3984 (s) damaged plate replacement;
- 3985 (t) in-transit permits;
- 3986 (u) loaded demonstration permits;
- 3987 (v) additional place of business;
- 3988 (w) special equipment dealer's license;
- 3989 (x) temporary permits; and
- 3990 (y) temporary sports event registration certificates.

3991 (2) (a) To pay for training certified vehicle inspectors and enforcement under Sections  
3992 41-1a-1001 through 41-1a-1008, the State Tax Commission shall establish and the  
3993 administrator shall collect inspection fees determined by the commission under Section  
3994 ~~[63J-1-303]~~ 63J-1-504.

3995 (b) The division shall use fees collected under Subsection (2)(a) as nonlapsing  
3996 dedicated credits to be used toward the costs of the division.

3997 (3) (a) At the time of application, the administrator shall collect a fee of \$200 for each  
3998 salvage vehicle buyer license.

3999 (b) The administrator may retain a portion of the fee under Subsection (3)(a) to offset  
4000 the administrator's actual costs of administering and enforcing salvage vehicle buyer licenses.

4001 (4) The division shall use fees collected under Subsections (1)(x) and (y) as  
4002 nonlapsing dedicated credits to be used toward the costs of the division.

4003 Section 97. Section **41-3-604** is amended to read:

4004 **41-3-604. Fee to cover the cost of electronic payments.**

4005 (1) As used in this section:

- 4006 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
- 4007 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
- 4008 (2) (a) The division may collect a fee to cover the cost of electronic payments on the
- 4009 following transactions:
- 4010 (i) each purchase or renewal of a license under Section 41-3-202;
- 4011 (ii) each purchase of a book of temporary permits under Section 41-3-302;
- 4012 (iii) each penalty issued for a delinquent temporary permit under Section 41-3-302;
- 4013 (iv) each purchase of an in-transit permit under Section 41-3-305;
- 4014 (v) each purchase of a loaded demonstration permit under Section 41-3-502;
- 4015 (vi) each purchase of a license plate under Section 41-3-503; and
- 4016 (vii) each purchase of a salvage vehicle buyer license under Section 41-3-202.
- 4017 (b) The fee described in Subsection (2)(a):
- 4018 (i) shall be imposed regardless of the method of payment for a particular transaction;
- 4019 and
- 4020 (ii) need not be separately identified from the fees and penalty described in
- 4021 Subsections (2)(a)(i) through (vii).
- 4022 (3) The division shall establish the fee under Subsection (2)(a) according to the
- 4023 procedures and requirements of Section [~~63J-1-303~~] 63J-1-504.
- 4024 (4) A fee imposed under this section:
- 4025 (a) shall be used by the division as a dedicated credit to cover the costs of electronic
- 4026 payments;
- 4027 (b) is nonlapsing; and
- 4028 (c) is not subject to Subsection 63J-2-202(2).
- 4029 Section 98. Section **41-6a-404** is amended to read:
- 4030 **41-6a-404. Accident reports -- When confidential -- Insurance policy**
- 4031 **information -- Use as evidence -- Penalty for false information.**
- 4032 (1) As used in this section:
- 4033 (a) "Agent" means:

- 4034 (i) a person's attorney;
- 4035 (ii) a person's insurer;
- 4036 (iii) a general acute hospital, as defined in Section 26-21-2, that:
- 4037 (A) has an emergency room; and
- 4038 (B) is providing or has provided emergency services to the person in relation to the
- 4039 accident; or
- 4040 (iv) any other individual or entity with signed permission from the person to receive
- 4041 the person's accident report.
- 4042 (b) "Accompanying data" means all materials gathered by the investigating peace
- 4043 officer in an accident investigation including:
- 4044 (i) the identity of witnesses and, if known, contact information;
- 4045 (ii) witness statements;
- 4046 (iii) photographs and videotapes;
- 4047 (iv) diagrams; and
- 4048 (v) field notes.
- 4049 (2) Except as provided in Subsection (3), all accident reports required in this part to be
- 4050 filed with the department:
- 4051 (a) are without prejudice to the reporting individual;
- 4052 (b) are protected and for the confidential use of the department or other state, local, or
- 4053 federal agencies having use for the records for official governmental statistical, investigative,
- 4054 and accident prevention purposes; and
- 4055 (c) may be disclosed only in a statistical form that protects the privacy of any person
- 4056 involved in the accident.
- 4057 (3) (a) Subject to the provisions of this section, the department or the responsible law
- 4058 enforcement agency employing the peace officer that investigated the accident shall disclose
- 4059 an accident report to:
- 4060 (i) a person involved in the accident, excluding a witness to the accident;
- 4061 (ii) a person suffering loss or injury in the accident;

4062 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)  
4063 and (ii);

4064 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

4065 (v) a state, local, or federal agency that uses the records for official governmental,  
4066 investigative, or accident prevention purposes;

4067 (vi) law enforcement personnel when acting in their official governmental capacity;

4068 and

4069 (vii) a licensed private investigator.

4070 (b) The responsible law enforcement agency employing the peace officer that  
4071 investigated the accident:

4072 (i) shall in compliance with Subsection (3)(a):

4073 (A) disclose an accident report; or

4074 (B) upon written request disclose an accident report and its accompanying data within  
4075 ten business days from receipt of a written request for disclosure; or

4076 (ii) may withhold an accident report, and any of its accompanying data if disclosure  
4077 would jeopardize an ongoing criminal investigation or criminal prosecution.

4078 (c) In accordance with Subsection (3)(a), the department or the responsible law  
4079 enforcement agency employing the investigating peace officer shall disclose whether any  
4080 person or vehicle involved in an accident reported under this section was covered by a vehicle  
4081 insurance policy, and the name of the insurer.

4082 (d) Information provided to a member of the press or broadcast news media under  
4083 Subsection (3)(a)(iv) may only include:

4084 (i) the name, age, sex, and city of residence of each person involved in the accident;

4085 (ii) the make and model year of each vehicle involved in the accident;

4086 (iii) whether or not each person involved in the accident was covered by a vehicle  
4087 insurance policy;

4088 (iv) the location of the accident; and

4089 (v) a description of the accident that excludes personal identifying information not

4090 listed in Subsection (3)(d)(i).

4091 (e) The department shall disclose to any requesting person the following vehicle  
4092 accident history information, excluding personal identifying information, in bulk electronic  
4093 form:

4094 (i) any vehicle identifying information that is electronically available, including the  
4095 make, model year, and vehicle identification number of each vehicle involved in an accident;

4096 (ii) the date of the accident; and

4097 (iii) any electronically available data which describes the accident, including a  
4098 description of any physical damage to the vehicle.

4099 (f) The department may establish a fee under Section [~~63J-1-303~~] 63J-1-504 based on  
4100 the fair market value of the information for providing bulk vehicle accident history  
4101 information under Subsection (3)(e).

4102 (4) (a) Except as provided in Subsection (4)(b), accident reports filed under this  
4103 section may not be used as evidence in any civil or criminal trial arising out of an accident.

4104 (b) (i) Upon demand of any party to the trial or upon demand of any court, the  
4105 department shall furnish a certificate showing that a specified accident report has or has not  
4106 been made to the department in compliance with law.

4107 (ii) If the report has been made, the certificate furnished by the department shall show:

4108 (A) the date, time, and location of the accident;

4109 (B) the names and addresses of the drivers;

4110 (C) the owners of the vehicles involved; and

4111 (D) the investigating peace officers.

4112 (iii) The reports may be used as evidence when necessary to prosecute charges filed in  
4113 connection with a violation of Subsection (5).

4114 (5) A person who gives information in reports as required in this part knowing or  
4115 having reason to believe that the information is false is guilty of a class A misdemeanor.

4116 (6) The department and the responsible law enforcement agency employing the  
4117 investigating peace officer may charge a reasonable fee determined by the department under

4118 Section [~~63J-1-303~~] 63J-1-504 for the cost incurred in disclosing an accident report or an  
4119 accident report and any of its accompanying data under Subsections (3)(a) and (b).

4120 Section 99. Section **41-6a-518** is amended to read:

4121 **41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost --**  
4122 **Impecuniosity -- Fee.**

4123 (1) As used in this section:

4124 (a) "Commissioner" means the commissioner of the Department of Public Safety.

4125 (b) "Ignition interlock system" or "system" means a constant monitoring device or any  
4126 similar device certified by the commissioner that prevents a motor vehicle from being started  
4127 or continuously operated without first determining the driver's breath alcohol concentration.

4128 (c) "Probation provider" means the supervisor and monitor of the ignition interlock  
4129 system required as a condition of probation who contracts with the court in accordance with  
4130 Subsections 41-6a-507(2) and (3).

4131 (2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and  
4132 41-6a-505, and in addition to any requirements imposed as a condition of probation, the court  
4133 may require that any person who is convicted of violating Section 41-6a-502 and who is  
4134 granted probation may not operate a motor vehicle during the period of probation unless that  
4135 motor vehicle is equipped with a functioning, certified ignition interlock system installed and  
4136 calibrated so that the motor vehicle will not start or continuously operate if the operator's  
4137 blood alcohol concentration exceeds a level ordered by the court.

4138 (b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when  
4139 the violation occurred, the court shall order the installation of the ignition interlock system as a  
4140 condition of probation.

4141 (c) The division shall post the ignition interlock restriction on the electronic record  
4142 available to law enforcement.

4143 (d) This section does not apply to a person convicted of a violation of Section  
4144 41-6a-502 whose violation involves drugs other than alcohol.

4145 (3) If the court imposes the use of an ignition interlock system as a condition of

4146 probation, the court shall:

4147 (a) stipulate on the record the requirement for and the period of the use of an ignition  
4148 interlock system;

4149 (b) order that an ignition interlock system be installed on each motor vehicle owned or  
4150 operated by the probationer, at the probationer's expense;

4151 (c) immediately notify the Driver License Division and the person's probation provider  
4152 of the order; and

4153 (d) require the probationer to provide proof of compliance with the court's order to the  
4154 probation provider within 30 days of the order.

4155 (4) (a) The probationer shall provide timely proof of installation within 30 days of an  
4156 order imposing the use of a system or show cause why the order was not complied with to the  
4157 court or to the probationer's probation provider.

4158 (b) The probation provider shall notify the court of failure to comply under Subsection  
4159 (4)(a).

4160 (c) For failure to comply under Subsection (4)(a) or upon receiving the notification  
4161 under Subsection (4)(b), the court shall order the Driver License Division to suspend the  
4162 probationer's driving privileges for the remaining period during which the compliance was  
4163 imposed.

4164 (d) Cause for failure to comply means any reason the court finds sufficiently  
4165 justifiable to excuse the probationer's failure to comply with the court's order.

4166 (5) (a) Any probationer required to install an ignition interlock system shall have the  
4167 system monitored by the manufacturer or dealer of the system for proper use and accuracy at  
4168 least semiannually and more frequently as the court may order.

4169 (b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the  
4170 court or the person's probation provider.

4171 (ii) The report shall be issued within 14 days following each monitoring.

4172 (6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the  
4173 reasonable costs of leasing or buying and installing and maintaining the system.

4174 (b) A probationer may not be excluded from this section for inability to pay the costs,  
4175 unless:

4176 (i) the probationer files an affidavit of impecuniosity; and

4177 (ii) the court enters a finding that the probationer is impecunious.

4178 (c) In lieu of waiver of the entire amount of the cost, the court may direct the  
4179 probationer to make partial or installment payments of costs when appropriate.

4180 (d) The ignition interlock provider shall cover the costs of waivers by the court under  
4181 this Subsection (6).

4182 (7) (a) If a probationer is required in the course and scope of employment to operate a  
4183 motor vehicle owned by the probationer's employer, the probationer may operate that motor  
4184 vehicle without installation of an ignition interlock system only if:

4185 (i) the motor vehicle is used in the course and scope of employment;

4186 (ii) the employer has been notified that the employee is restricted; and

4187 (iii) the employee has proof of the notification in the employee's possession while  
4188 operating the employer's motor vehicle.

4189 (b) (i) To the extent that an employer-owned motor vehicle is made available to a  
4190 probationer subject to this section for personal use, no exemption under this section shall  
4191 apply.

4192 (ii) A probationer intending to operate an employer-owned motor vehicle for personal  
4193 use and who is restricted to the operation of a motor vehicle equipped with an ignition  
4194 interlock system shall notify the employer and obtain consent in writing from the employer to  
4195 install a system in the employer-owned motor vehicle.

4196 (c) A motor vehicle owned by a business entity that is all or partly owned or controlled  
4197 by a probationer subject to this section is not a motor vehicle owned by the employer and does  
4198 not qualify for an exemption under this Subsection (7).

4199 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4200 the commissioner shall make rules setting standards for the certification of ignition interlock  
4201 systems.

- 4202 (b) The standards under Subsection (8)(a) shall require that the system:
- 4203 (i) not impede the safe operation of the motor vehicle;
- 4204 (ii) have features that make circumventing difficult and that do not interfere with the
- 4205 normal use of the motor vehicle;
- 4206 (iii) require a deep lung breath sample as a measure of breath alcohol concentration;
- 4207 (iv) prevent the motor vehicle from being started if the driver's breath alcohol
- 4208 concentration exceeds a specified level;
- 4209 (v) work accurately and reliably in an unsupervised environment;
- 4210 (vi) resist tampering and give evidence if tampering is attempted;
- 4211 (vii) operate reliably over the range of motor vehicle environments; and
- 4212 (viii) be manufactured by a party who will provide liability insurance.
- 4213 (c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or
- 4214 independent laboratory tests relied upon in certification of ignition interlock systems by other
- 4215 states.
- 4216 (d) A list of certified systems shall be published by the commissioner and the cost of
- 4217 certification shall be borne by the manufacturers or dealers of ignition interlock systems
- 4218 seeking to sell, offer for sale, or lease the systems.
- 4219 (e) (i) In accordance with Section [~~63J-1-303~~] 63J-1-504, the commissioner may
- 4220 establish an annual dollar assessment against the manufacturers of ignition interlock systems
- 4221 distributed in the state for the costs incurred in certifying.
- 4222 (ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the
- 4223 manufacturers on a fair and reasonable basis.
- 4224 (9) There shall be no liability on the part of, and no cause of action of any nature shall
- 4225 arise against, the state or its employees in connection with the installation, use, operation,
- 4226 maintenance, or supervision of an interlock ignition system as required under this section.
- 4227 Section 100. Section **41-12a-202** is amended to read:
- 4228 **41-12a-202. Access to accident reports.**
- 4229 (1) Accident reports and supplemental information as required under this chapter are

4230 protected and are for the confidential use of the department and other state, local, or federal  
4231 government agencies and may be disclosed only as provided in Section 41-6a-404.

4232 (2) (a) Any person entitled to the disclosure of an accident report, as provided in  
4233 Section 41-6a-404, may obtain a photocopy by paying the department a fee established under  
4234 Section [~~63J-1-303~~] 63J-1-504.

4235 (b) These fees shall be deposited in the General Fund.

4236 Section 101. Section **41-12a-805** is amended to read:

4237 **41-12a-805. Disclosure of insurance information -- Penalty.**

4238 (1) Information in the database established under Section 41-12a-803 provided by a  
4239 person to the designated agent is considered to be the property of the person providing the  
4240 information.

4241 (2) The information may not be disclosed from the database under Title 63G, Chapter  
4242 2, Government Records Access and Management Act, or otherwise, except as follows:

4243 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
4244 security requirement under Section 41-12a-301, the designated agent shall verify insurance  
4245 information through the state computer network for a state or local government agency or  
4246 court;

4247 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's  
4248 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue  
4249 to any state or local government agency or court a certificate documenting the insurance  
4250 information, according to the database, of a specific individual or motor vehicle for the time  
4251 period designated by the government agency;

4252 (c) upon request, the department or its designated agent shall disclose whether or not a  
4253 person is an insured individual and the insurance company name to:

4254 (i) that individual or, if that individual is deceased, any interested person of that  
4255 individual, as defined in Section 75-1-201;

4256 (ii) the parent or legal guardian of that individual if the individual is an  
4257 unemancipated minor;

- 4258 (iii) the legal guardian of that individual if the individual is legally incapacitated;
- 4259 (iv) a person who has power of attorney from the insured individual;
- 4260 (v) a person who submits a notarized release from the insured individual dated no
- 4261 more than 90 days before the date the request is made; or
- 4262 (vi) a person suffering loss or injury in a motor vehicle accident in which the insured
- 4263 individual is involved, but only as part of an accident report as authorized in Section
- 4264 41-12a-202;
- 4265 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations
- 4266 by state or local law enforcement agencies related to the:
- 4267 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter
- 4268 1a, Motor Vehicle Act;
- 4269 (ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act;
- 4270 and
- 4271 (iii) owner's or operator's security requirements under Section 41-12a-301;
- 4272 (e) upon request of a peace officer acting in an official capacity under the provisions
- 4273 of Subsection (2)(d), the department or the designated agent shall, upon request, disclose
- 4274 relevant information for investigation, enforcement, or prosecution;
- 4275 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor
- 4276 of the state conducting audits of the program;
- 4277 (g) upon request of a financial institution as defined under Section 7-1-103 for the
- 4278 purpose of protecting the financial institution's bona fide security interest in a motor vehicle;
- 4279 and
- 4280 (h) upon the request of a state or local law enforcement agency for the purpose of
- 4281 investigating and prosecuting identity theft and other crimes.
- 4282 (3) (a) The department may allow the designated agent to prepare and deliver upon
- 4283 request, a report on the insurance information of a person or motor vehicle in accordance with
- 4284 this section.
- 4285 (b) The report may be in the form of:

4286 (i) a certified copy that is considered admissible in any court proceeding in the same  
4287 manner as the original; or

4288 (ii) information accessible through the Internet or through other electronic medium if  
4289 the department determines that sufficient security is provided to ensure compliance with this  
4290 section.

4291 (c) The department may allow the designated agent to charge a fee established by the  
4292 department under Section [~~63J-1-303~~] 63J-1-504 for each:

4293 (i) document authenticated, including each certified copy;

4294 (ii) record accessed by the Internet or by other electronic medium; and

4295 (iii) record provided to a financial institution under Subsection (2)(g).

4296 (4) A person who knowingly releases or discloses information from the database for a  
4297 purpose other than those authorized in this section or to a person who is not entitled to it is  
4298 guilty of a third degree felony.

4299 (5) An insurer is not liable to any person for complying with Section 31A-22-315 by  
4300 providing information to the designated agent.

4301 (6) Neither the state nor the department's designated agent is liable to any person for  
4302 gathering, managing, or using the information in the database as provided in Section  
4303 31A-22-315 and this part.

4304 Section 102. Section **41-22-33** is amended to read:

4305 **41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.**

4306 (1) (a) A fee set by the board in accordance with Section [~~63J-1-303~~] 63J-1-504 shall  
4307 be added to the registration fee required to register an off-highway vehicle under Section  
4308 41-22-8 to help fund the off-highway vehicle safety and education program.

4309 (b) The division may also collect a fee set by the board in accordance with Section  
4310 [~~63J-1-303~~] 63J-1-504 from each person who:

4311 (i) receives the training and takes the knowledge and skills test for off-highway vehicle  
4312 use; or

4313 (ii) takes the knowledge and skills test for off-highway vehicle use.

4314 (c) If the board modifies the fee under Subsection (1)(a), the modification shall take  
4315 effect on the first day of the calendar quarter after 90 days from the day on which the board  
4316 provides the State Tax Commission:

- 4317 (i) notice from the board stating that the board will modify the fee; and
- 4318 (ii) a copy of the fee modification.

4319 (2) (a) To help defray instructors' costs, the division may reimburse volunteer certified  
4320 off-highway vehicle safety instructors up to \$6 for each student who receives the training and  
4321 takes the knowledge and skills test.

4322 (b) On or before the 10th day of each calendar month, volunteer off-highway vehicle  
4323 safety instructors shall report to the division all fees collected and students trained and shall  
4324 accompany the report with all money received for off-highway vehicle training.

4325 (c) If a volunteer off-highway vehicle safety instructor intentionally or negligently fails  
4326 to pay the amount due, the division may assess a penalty of 20% of the amount due. All  
4327 delinquent payments shall bear interest at the rate of 1% per month. If the amount due is not  
4328 paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total due  
4329 together with interest.

4330 (d) All fees collected from students shall be kept separate and apart from private funds  
4331 of the instructor and shall at all times belong to the state. In case of an assignment for the  
4332 benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against  
4333 the instructor, receiver, or trustee for all money owing the state for training and shall not be  
4334 stopped from asserting the claim by reason of commingling of funds or otherwise.

4335 (e) A person may not:

- 4336 (i) willfully misdate an off-highway vehicle education safety certificate;
- 4337 (ii) issue an incomplete certificate; or
- 4338 (iii) issue a receipt in lieu of a certificate.

4339 Section 103. Section **41-22-36** is amended to read:

4340 **41-22-36. Fees to cover the costs of electronic payments.**

4341 (1) As used in this section:

4342 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

4343 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

4344 (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all  
4345 registrations and renewals of registration under Section 41-22-8.

4346 (b) The fee described in Subsection (2)(a) shall be imposed regardless of the method  
4347 of payment for a particular transaction.

4348 (3) The division shall establish the fee according to the procedures and requirements  
4349 of Section [~~63J-1-303~~] 63J-1-504.

4350 (4) A fee imposed under this section:

4351 (a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs  
4352 of electronic payments;

4353 (b) is nonlapsing;

4354 (c) is not subject to Subsection 63J-2-202(2); and

4355 (d) need not be separately identified from the fees imposed on registrations and  
4356 renewals of registration under Section 41-22-8.

4357 Section 104. Section **42-2-10** is amended to read:

4358 **42-2-10. Penalties.**

4359 Any person who carries on, conducts, or transacts business under an assumed name  
4360 without having complied with the provisions of this chapter, and until the provisions of this  
4361 chapter are complied with:

4362 (1) shall not sue, prosecute, or maintain any action, suit, counterclaim, cross  
4363 complaint, or proceeding in any of the courts of this state; and

4364 (2) may be subject to a penalty in the form of a late filing fee determined by the  
4365 division director in an amount not to exceed three times the fees charged under Section 42-2-7  
4366 and established under Section [~~63J-1-303~~] 63J-1-504.

4367 Section 105. Section **42-3-2** is amended to read:

4368 **42-3-2. Recording fee.**

4369 Any person having the name of the person's farm so recorded shall first pay to the

4370 commissioner of agriculture and food a fee determined by the commissioner pursuant to  
4371 Section [~~63J-1-303~~] 63J-1-504. This fee shall be transmitted to the General Fund.

4372 Section 106. Section **42-3-4** is amended to read:

4373 **42-3-4. Cancellation by owner -- Fee.**

4374 When any owner of a registered farm desires to cancel its registered name, the owner  
4375 shall write on the back of the certificate the following: "This name is canceled, and I hereby  
4376 release all rights thereunder," and shall sign such statement in the presence of a witness and  
4377 file the same in the office of the commissioner of agriculture and food. For such filing the  
4378 commissioner of agriculture and food shall charge a fee determined by the commissioner  
4379 pursuant to Section [~~63J-1-303~~] 63J-1-504, which shall be paid to the General Fund. The  
4380 commissioner of agriculture and food shall, when such certificate so endorsed has been filed in  
4381 the commissioner's office, write on the margin of the register of such name the word  
4382 "canceled."

4383 Section 107. Section **46-1-3** is amended to read:

4384 **46-1-3. Qualifications -- Commissioning -- Jurisdiction and term.**

4385 (1) Except as provided in Subsection (3), the lieutenant governor shall commission as  
4386 a notary any qualified person who submits an application in accordance with this chapter.

4387 (2) A person qualified for a notarial commission shall:

4388 (a) be 18 years of age or older;

4389 (b) lawfully reside in this state 30 days immediately preceding the filing for a notarial  
4390 commission and maintain permanent residency thereafter;

4391 (c) be able to read, write, and understand English;

4392 (d) submit an application to the lieutenant governor containing no significant  
4393 misstatement or omission of fact and include at least:

4394 (i) a statement of the applicant's personal qualifications, the applicant's residence  
4395 address, a business address in this state, and daytime telephone number;

4396 (ii) the applicant's age and date of birth;

4397 (iii) all criminal convictions of the applicant, including any pleas of admission and

4398 nolo contendere;

4399 (iv) all issuances, denials, revocations, suspensions, restrictions, and resignations of a  
4400 notarial commission or other professional license involving the applicant in this or any other  
4401 state;

4402 (v) the acknowledgment of a passing score by the applicant on a written examination  
4403 administered under Subsection (5);

4404 (vi) a declaration by the applicant; and

4405 (vii) an application fee determined under Section [~~63J-1-303~~] 63J-1-504;

4406 (e) be a Utah resident or have permanent resident status under Section 245 of the  
4407 Immigration and Nationality Act; and

4408 (f) be endorsed by two residents of the state who are over the age of 18.

4409 (3) The lieutenant governor may deny an application based on:

4410 (a) the applicant's conviction for a crime involving dishonesty or moral turpitude;

4411 (b) any revocation, suspension, or restriction of a notarial commission or professional  
4412 license issued to the applicant by this or any other state;

4413 (c) the applicant's official misconduct while acting in the capacity of a notary; or

4414 (d) the applicant's failure to pass the written examination.

4415 (4) A person commissioned as a notary by the lieutenant governor may perform  
4416 notarial acts in any part of this state for a term of four years, unless the person resigned or the  
4417 commission is revoked or suspended under Section 46-1-19.

4418 (5) Each applicant for a notarial commission shall take a written examination  
4419 approved by the lieutenant governor and submit the examination to a testing center designated  
4420 by the lieutenant governor for purposes of scoring the examination. The testing center  
4421 designated by the lieutenant governor shall issue a written acknowledgment to the applicant  
4422 indicating whether the applicant passed or failed the examination.

4423 Section 108. Section **48-1-42** is amended to read:

4424 **48-1-42. Registration of limited liability partnerships.**

4425 (1) (a) A partnership shall register with the Division of Corporations and Commercial

4426 Code by filing an application or a renewal statement:

4427 (i) to become and to continue as a limited liability partnership; or

4428 (ii) to do business in this state as a foreign limited liability partnership.

4429 (b) The application or renewal statement shall include:

4430 (i) the name of the limited liability partnership;

4431 (ii) the information required by Subsection 16-17-203(1);

4432 (iii) the number of partners;

4433 (iv) a brief statement of the business in which the limited liability partnership engages;

4434 (v) a brief statement that the partnership is applying for, or seeking to renew its status

4435 as a limited liability partnership; and

4436 (vi) if a foreign limited liability partnership, an original certificate of fact or good  
4437 standing from the office of the lieutenant governor or other responsible authority of the state in  
4438 which the limited liability partnership is formed.

4439 (2) The application or renewal statement required by Subsection (1) shall be executed  
4440 by a majority in voting interest of the partners or by one or more partners authorized by the  
4441 partnership to execute an application or renewal statement.

4442 (3) The application or renewal statement shall be accompanied by a filing fee  
4443 established under Section [~~63J-1-303~~] 63J-1-504.

4444 (4) The division shall register as a limited liability partnership any partnership that  
4445 submits a completed application with the required fee.

4446 (5) (a) The registration expires one year after the date an application is filed unless the  
4447 registration is voluntarily withdrawn by filing with the division a written withdrawal notice  
4448 executed by a majority in voting interest of the partners or by one or more partners authorized  
4449 to execute a withdrawal notice.

4450 (b) Registration of a partnership as a limited liability partnership shall be renewed if  
4451 no earlier than 60 days before the date the registration expires and no later than the date of  
4452 expiration, the limited liability partnership files with the division a renewal statement.

4453 (c) The division shall renew the registration as a limited liability partnership of any

4454 limited liability partnership that timely submits a completed renewal statement with the  
4455 required fee.

4456 (d) If a renewal statement is timely filed, the registration is effective for one year after  
4457 the date the registration would have expired but for the filing or the renewal statement.

4458 (6) The status of a partnership as a limited liability partnership is not affected by  
4459 changes in the information stated in the application or renewal statement which take place  
4460 after the filing of an application or a renewal statement.

4461 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4462 the division may issue rules providing for the form content and submittal of applications for  
4463 registration or of renewal statements.

4464 Section 109. Section **48-2a-206** is amended to read:

4465 **48-2a-206. Filing with the division.**

4466 (1) An original and one copy of the certificate of limited partnership, and of any  
4467 certificates of amendment or cancellation, or of any judicial decree of amendment or  
4468 cancellation, shall be delivered to the division. A person who executes a certificate as an  
4469 attorney-in-fact or fiduciary need not exhibit evidence of the person's authority as a  
4470 prerequisite to filing. Unless the division finds that any certificate does not conform to law as  
4471 to its form, upon receipt of all filing fees established under Section [~~63J-1-303~~] 63J-1-504, it  
4472 shall:

4473 (a) place on the original and the copy a stamp or seal indicating the time, day, month,  
4474 and year of the filing, the director of the division's signature, and the division's seal, or  
4475 facsimiles thereof, and the name of the division;

4476 (b) file the signed original in its office; and

4477 (c) return the stamped copy to the person who filed it or the person's representative.

4478 (2) The stamped copy of the certificate of limited partnership and of any certificate of  
4479 amendment or cancellation shall be conclusive evidence that all conditions precedent required  
4480 for the formation, amendment, or cancellation of a limited partnership have been complied  
4481 with and the limited partnership has been formed, amended, or canceled under this chapter,

4482 except with respect to an action for involuntary cancellation of the limited partnership's  
4483 certificate for fraud under Subsection 48-2a-203.5(1)(a).

4484 (3) Upon the filing of a certificate of amendment or judicial decree of amendment with  
4485 the division, the certificate of limited partnership is amended as set forth in the certificate of  
4486 amendment or judicial decree of amendment, and upon filing a certificate of cancellation, or  
4487 of a judicial decree of cancellation, the division shall cancel the certificate of limited  
4488 partnership effective as of the date the cancellation was filed or as of the date specified in the  
4489 decree, unless a later effective date is specified in the cancellation.

4490 Section 110. Section **48-2a-1107** is amended to read:

4491 **48-2a-1107. Fees.**

4492 The division may charge and collect fees in accordance with the provisions of Section  
4493 [~~63J-1-303~~] 63J-1-504.

4494 Section 111. Section **48-2c-214** is amended to read:

4495 **48-2c-214. Fees.**

4496 Unless otherwise provided by statute, the division shall collect fees for its services in  
4497 amounts determined by the department in accordance with the provisions of Section  
4498 [~~63J-1-303~~] 63J-1-504.

4499 Section 112. Section **51-9-202** is amended to read:

4500 **51-9-202. Permanent state trust fund.**

4501 (1) Until July 1, 2003, 50% of all funds of every kind that are received by the state  
4502 that are related to the settlement agreement that the state entered into with leading tobacco  
4503 manufacturers on November 23, 1998, shall be deposited into the permanent state trust fund  
4504 created by and operated under Utah Constitution Article XXII, Section 4.

4505 (2) On and after July 1, 2003 and until July 1, 2004 20% of the funds of any kind  
4506 received by the state that are related to the settlement agreement that the state entered into with  
4507 leading tobacco manufacturers shall be deposited into the permanent state trust fund created  
4508 by and operated under Utah Constitution Article XXII, Section 4.

4509 (3) On and after July 1, 2004 and until July 1, 2005, 30% of all funds of any kind

4510 received by the state that are related to the settlement agreement that the state entered into with  
4511 leading tobacco manufacturers shall be deposited into the General Fund Budget Reserve  
4512 Account created in Section [~~63J-1-202~~] 63J-1-312.

4513 (4) On and after July 1, 2005 and until July 1, 2007, 25% of all funds of any kind  
4514 received by the state that are related to the settlement agreement that the state entered into with  
4515 leading tobacco manufacturers shall be deposited into the permanent state trust fund created  
4516 by and operated under Utah Constitution Article XXII, Section 4.

4517 (5) On and after July 1, 2007, 40% of all funds of every kind that are received by the  
4518 state that are related to the settlement agreement that the state entered into with leading  
4519 tobacco manufacturers on November 23, 1998, shall be deposited into the permanent state  
4520 trust fund created by and operated under Utah Constitution Article XXII, Section 4.

4521 (6) Funds in the permanent state trust fund shall be deposited or invested pursuant to  
4522 Section 51-7-12.1.

4523 (7) (a) In accordance with Utah Constitution Article XXII, Section 4, the interest and  
4524 dividends earned annually from the permanent state trust fund shall be deposited in the  
4525 General Fund. There shall be transferred on an ongoing basis from the General Fund to the  
4526 permanent state trust fund created under Utah Constitution Article XXII, Section 4, an amount  
4527 equal to 50% of the interest and dividends earned annually from the permanent state trust  
4528 fund. The amount transferred into the fund under this Subsection (7)(a) shall be treated as  
4529 principal.

4530 (b) Any annual interest or dividends earned from the permanent state trust fund that  
4531 remain in the General Fund after Subsection (7)(a) may be appropriated by the Legislature.

4532 (c) Any realized or unrealized gains or losses on investments in the permanent state  
4533 trust fund shall remain in the permanent state trust fund.

4534 (8) This section does not apply to funds deposited under Chapter [~~97a,~~] 9, Part 3,  
4535 Infrastructure and Economic Diversification Investment Account and Severance Tax Holding  
4536 Account, into the permanent state trust fund.

4537 Section 113. Section **53-1-106** is amended to read:

4538           **53-1-106. Department duties -- Powers.**

4539           (1) In addition to the responsibilities contained in this title, the department shall:

4540           (a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic  
4541 Code, including:

4542           (i) setting performance standards for towing companies to be used by the department,  
4543 as required by Section 41-6a-1406; and

4544           (ii) advising the Department of Transportation regarding the safe design and operation  
4545 of school buses, as required by Section 41-6a-1304;

4546           (b) make rules to establish and clarify standards pertaining to the curriculum and  
4547 teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

4548           (c) aid in enforcement efforts to combat drug trafficking;

4549           (d) meet with the Department of Technology Services to formulate contracts, establish  
4550 priorities, and develop funding mechanisms for dispatch and telecommunications operations;

4551           (e) provide assistance to the Crime Victim Reparations Board and Office of Crime  
4552 Victim Reparations in conducting research or monitoring victims' programs, as required by  
4553 Section 63M-7-505;

4554           (f) develop sexual assault exam protocol standards in conjunction with the Utah  
4555 Hospital Association;

4556           (g) engage in emergency planning activities, including preparation of policy and  
4557 procedure and rulemaking necessary for implementation of the federal Emergency Planning  
4558 and Community Right to Know Act of 1986, as required by Section 63K-3-301;

4559           (h) implement the provisions of Section 53-2-202, the Emergency Management  
4560 Assistance Compact; and

4561           (i) (i) maintain a database of the information listed below regarding each driver license  
4562 or state identification card status check made by a law enforcement officer:

4563           (A) the agency employing the law enforcement officer;

4564           (B) the name of the law enforcement officer or the identifying number the agency has  
4565 assigned to the law enforcement officer;

4566 (C) the race and gender of the law enforcement officer;

4567 (D) the purpose of the law enforcement officer's status check, including but not

4568 limited to a traffic stop or a pedestrian stop; and

4569 (E) the race of the individual regarding whom the status check is made, based on the

4570 information provided through the application process under Section 53-3-205 or 53-3-804;

4571 (ii) provide access to the database created in Subsection (1)(i)(i) to the Commission on

4572 Criminal and Juvenile Justice for the purpose of:

4573 (A) evaluating the data;

4574 (B) evaluating the effectiveness of the data collection process; and

4575 (C) reporting and making recommendations to the Legislature; and

4576 (iii) classify any personal identifying information of any individual, including law

4577 enforcement officers, in the database as protected records under Subsection 63G-2-305(9).

4578 (2) (a) The department may establish a schedule of fees as required or allowed in this

4579 title for services provided by the department.

4580 (b) The fees shall be established in accordance with Section [~~63J-1-303~~] 63J-1-504.

4581 (3) The department may establish or contract for the establishment of an Organ

4582 Procurement Donor Registry in accordance with Section 26-28-120.

4583 Section 114. Section **53-1-110** is amended to read:

4584 **53-1-110. Compilation of highway, traffic, and driver licensing laws -- Printing**

4585 **and distribution -- Fees.**

4586 (1) (a) The commissioner shall compile an edition of the general highway, traffic, and

4587 driver licensing laws of the state as soon as practicable after each regular session of the

4588 Legislature.

4589 (b) The edition shall include laws enacted or amended by the most recent session of

4590 the Legislature.

4591 (2) (a) The Division of Finance shall print a sufficient quantity of the compiled

4592 highway, traffic, and driver licensing laws to distribute copies to all state, county, and local

4593 enforcement agencies, courts, legislators, and other agencies as necessary.

4594 (b) A fee may be assessed for each copy of the compilation issued by the Division of  
4595 Finance. The fee shall be established by the Division of Finance in accordance with Section  
4596 [~~63J-1-303~~] 63J-1-504.

4597 Section 115. Section **53-2-403** is amended to read:

4598 **53-2-403. State Disaster Recovery Restricted Account.**

4599 (1) (a) There is created a restricted account in the General Fund known as the "State  
4600 Disaster Recovery Restricted Account."

4601 (b) The disaster recovery fund shall consist of:

4602 (i) monies deposited into the disaster recovery fund in accordance with Section  
4603 [~~63J-1-204~~] 63J-1-314;

4604 (ii) monies appropriated to the disaster recovery fund by the Legislature; and

4605 (iii) any other public or private monies received by the division that are:

4606 (A) given to the division for purposes consistent with this section; and

4607 (B) deposited into the disaster recovery fund at the request of:

4608 (I) the division; or

4609 (II) the person giving the monies.

4610 (c) The Division of Finance shall deposit interest or other earnings derived from  
4611 investment of fund monies into the General Fund.

4612 (d) Monies in the disaster recovery fund may only be used as follows:

4613 (i) without the monies being appropriated by the Legislature, in any fiscal year the  
4614 division may use \$100,000 to fund, in accordance with Section 53-2-404, costs to the state of  
4615 emergency disaster services in response to a declared disaster; and

4616 (ii) subject to being appropriated by the Legislature, monies not described in  
4617 Subsection (1)(d)(i) may be used to fund costs to the state directly related to a declared  
4618 disaster that are not costs related to:

4619 (A) emergency disaster services;

4620 (B) emergency preparedness; or

4621 (C) notwithstanding whether or not a county participates in the Wildland Fire

4622 Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs  
4623 that may be paid for from the Wildland Fire Suppression Fund if the county participates in the  
4624 Wildland Fire Suppression Fund.

4625 (2) The state treasurer shall invest monies in the disaster recovery fund according to  
4626 Title 51, Chapter 7, State Money Management Act.

4627 (3) (a) Except as provided in Subsection (1), the monies in the disaster recovery fund  
4628 may not be diverted, appropriated, or used for a purpose that is not listed in this section.

4629 (b) Notwithstanding Section [~~63J-1-307~~] 63J-1-410, the Legislature may not  
4630 appropriate monies from the disaster recovery fund to eliminate or otherwise reduce an  
4631 operating deficit if the monies appropriated from the disaster recovery fund are used for a  
4632 purpose other than one listed in this section.

4633 (c) The Legislature may not amend the purposes for which monies in the disaster  
4634 recovery fund may be used except by the affirmative vote of two-thirds of all the members  
4635 elected to each house.

4636 Section 116. Section **53-2-404** is amended to read:

4637 **53-2-404. State costs for emergency disaster services.**

4638 (1) Subject to this section and Section 53-2-403, the division shall use monies  
4639 described in Subsection [~~53-2-403(1)(c)(i)~~] 58-60-305(1)(d) to fund costs to the state of  
4640 emergency disaster services.

4641 (2) Monies paid by the division under this section to government entities and private  
4642 persons providing emergency disaster services are subject to Title 63G, Chapter 6, Utah  
4643 Procurement Code.

4644 Section 117. Section **53-3-106** is amended to read:

4645 **53-3-106. Disposition of revenues under this chapter -- Restricted account**  
4646 **created -- Uses as provided by appropriation -- Nonlapsing.**

4647 (1) There is created within the Transportation Fund a restricted account known as the  
4648 "Department of Public Safety Restricted Account."

4649 (2) The account consists of monies generated from the following revenue sources:

- 4650 (a) all monies received under this chapter;
- 4651 (b) administrative fees received according to the fee schedule authorized under this
- 4652 chapter and Section [~~63J-1-303~~] 63J-1-504; and
- 4653 (c) any appropriations made to the account by the Legislature.
- 4654 (3) (a) The account shall earn interest.
- 4655 (b) All interest earned on account monies shall be deposited in the account.
- 4656 (4) The expenses of the department in carrying out this chapter shall be provided for
- 4657 by legislative appropriation from this account.
- 4658 (5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24)
- 4659 shall be appropriated by the Legislature from this account to the department to implement the
- 4660 provisions of Section 53-1-117, except that of the amount in excess of \$45, \$40 shall be
- 4661 deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.
- 4662 (6) All monies received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated
- 4663 by the Legislature from this account to the department to implement the provisions of Section
- 4664 53-1-117.
- 4665 (7) Appropriations to the department from the account are nonlapsing.
- 4666 Section 118. Section **53-3-109** is amended to read:
- 4667 **53-3-109. Records -- Access -- Fees -- Rulemaking.**
- 4668 (1) (a) Except as provided in this section, all records of the division shall be classified
- 4669 and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and
- 4670 Management Act.
- 4671 (b) The division may only disclose personal identifying information:
- 4672 (i) when the division determines it is in the interest of the public safety to disclose the
- 4673 information; and
- 4674 (ii) in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C.
- 4675 Chapter 123.
- 4676 (c) The division may disclose personal identifying information:
- 4677 (i) to a licensed private investigator holding a valid agency license, with a legitimate

4678 business need;

4679 (ii) to an insurer, insurance support organization, or a self-insured entity, or its agents,  
4680 employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22,  
4681 Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities,  
4682 antifraud activities, rating, or underwriting for any person issued a license certificate under  
4683 this chapter; or

4684 (iii) to a depository institution as defined in Section 7-1-103 for use in accordance  
4685 with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Chapter 123.

4686 (2) (a) A person who receives personal identifying information shall be advised by the  
4687 division that the person may not:

4688 (i) disclose the personal identifying information from that record to any other person;  
4689 or

4690 (ii) use the personal identifying information from that record for advertising or  
4691 solicitation purposes.

4692 (b) Any use of personal identifying information by an insurer or insurance support  
4693 organization, or by a self-insured entity or its agents, employees, or contractors not authorized  
4694 by Subsection (1)(c)(ii) is:

4695 (i) an unfair marketing practice under Section 31A-23a-402; or

4696 (ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

4697 (3) (a) Notwithstanding the provisions of Subsection (1)(b), the division or its  
4698 designee may disclose portions of a driving record, in accordance with this Subsection (3), to  
4699 an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of  
4700 assessing driving risk on the insurer's current motor vehicle insurance policyholders.

4701 (b) The disclosure under Subsection (3)(a) shall:

4702 (i) include the licensed driver's name, driver license number, date of birth, and an  
4703 indication of whether the driver has had a moving traffic violation that is a reportable  
4704 violation, as defined under Section 53-3-102 during the previous month;

4705 (ii) be limited to the records of drivers who, at the time of the disclosure, are covered

4706 under a motor vehicle insurance policy of the insurer; and  
4707 (iii) be made under a contract with the insurer or a designee of an insurer.  
4708 (c) The contract under Subsection (3)(b)(iii) shall specify:  
4709 (i) the criteria for searching and compiling the driving records being requested;  
4710 (ii) the frequency of the disclosures;  
4711 (iii) the format of the disclosures, which may be in bulk electronic form; and  
4712 (iv) a reasonable charge for the driving record disclosures under this Subsection (3).  
4713 (4) The division may:  
4714 (a) collect fees in accordance with Section 53-3-105 for searching and compiling its  
4715 files or furnishing a report on the driving record of a person;  
4716 (b) prepare under the seal of the division and deliver upon request, a certified copy of  
4717 any record of the division, and charge a fee under Section [~~63J-1-303~~] 63J-1-504 for each  
4718 document authenticated; and  
4719 (c) charge reasonable fees established in accordance with the procedures and  
4720 requirements of Section [~~63J-1-303~~] 63J-1-504 for disclosing personal identifying information  
4721 under Subsection (1)(c).  
4722 (5) Each certified copy of a driving record furnished in accordance with this section is  
4723 admissible in any court proceeding in the same manner as the original.  
4724 (6) (a) A driving record furnished under this section may only report on the driving  
4725 record of a person for a period of ten years.  
4726 (b) Subsection (6)(a) does not apply to court or law enforcement reports and to reports  
4727 of commercial driver license violations.  
4728 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4729 the division may make rules to designate:  
4730 (a) what information shall be included in a report on the driving record of a person;  
4731 (b) the form of a report or copy of the report which may include electronic format;  
4732 (c) the form of a certified copy, as required under Section 53-3-216, which may  
4733 include electronic format;

4734 (d) the form of a signature required under this chapter which may include electronic  
4735 format;

4736 (e) the form of written request to the division required under this chapter which may  
4737 include electronic format;

4738 (f) the procedures, requirements, and formats for disclosing personal identifying  
4739 information under Subsection (1)(c); and

4740 (g) the procedures, requirements, and formats necessary for the implementation of  
4741 Subsection (3).

4742 Section 119. Section **53-3-303.5** is amended to read:

4743 **53-3-303.5. Driver License Medical Advisory Board -- Medical waivers.**

4744 (1) The Driver License Medical Advisory Board shall:

4745 (a) advise the director of the division; and

4746 (b) establish and recommend in a manner specified by the board functional ability  
4747 profile guidelines and standards for determining the physical, mental, and emotional  
4748 capabilities of applicants for specific types of licenses, appropriate to various driving abilities.

4749 (2) (a) The Driver License Medical Advisory Board shall establish fitness standards,  
4750 including provisions for a waiver of specified federal driver's physical qualifications under 49  
4751 CFR 391.41, for intrastate commercial driving privileges.

4752 (b) The standards under this Subsection (2) may only be implemented if the United  
4753 States Department of Transportation (USDOT) will not impose any sanctions, including  
4754 funding sanctions, against the state.

4755 (3) In case of uncertainty of interpretation of these guidelines and standards, or in  
4756 special circumstances, applicants may request a review of any division decision by a panel of  
4757 board members. All of the actions of the director and board are subject to judicial review.

4758 (4) (a) If a person applies for a waiver established under Subsection (2), the applicant  
4759 shall bear any costs directly associated with the cost of administration of the waiver program,  
4760 with respect to the applicant's application, in addition to any fees required under Section  
4761 53-3-105.

4762 (b) The division shall establish any additional fee necessary to administer the license  
4763 under this Subsection (4) in accordance with Section [~~63J-1-303~~] 63J-1-504.

4764 Section 120. Section **53-3-506** is amended to read:

4765 **53-3-506. License expiration and renewal -- Fee required -- Disposition of**  
4766 **revenue.**

4767 (1) (a) All commercial driver training school licenses, commercial testing only school  
4768 licenses, school operator licenses, and instructor licenses:

4769 (i) expire one year from the date of issuance; and

4770 (ii) may be renewed upon application to the commissioner as prescribed by rule.

4771 (b) Each application for an original or renewal school license, school operator license,  
4772 or instructor license shall be accompanied by a fee determined by the department under  
4773 Section [~~63J-1-303~~] 63J-1-504.

4774 (c) A license fee may not be refunded if the license is rejected, suspended, or revoked.

4775 (2) The license fees collected under this part shall be:

4776 (a) placed in a fund designated as the "Commercial Driver Training Law Fund"; and

4777 (b) used under the supervision and direction of the director of the Division of Finance  
4778 for the administration of this part.

4779 Section 121. Section **53-7-204.2** is amended to read:

4780 **53-7-204.2. Fire Academy -- Establishment -- Fire Academy Support Account --**  
4781 **Funding.**

4782 (1) In this section:

4783 (a) "Account" means the Fire Academy Support Account created in Subsection (4).

4784 (b) "Property insurance premium" means premium paid as consideration for property  
4785 insurance as defined in Section 31A-1-301.

4786 (2) The board shall:

4787 (a) establish a fire academy that:

4788 (i) provides instruction and training for paid, volunteer, institutional, and industrial  
4789 firefighters;

- 4790 (ii) develops new methods of firefighting and fire prevention;  
4791 (iii) provides training for fire and arson detection and investigation;  
4792 (iv) provides public education programs to promote fire safety;  
4793 (v) provides for certification of firefighters, pump operators, instructors, and officers;  
4794 and  
4795 (vi) provides facilities for teaching fire-fighting skills;  
4796 (b) establish a cost recovery fee in accordance with Section [~~63J-1-303~~] 63J-1-504 for  
4797 training commercially employed firefighters; and  
4798 (c) request funding for the academy.  
4799 (3) The board may:  
4800 (a) accept gifts, donations, and grants of property and services on behalf of the fire  
4801 academy; and  
4802 (b) enter into contractual agreements necessary to facilitate establishment of the  
4803 school.  
4804 (4) (a) To provide a funding source for the academy and for the general operation of  
4805 the State Fire Marshal Division, there is created in the General Fund a restricted account  
4806 known as the Fire Academy Support Account.  
4807 (b) The following revenue shall be deposited in the account to implement this section:  
4808 (i) the percentage specified in Subsection (5) of the annual tax for each year that is  
4809 levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon  
4810 property insurance premiums and as applied to fire and allied lines insurance collected by  
4811 insurance companies within the state;  
4812 (ii) the percentage specified in Subsection (6) of all money assessed and collected  
4813 upon life insurance premiums within the state;  
4814 (iii) the cost recovery fees established by the board;  
4815 (iv) gifts, donations, and grants of property on behalf of the fire academy; and  
4816 (v) appropriations made by the Legislature.  
4817 (5) The percentage of the tax specified in Subsection (4)(b)(i) to be deposited in the

4818 account each fiscal year is 25%.

4819 (6) The percentage of the money specified in Subsection (4)(b)(ii) to be deposited in  
4820 the account each fiscal year is 5%.

4821 Section 122. Section **53-7-216** is amended to read:

4822 **53-7-216. Portable fire extinguishers -- Certification required to service.**

4823 (1) Each firm engaged in the business of servicing portable fire extinguishers or  
4824 automatic fire suppression systems that automatically detect fire and discharge an approved  
4825 fire extinguishing agent onto or in the area of the fire shall be certified by the state fire  
4826 marshal.

4827 (2) An application for certification shall be in writing, on forms prescribed by the  
4828 board, and require evidence of competency.

4829 (3) The board may establish a fee under Section [~~63J-1-303~~] 63J-1-504 to be paid  
4830 upon application for certification.

4831 (4) This section does not apply to standpipe systems, deluge systems, or automatic fire  
4832 sprinkler systems.

4833 Section 123. Section **53-7-225.5** is amended to read:

4834 **53-7-225.5. Inspection and testing of automatic fire sprinkler systems --**  
4835 **Certification required.**

4836 (1) Each person engaged in the inspection and testing of automatic fire sprinkler  
4837 systems shall be certified by the state fire marshal.

4838 (2) The board shall by rule prescribe an application form and standards for  
4839 certification qualification and for renewal and revocation.

4840 (3) Applicants for certification as an automatic fire sprinkler system inspector and  
4841 tester shall:

4842 (a) submit a written application on the form prescribed by the board;

4843 (b) provide evidence of competency as required by the board; and

4844 (c) submit the fee established under Subsection (4).

4845 (4) The board may establish an application fee under Section [~~63J-1-303~~] 63J-1-504.

4846 Section 124. Section **53-7-225.6** is amended to read:

4847 **53-7-225.6. Inspection and testing of fire alarm systems -- Certification and**  
4848 **exceptions.**

4849 (1) (a) Each person, other than fire and building inspectors and electricians licensed  
4850 under Title 58, Chapter 55, Utah Construction Trades Licensing Act, engaged in the  
4851 inspection and testing of fire alarm systems shall be certified by the state fire marshal.

4852 (b) The board shall by administrative rule prescribe:

4853 (i) an application form; and

4854 (ii) standards for certification qualification and for renewal and revocation.

4855 (2) Applicants for certification as a fire alarm system inspector and tester shall:

4856 (a) submit a written application on the form prescribed by the board;

4857 (b) provide evidence of competency as required by the board; and

4858 (c) submit the fee established under Subsection (3).

4859 (3) The board may establish an application fee under Section [~~63J-1-303~~] 63J-1-504.

4860 Section 125. Section **53-7-314** is amended to read:

4861 **53-7-314. Fees -- Setting -- Deposit -- Use.**

4862 (1) The board shall establish fees authorized in this part in accordance with the  
4863 procedures specified in Section [~~63J-1-303~~] 63J-1-504, but the fees shall be deposited as  
4864 provided in Subsection (2).

4865 (2) Fees collected by the division under this part, shall be deposited with the state  
4866 treasurer as a nonlapsing dedicated credit, to be used for the implementation of this part.

4867 Section 126. Section **53-8-204** is amended to read:

4868 **53-8-204. Division duties -- Official inspection stations -- Permits -- Fees --**  
4869 **Suspension or revocation -- Utah-based interstate commercial motor carriers.**

4870 (1) The division shall:

4871 (a) conduct examinations of every safety inspection station permit applicant and safety  
4872 inspector certificate applicant to determine whether the applicant is properly equipped and  
4873 qualified to make safety inspections;

4874 (b) issue safety inspection station permits and safety inspector certificates to qualified  
4875 applicants;

4876 (c) establish application, renewal, and reapplication fees in accordance with Section  
4877 [~~63J-1-303~~] 63J-1-504 for safety inspection station permits and safety inspector certificates;

4878 (d) provide instructions and all necessary forms, including safety inspection  
4879 certificates, to safety inspection stations for the inspection of motor vehicles and the issuance  
4880 of the safety inspection certificates;

4881 (e) charge a \$2 fee for each safety inspection certificate;

4882 (f) investigate complaints regarding safety inspection stations and safety inspectors;

4883 (g) compile and publish all applicable safety inspection laws, rules, instructions, and  
4884 standards and distribute them to all safety inspection stations and provide updates to the  
4885 compiled laws, rules, instructions, and standards as needed;

4886 (h) establish a fee in accordance with Section [~~63J-1-303~~] 63J-1-504 to cover the cost  
4887 of compiling and publishing the safety inspection laws, rules, instructions, and standards and  
4888 any updates; and

4889 (i) assist the council in conducting its meetings and hearings.

4890 (2) (a) (i) Receipts from the fees established in accordance with Subsection (1)(h) are  
4891 fixed collections to be used by the division for the expenses of the Utah Highway Patrol  
4892 incurred under Subsection (1)(h).

4893 (ii) Funds received in excess of the expenses under Subsection (1)(h) shall be  
4894 deposited in the Transportation Fund.

4895 (b) (i) The first \$.75 of the fee under Subsection (1)(e) is a dedicated credit to be used  
4896 solely by the Utah Highway Patrol for the expenses of administering this section.

4897 (ii) The remaining funds collected under Subsection (1)(e) shall be deposited in the  
4898 Transportation Fund.

4899 (iii) The dedicated credits described under Subsection (2)(b)(i) are in addition to any  
4900 other appropriations provided to administer the safety inspection program duties under this  
4901 section.

- 4902 (3) The division may:
- 4903 (a) before issuing a safety inspection permit, require an applicant, other than a fleet  
4904 station or government station, to file a bond that will provide a guarantee that the applicant  
4905 safety inspection station will make compensation for any damage to a motor vehicle during an  
4906 inspection or adjustment due to negligence on the part of an applicant or the applicant's  
4907 employees;
- 4908 (b) establish procedures governing the issuance of safety inspection certificates to  
4909 Utah-based interstate commercial motor carriers; ~~and~~
- 4910 (c) suspend, revoke, or refuse renewal of any safety inspection station permit issued  
4911 when the division finds that the safety inspection station is not:
- 4912 (i) properly equipped; or  
4913 (ii) complying with rules made by the division; and
- 4914 (d) suspend, revoke, or refuse renewal of any safety inspection station permit or safety  
4915 inspector certificate issued when the station or inspector has violated any safety inspection law  
4916 or rule.
- 4917 (4) The division shall maintain a record of safety inspection station permits and safety  
4918 inspector certificates issued, suspended, revoked, or refused renewal under Subsection (3)(c).
- 4919 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
4920 the division shall make rules:
- 4921 (a) setting minimum standards covering the design, construction, condition, and  
4922 operation of motor vehicle equipment for safely operating a motor vehicle on the highway;
- 4923 (b) establishing motor vehicle safety inspection procedures to ensure a motor vehicle  
4924 can be operated safely;
- 4925 (c) establishing safety inspection station building, equipment, and personnel  
4926 requirements necessary to qualify to perform safety inspections;
- 4927 (d) establishing age, training, examination, and renewal requirements to qualify for a  
4928 safety inspector certificate;
- 4929 (e) establishing program guidelines for a school district that elects to implement a

4930 safety inspection apprenticeship program for high school students;

4931 (f) establishing requirements:

4932 (i) designed to protect consumers from unwanted or unneeded repairs or adjustments;

4933 (ii) for maintaining safety inspection records;

4934 (iii) for providing reports to the division; and

4935 (iv) for maintaining and protecting safety inspection certificates;

4936 (g) establishing procedures for a motor vehicle that fails a safety inspection;

4937 (h) setting bonding amounts for safety inspection stations if bonds are required under

4938 Subsection (3)(a); and

4939 (i) establishing procedures for a safety inspection station to follow if the station is

4940 going out of business.

4941 (6) The rules of the division:

4942 (a) shall conform as nearly as practical to federal motor vehicle safety standards

4943 including 49 CFR 393, 396, 396 Appendix G, and Federal Motor Vehicle Safety Standards

4944 205; and

4945 (b) may incorporate by reference, in whole or in part, the federal standards under

4946 Subsection (6)(a) and nationally recognized and readily available standards and codes on

4947 motor vehicle safety.

4948 Section 127. Section **53-10-108** is amended to read:

4949 **53-10-108. Restrictions on access, use, and contents of division records --**

4950 **Limited use of records for employment purposes -- Challenging accuracy of records --**

4951 **Usage fees -- Missing children records.**

4952 (1) Dissemination of information from a criminal history record or warrant of arrest

4953 information from division files is limited to:

4954 (a) criminal justice agencies for purposes of administration of criminal justice and for

4955 employment screening by criminal justice agencies;

4956 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,

4957 executive order, court rule, court order, or local ordinance;

4958 (c) agencies or individuals for the purpose of obtaining required clearances connected  
4959 with foreign travel or obtaining citizenship;

4960 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice  
4961 agency to provide services required for the administration of criminal justice; and

4962 (ii) the agreement shall specifically authorize access to data, limit the use of the data to  
4963 purposes for which given, and ensure the security and confidentiality of the data;

4964 (e) agencies or individuals for the purpose of a preplacement adoptive study, in  
4965 accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

4966 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose  
4967 of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice  
4968 agency; and

4969 (ii) private security agencies through guidelines established by the commissioner for  
4970 employment background checks for their own employees and prospective employees;

4971 (g) a qualifying entity for employment background checks for their own employees  
4972 and persons who have applied for employment with the qualifying entity; and

4973 (h) other agencies and individuals as the commissioner authorizes and finds necessary  
4974 for protection of life and property and for offender identification, apprehension, and  
4975 prosecution pursuant to an agreement.

4976 (2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access  
4977 to data, limit the use of data to research, evaluative, or statistical purposes, preserve the  
4978 anonymity of individuals to whom the information relates, and ensure the confidentiality and  
4979 security of the data.

4980 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must  
4981 obtain a signed waiver from the person whose information is requested.

4982 (b) The waiver must notify the signee:

4983 (i) that a criminal history background check will be conducted;

4984 (ii) who will see the information; and

4985 (iii) how the information will be used.

4986 (c) Information received by a qualifying entity under Subsection (1)(g) may only be:  
4987 (i) available to persons involved in the hiring or background investigation of the  
4988 employee; and  
4989 (ii) used for the purpose of assisting in making an employment or promotion decision.  
4990 (d) A person who disseminates or uses information obtained from the division under  
4991 Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition  
4992 to any penalties provided under this section, is subject to civil liability.  
4993 (e) A qualifying entity that obtains information under Subsection (1)(g) shall provide  
4994 the employee or employment applicant an opportunity to:  
4995 (i) review the information received as provided under Subsection (8); and  
4996 (ii) respond to any information received.  
4997 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4998 division may make rules to implement this Subsection (3).  
4999 (g) (i) The applicant fingerprint card fee under Subsection (1)(g) is \$15.  
5000 (ii) The name check fee under Subsection (1)(g) is \$10.  
5001 (iii) These fees remain in effect until changed by the division through the process  
5002 under Section [~~63J-1-303~~] 63J-1-504.  
5003 (iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be  
5004 deposited in the General Fund as a dedicated credit by the department to cover the costs  
5005 incurred in providing the information.  
5006 (h) The division or its employees are not liable for defamation, invasion of privacy,  
5007 negligence, or any other claim in connection with the contents of information disseminated  
5008 under Subsection (1)(g).  
5009 (4) Any criminal history record information obtained from division files may be used  
5010 only for the purposes for which it was provided and may not be further disseminated, except  
5011 that a criminal history provided to an agency pursuant to Subsection (1)(e) may be provided  
5012 by the agency to the person who is the subject of the history, another licensed child-placing  
5013 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

5014 (5) If an individual has no prior criminal convictions, criminal history record  
5015 information contained in the division's computerized criminal history files may not include  
5016 arrest or disposition data concerning an individual who has been acquitted, the person's  
5017 charges dismissed, or when no complaint against him has been filed.

5018 (6) (a) This section does not preclude the use of the division's central computing  
5019 facilities for the storage and retrieval of criminal history record information.

5020 (b) This information shall be stored so it cannot be modified, destroyed, or accessed  
5021 by unauthorized agencies or individuals.

5022 (7) Direct access through remote computer terminals to criminal history record  
5023 information in the division's files is limited to those agencies authorized by the commissioner  
5024 under procedures designed to prevent unauthorized access to this information.

5025 (8) (a) The commissioner shall establish procedures to allow an individual right of  
5026 access to review and receive a copy of the individual's criminal history report.

5027 (b) A processing fee for the right of access service, including obtaining a copy of the  
5028 individual's criminal history report under Subsection (8)(a) is \$10. This fee remains in effect  
5029 until changed by the commissioner through the process under Section [~~63J-1-303~~] 63J-1-504.

5030 (c) (i) The commissioner shall establish procedures for an individual to challenge the  
5031 completeness and accuracy of criminal history record information contained in the division's  
5032 computerized criminal history files regarding that individual.

5033 (ii) These procedures shall include provisions for amending any information found to  
5034 be inaccurate or incomplete.

5035 (9) The private security agencies as provided in Subsection (1)(f)(ii):

5036 (a) shall be charged for access; and

5037 (b) shall be registered with the division according to rules made by the division under  
5038 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5039 (10) Before providing information requested under this section, the division shall give  
5040 priority to criminal justice agencies needs.

5041 (11) (a) Misuse of access to criminal history record information is a class B

5042 misdemeanor.

5043 (b) The commissioner shall be informed of the misuse.

5044 Section 128. Section **53A-6-105** is amended to read:

5045 **53A-6-105. Licensing fees -- Credit to subfund -- Payment of expenses.**

5046 (1) The board shall levy a fee for each new, renewed, or reinstated license or  
5047 endorsement in accordance with Section [~~63J-1-303~~] 63J-1-504.

5048 (2) Fee payments are credited to the Professional Practices Restricted Subfund in the  
5049 Uniform School Fund.

5050 (3) The board shall pay the expenses of issuing licenses and of UPPAC operations,  
5051 and the costs of collecting license fees from the restricted subfund.

5052 (4) The office shall submit an annual report to the Legislature's Public Education  
5053 Appropriations Subcommittee informing the Legislature about the fund, fees assessed and  
5054 collected, and expenditures from the fund.

5055 Section 129. Section **53A-17a-105** is amended to read:

5056 **53A-17a-105. Action required for underestimated or overestimated weighted**  
5057 **pupil units -- Action required for underestimating or overestimating local contributions.**

5058 (1) If the number of weighted pupil units in a program is underestimated in Section  
5059 53A-17a-104, the amount per pupil in that program paid under this chapter must be reduced  
5060 so that the amount paid does not exceed the estimated amount by program.

5061 (2) If the number of weighted pupil units in a program is overestimated in Section  
5062 53A-17a-104, the state superintendent of public instruction shall either increase the amount  
5063 paid in that program per weighted pupil unit or transfer the unused amount in that program to  
5064 another program included in the minimum school program.

5065 (3) (a) If surplus funds are transferred to another program, the state superintendent, if  
5066 the state superintendent determines certain districts have greater need for additional funds,  
5067 may designate the districts as well as the programs to which the transferred funds will be  
5068 allocated.

5069 (b) Any amounts transferred under Subsection (3)(a) may be spent in addition to the

5070 amounts listed in Section 53A-17a-104.

5071 (4) The limitation on the proceeds from local tax rates for operation and maintenance  
5072 programs under this chapter is subject to modification by local school boards under Sections  
5073 53A-17a-133 and 53A-17a-134 and to special tax rates authorized by this chapter, and shall be  
5074 adjusted accordingly.

5075 (5) If local contributions are overestimated, the guarantee per weighted pupil unit is  
5076 reduced for all programs so the total state contribution for operation and maintenance  
5077 programs does not exceed the amount authorized in Subsection 53A-17a-104(1).

5078 (6) (a) If local contributions from the basic tax rate for operation and maintenance  
5079 programs are underestimated, the excess is applied first to support the value of the weighted  
5080 pupil unit as set by the Legislature for total weighted pupil units generated by the districts and  
5081 those costs of Social Security and retirement, transportation, and board and voted leeway that  
5082 occur as a result of the additional generated weighted pupil units, following internal  
5083 adjustments by the state superintendent as provided in this section.

5084 (b) The state contribution is decreased so the total school program cost for operation  
5085 and maintenance programs does not exceed the total estimated contributions to school districts  
5086 for all programs under Subsection 53A-17a-104(2) plus the amount of local revenue necessary  
5087 to support the value of the weighted pupil unit for weighted pupil units generated and those  
5088 costs of Social Security and retirement, transportation, and board and voted leeway that occur  
5089 as a result of the additional generated weighted pupil units.

5090 (7) As an exception to Section [~~63J-1-401~~] 63J-1-601, the state fiscal officer may not  
5091 close out appropriations from the Uniform School Fund at the end of a fiscal year.

5092 Section 130. Section **53A-26a-302** is amended to read:

5093 **53A-26a-302. Qualifications for certification.**

5094 Each applicant for certification under this chapter shall:

5095 (1) submit an application in a form prescribed by the State Board of Education;

5096 (2) pay a fee determined by the State Board of Education under Section [~~63J-1-303~~]

5097 63J-1-504 to help offset the costs of implementing this chapter for the administration of

5098 examinations for certification and for the issuance of certificates;  
5099           (3) be of good moral character; and  
5100           (4) comply with any other qualifications for certification established by the State  
5101 Board of Education pursuant to Subsection 53A-26a-202(2).  
5102           Section 131. Section **54-5-1.5** is amended to read:  
5103           **54-5-1.5. Special regulation fee -- Supplemental Levy Committee --**  
5104 **Supplemental fee -- Fee for electrical cooperatives.**  
5105           (1) (a) A special fee to defray the cost of regulation is imposed upon all public utilities  
5106 subject to the jurisdiction of the Public Service Commission.  
5107           (b) The special fee is in addition to any charge now assessed, levied, or required by  
5108 law.  
5109           (2) (a) The executive director of the Department of Commerce shall determine the  
5110 special fee for the Department of Commerce.  
5111           (b) The chair of the Public Service Commission shall determine the special fee for the  
5112 Public Service Commission.  
5113           (c) The fee shall be assessed as a uniform percentage of the gross operating revenue  
5114 for the preceding calendar year derived from each public utility's business and operations  
5115 during that period within this state, excluding income derived from interstate business. Gross  
5116 operating revenue shall not include income to a wholesale electric cooperative derived from  
5117 the sale of power to a rural electric cooperative which resells that power within the state.  
5118           (3) (a) The executive director of the Department of Commerce shall notify each public  
5119 utility subject to the provisions of this chapter of the amount of the fee.  
5120           (b) The fee is due and payable on or before July 1 of each year.  
5121           (4) (a) It is the intent of the Legislature that the public utilities provide all of the funds  
5122 for the administration, support, and maintenance of:  
5123           (i) the Public Service Commission;  
5124           (ii) state agencies within the Department of Commerce involved in the regulation of  
5125 public utilities; and

5126 (iii) expenditures by the attorney general for utility regulation.  
5127 (b) Notwithstanding Subsection (4)(a), the fee imposed by Subsection (1) shall not  
5128 exceed the greater of:  
5129 (i) (A) for a public utility other than an electrical cooperative, .3% of the public  
5130 utility's gross operating revenues for the preceding calendar year; or  
5131 (B) for an electrical cooperative, .15% of the electrical cooperative's gross operating  
5132 revenues for the preceding calendar year; or  
5133 (ii) \$50.  
5134 (5) (a) There is created a Supplemental Levy Committee to levy additional  
5135 assessments on public utilities when unanticipated costs of regulation occur in any fiscal year.  
5136 (b) The Supplemental Levy Committee shall consist of:  
5137 (i) one member selected by the executive director of the Department of Commerce;  
5138 (ii) one member selected by the chairman of the Public Service Commission;  
5139 (iii) two members selected by the three public utilities that paid the largest percent of  
5140 the current regulatory fee; and  
5141 (iv) one member selected by the four appointed members.  
5142 (c) (i) The members of the Supplemental Levy Committee shall be selected within ten  
5143 working days after the executive director of the Department of Commerce gives written notice  
5144 to the Public Service Commission and the public utilities that a supplemental levy committee  
5145 is needed.  
5146 (ii) If the members of the Supplemental Levy Committee have not been appointed  
5147 within the time prescribed, the governor shall appoint the members of the Supplemental Levy  
5148 Committee.  
5149 (d) (i) During any state fiscal year, the Supplemental Levy Committee, by a majority  
5150 vote and subject to audit by the state auditor, may impose a supplemental fee on the regulated  
5151 utilities for the purpose of defraying any increased cost of regulation.  
5152 (ii) The supplemental fee imposed upon the utilities shall equal a percentage of their  
5153 gross operating revenue for the preceding calendar year.

5154 (iii) The aggregate of all fees, including any supplemental fees assessed, shall not  
5155 exceed .3% of the gross operating revenue of the utilities assessed for the preceding calendar  
5156 year.

5157 (iv) Payment of the supplemental fee is due within 30 days after receipt of the  
5158 assessment.

5159 (v) The utility may, within ten days after receipt of assessment, request a hearing  
5160 before the Public Service Commission if it questions the need for, or the reasonableness of, the  
5161 supplemental fee.

5162 (e) (i) Any supplemental fee collected to defray the cost of regulation shall be  
5163 transferred to the state treasurer as a departmental collection according to the provisions of  
5164 Section [~~63J-1-404~~] 63J-1-104.

5165 (ii) Supplemental fees are excess collections, credited according to the procedures of  
5166 Section [~~63J-1-404~~] 63J-1-104.

5167 (iii) Charges billed to the Department of Commerce by any other state department,  
5168 institution, or agency for services rendered in connection with regulation of a utility shall be  
5169 credited by the state treasurer from the special or supplemental fees collected to the  
5170 appropriations account of the entity providing that service according to the procedures  
5171 provided in Title 63J, Chapter 1, Budgetary Procedures Act.

5172 (6) (a) For purposes of this section, "electrical cooperative" means:

5173 (i) a distribution electrical cooperative; or

5174 (ii) a wholesale electrical cooperative.

5175 (b) Subject to Subsection (6)(c), if the regulation of one or more electrical  
5176 cooperatives causes unanticipated costs of regulation in a fiscal year, the commission may  
5177 impose a supplemental fee on the one or more electrical cooperatives in this state responsible  
5178 for the increased cost of regulation.

5179 (c) The aggregate of all fees imposed under this section on an electrical cooperative in  
5180 a calendar year shall not exceed the greater of:

5181 (i) .3% of the electrical cooperative's gross operating revenues for the preceding

5182 calendar year; or

5183 (ii) \$50.

5184 Section 132. Section **58-1-308** is amended to read:

5185 **58-1-308. Term of license -- Expiration of license -- Renewal of license --**  
5186 **Reinstatement of license -- Application procedures.**

5187 (1) (a) Each license issued under this title shall be issued in accordance with a  
5188 two-year renewal cycle established by rule.

5189 (b) A renewal period may be extended or shortened by as much as one year to  
5190 maintain established renewal cycles or to change an established renewal cycle.

5191 (2) (a) The expiration date of a license shall be shown on the license.

5192 (b) A license that is not renewed prior to the expiration date shown on the license  
5193 automatically expires.

5194 (c) A license automatically expires prior to the expiration date shown on the license  
5195 upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that  
5196 is a partnership, corporation, or other business entity.

5197 (d) If the existence of a dissolved partnership, corporation, or other business entity is  
5198 reinstated prior to the expiration date shown upon the entity's expired license issued by the  
5199 division, the division shall, upon written application, reinstate the applicant's license, unless it  
5200 finds that the applicant no longer meets the qualifications for licensure.

5201 (e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter  
5202 4, Administrative Procedures Act.

5203 (3) (a) The division shall notify each licensee in accordance with procedures  
5204 established by rule that the licensee's license is due for renewal and that unless an application  
5205 for renewal is received by the division by the expiration date shown on the license, together  
5206 with the appropriate renewal fee and documentation showing completion of or compliance  
5207 with renewal qualifications, the license will not be renewed.

5208 (b) Examples of renewal qualifications which by statute or rule the division may  
5209 require the licensee to document completion of or compliance with include:

- 5210 (i) continuing education;
  - 5211 (ii) continuing competency;
  - 5212 (iii) quality assurance;
  - 5213 (iv) utilization plan and protocol;
  - 5214 (v) financial responsibility;
  - 5215 (vi) certification renewal; and
  - 5216 (vii) calibration of equipment.
- 5217 (4) (a) (i) An application for renewal that complies with Subsection (3) is complete.
- 5218 (ii) A renewed license shall be issued to applicants who submit a complete application,
- 5219 unless it is apparent to the division that the applicant no longer meets the qualifications for
- 5220 continued licensure.
- 5221 (b) (i) The division may evaluate or verify documentation showing completion of or
- 5222 compliance with renewal requirements on an entire population or a random sample basis, and
- 5223 may be assisted by advisory peer committees.
- 5224 (ii) If necessary, the division may complete its evaluation or verification subsequent to
- 5225 renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who
- 5226 no longer meets the qualifications for continued licensure.
- 5227 (c) The application procedures specified in Subsection 58-1-301(2), apply to renewal
- 5228 applications to the extent they are not in conflict with this section.
- 5229 (5) (a) Any license that is not renewed may be reinstated at any time within two years
- 5230 after nonrenewal upon submission of an application for reinstatement, payment of the renewal
- 5231 fee together with a reinstatement fee determined by the department under Section [~~63J-1-303~~
- 5232 63J-1-504, and upon submission of documentation showing completion of or compliance with
- 5233 renewal qualifications.
- 5234 (b) The application procedures specified in Subsection 58-1-301(2) apply to the
- 5235 reinstatement applications to the extent they are not in conflict with this section.
- 5236 (c) Except as otherwise provided by rule, a license that is reinstated no later than 120
- 5237 days after it expires shall be retroactively reinstated to the date it expired.

5238 (6) (a) If not reinstated within two years, the holder may obtain a license only if the  
5239 holder meets requirements provided by the division by rule or by statute for a new license.

5240 (b) Each licensee under this title who has been active in the licensed occupation or  
5241 profession while in the full-time employ of the United States government or under license to  
5242 practice that occupation or profession in any other state or territory of the United States may  
5243 reinstate the licensee's license without taking an examination by submitting an application for  
5244 reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting  
5245 documentation showing completion of or compliance with any renewal qualifications at any  
5246 time within six months after reestablishing domicile within Utah or terminating full-time  
5247 government service.

5248 Section 133. Section **58-3a-103** is amended to read:

5249 **58-3a-103. Education and enforcement fund.**

5250 (1) There is created a restricted special revenue fund known as the "Architects  
5251 Education and Enforcement Fund."

5252 (2) The fund consists of monies from:

5253 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under  
5254 this chapter in accordance with the following:

5255 (i) the surcharge fee shall be determined by the department in accordance with Section  
5256 [~~63J-1-303~~] 63J-1-504; and

5257 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or  
5258 reinstatement licensure fee; and

5259 (b) administrative penalties collected pursuant to this chapter.

5260 (3) The fund shall earn interest and all interest earned on fund monies shall be  
5261 deposited into the fund.

5262 (4) The director may, with concurrence of the board, make distributions from the fund  
5263 for the following purposes:

5264 (a) education and training of licensees under this chapter;

5265 (b) education and training of the public or other interested persons in matters

5266 concerning architectural laws and practices; and

5267 (c) enforcement of this chapter by:

5268 (i) investigating unprofessional or unlawful conduct; and

5269 (ii) providing legal representation to the division when the division takes legal action  
5270 against a person engaging in unprofessional or unlawful conduct.

5271 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
5272 excess shall be transferred to the General Fund.

5273 (6) The division shall report annually to the appropriate appropriations subcommittee  
5274 of the Legislature concerning the fund.

5275 Section 134. Section **58-3a-302** is amended to read:

5276 **58-3a-302. Qualifications for licensure.**

5277 (1) Except as provided in Subsection (2), each applicant for licensure as an architect  
5278 shall:

5279 (a) submit an application in a form prescribed by the division;

5280 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5281 (c) provide satisfactory evidence of good moral character;

5282 (d) have graduated and received an earned bachelors or masters degree from an  
5283 architecture program meeting criteria established by rule by the division in collaboration with  
5284 the board;

5285 (e) have successfully completed a program of diversified practical experience  
5286 established by rule by the division in collaboration with the board;

5287 (f) have successfully passed examinations established by rule by the division in  
5288 collaboration with the board; and

5289 (g) meet with the board or representative of the division upon request for the purpose  
5290 of evaluating the applicant's qualifications for license.

5291 (2) Each applicant for licensure as an architect by endorsement shall:

5292 (a) submit an application in a form prescribed by the division;

5293 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

- 5294 (c) provide satisfactory evidence of good moral character;
- 5295 (d) submit satisfactory evidence of:
- 5296 (i) current licensure in good standing in a jurisdiction recognized by rule by the
- 5297 division in collaboration with the board; and
- 5298 (ii) current certification from the National Council of Architectural Registration
- 5299 Boards; or
- 5300 (iii) current license in good standing in a jurisdiction recognized by rule by the
- 5301 division in collaboration with the board; and
- 5302 (iv) full-time employment as a licensed architect as a principal for at least five of the
- 5303 last seven years immediately preceding the date of the application; [~~and~~]
- 5304 (e) have successfully passed any examination established by rule by the division in
- 5305 collaboration with the board; and
- 5306 (f) meet with the board or representative of the division upon request for the purpose
- 5307 of evaluating the applicant's qualifications for license.

5308 Section 135. Section **58-5a-302** is amended to read:

5309 **58-5a-302. Qualifications to practice podiatry.**

5310 An applicant for licensure to practice podiatry shall:

- 5311 (1) submit an application in a form as prescribed by the division;
- 5312 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5313 (3) be of good moral character;
- 5314 (4) be a graduate of a college of podiatric medicine accredited by the Council of
- 5315 Podiatric Education;
- 5316 (5) have completed one year of postgraduate training in a residency program
- 5317 recognized by the board; and
- 5318 (6) pass examinations required by rule.

5319 Section 136. Section **58-9-302** is amended to read:

5320 **58-9-302. Qualifications for licensure.**

- 5321 (1) Each applicant for licensure as a funeral service director shall:

- 5322 (a) submit an application in a form prescribed by the division;
- 5323 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5324 (c) be of good moral character in that the applicant has not been convicted of:
- 5325 (i) a first or second degree felony;
- 5326 (ii) a misdemeanor involving moral turpitude; or
- 5327 (iii) any other crime that when considered with the duties and responsibilities of a
- 5328 funeral service director is considered by the division and the board to indicate that the best
- 5329 interests of the public are not served by granting the applicant a license;
- 5330 (d) have obtained a high school diploma or its equivalent or a higher education degree;
- 5331 (e) have obtained an associate degree, or its equivalent, in mortuary science from a
- 5332 school of funeral service accredited by the American Board of Funeral Service Education or
- 5333 other accrediting body recognized by the U.S. Department of Education;
- 5334 (f) have completed not less than 2,000 hours and 50 embalmings, over a period of not
- 5335 less than one year, of satisfactory performance in training as a licensed funeral service intern
- 5336 under the supervision of a licensed funeral service director; and
- 5337 (g) obtain a passing score on examinations approved by the division in collaboration
- 5338 with the board.
- 5339 (2) Each applicant for licensure as a funeral service intern shall:
- 5340 (a) submit an application in a form prescribed by the division;
- 5341 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5342 (c) be of good moral character in that the applicant has not been convicted of:
- 5343 (i) a first or second degree felony;
- 5344 (ii) a misdemeanor involving moral turpitude; or
- 5345 (iii) any other crime that when considered with the duties and responsibilities of a
- 5346 funeral service intern is considered by the division and the board to indicate that the best
- 5347 interests of the public are not served by granting the applicant a license;
- 5348 (d) have obtained a high school diploma or its equivalent or a higher education degree;
- 5349 and

5350 (e) obtain a passing score on an examination approved by the division in collaboration  
5351 with the board.

5352 (3) Each applicant for licensure as a funeral service establishment and each funeral  
5353 service establishment licensee shall:

5354 (a) submit an application in a form prescribed by the division;

5355 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5356 (c) have in place:

5357 (i) an embalming room for preparing dead human bodies for burial or final  
5358 disposition, which may serve one or more facilities operated by the applicant;

5359 (ii) a refrigeration room that maintains a temperature of not more than 40 degrees  
5360 fahrenheit for preserving dead human bodies prior to burial or final disposition, which may  
5361 serve one or more facilities operated by the applicant; and

5362 (iii) maintain at all times a licensed funeral service director who is responsible for the  
5363 day-to-day operation of the funeral service establishment and who is personally available to  
5364 perform the services for which the license is required;

5365 (d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service  
5366 director if the funeral service establishment sells preneed funeral arrangements;

5367 (e) file with the completed application a copy of each form of contract or agreement  
5368 the applicant will use in the sale of preneed funeral arrangements; and

5369 (f) provide evidence of appropriate licensure with the Insurance Department if the  
5370 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or  
5371 in part by an insurance policy or product to be sold by the provider or the provider's sales  
5372 agent.

5373 (4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

5374 (a) submit an application in a form prescribed by the division;

5375 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5376 (c) be of good moral character in that the applicant has not been convicted of:

5377 (i) a first or second degree felony;

- 5378 (ii) a misdemeanor involving moral turpitude; or
- 5379 (iii) any other crime that when considered with the duties and responsibilities of a
- 5380 preneed funeral sales agent is considered by the division and the board to indicate that the best
- 5381 interests of the public are not served by granting the applicant a license;
- 5382 (d) have obtained a high school diploma or its equivalent or a higher education degree;
- 5383 (e) have obtained a passing score on an examination approved by the division in
- 5384 collaboration with the board;
- 5385 (f) affiliate with a licensed funeral service establishment; and
- 5386 (g) provide evidence of appropriate licensure with the Insurance Department if the
- 5387 applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or
- 5388 in part by an insurance policy or product.

5389 Section 137. Section **58-11a-302** is amended to read:

5390 **58-11a-302. Qualifications for licensure.**

- 5391 (1) Each applicant for licensure as a barber shall:
- 5392 (a) submit an application in a form prescribed by the division;
- 5393 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5394 (c) be of good moral character;
- 5395 (d) provide satisfactory documentation of:
- 5396 (i) graduation from a licensed or recognized barber school whose curriculum consists
- 5397 of a minimum of 1,000 hours of instruction or the equivalent number of credit hours over a
- 5398 period of not less than six months;
- 5399 (ii) (A) having graduated from a recognized barber school whose curriculum consists
- 5400 of less than 1,000 hours of instruction or the equivalent number of credit hours; and
- 5401 (B) having practiced as a licensed barber for a period of not less than 2,000 hours; or
- 5402 (iii) having completed an approved barber apprenticeship; and
- 5403 (e) meet the examination requirement established by rule.
- 5404 (2) Each applicant for licensure as a barber instructor shall:
- 5405 (a) submit an application in a form prescribed by the division;

- 5406 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5407 (c) provide satisfactory documentation that the applicant is currently licensed as a
- 5408 barber;
- 5409 (d) be of good moral character;
- 5410 (e) provide satisfactory documentation of completion of:
- 5411 (i) an instructor training program conducted by a barber school consisting of a
- 5412 minimum of 500 hours or the equivalent number of credit hours; or
- 5413 (ii) a minimum of 2,000 hours of experience as a barber; and
- 5414 (f) meet the examination requirement established by rule.
- 5415 (3) Each applicant for licensure as a barber school shall:
- 5416 (a) submit an application in a form prescribed by the division;
- 5417 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5418 (c) provide satisfactory documentation:
- 5419 (i) of appropriate registration with the Division of Corporations and Commercial
- 5420 Code;
- 5421 (ii) of business licensure from the city, town, or county in which the school is located;
- 5422 (iii) that the applicant's physical facilities comply with the requirements established by
- 5423 rule; and
- 5424 (iv) that the applicant meets the standards for barber schools, including staff and
- 5425 accreditation requirements, established by rule.
- 5426 (4) Each applicant for licensure as a cosmetologist/barber shall:
- 5427 (a) submit an application in a form prescribed by the division;
- 5428 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5429 (c) be of good moral character;
- 5430 (d) provide satisfactory documentation of:
- 5431 (i) graduation from a licensed or recognized cosmetology/barber school whose
- 5432 curriculum consists of a minimum of 2,000 hours of instruction, with full flexibility within the
- 5433 2,000 hours, or the equivalent number of credit hours over a period of not less than 12 months;

- 5434 (ii) (A) having graduated from a recognized cosmetology/barber school whose  
5435 curriculum consists of less than 2,000 hours of instruction, with full flexibility within the  
5436 2,000 hours, or the equivalent number of credit hours; and
- 5437 (B) having practiced as a licensed cosmetologist/barber for a period of not less than  
5438 4,000 hours; or
- 5439 (iii) having completed an approved cosmetology/barber apprenticeship; and
- 5440 (e) meet the examination requirement established by rule.
- 5441 (5) Each applicant for licensure as a cosmetologist/barber instructor shall:
- 5442 (a) submit an application in a form prescribed by the division;
- 5443 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5444 (c) provide satisfactory documentation that the applicant is currently licensed as a  
5445 cosmetologist/barber;
- 5446 (d) be of good moral character;
- 5447 (e) provide satisfactory documentation of completion of:
- 5448 (i) an instructor training program conducted by a cosmetology/barber school  
5449 consisting of a minimum of 1,000 hours or the equivalent number of credit hours; or
- 5450 (ii) a minimum of 4,000 hours of experience as a cosmetologist/barber; and
- 5451 (f) meet the examination requirement established by rule.
- 5452 (6) Each applicant for licensure as a cosmetologist/barber school shall:
- 5453 (a) submit an application in a form prescribed by the division;
- 5454 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5455 (c) provide satisfactory documentation:
- 5456 (i) of appropriate registration with the Division of Corporations and Commercial  
5457 Code;
- 5458 (ii) of business licensure from the city, town, or county in which the school is located;
- 5459 (iii) that the applicant's physical facilities comply with the requirements established  
5460 by rule; and
- 5461 (iv) that the applicant meets the standards for cosmetology schools, including staff and

- 5462 accreditation requirements, established by rule.
- 5463 (7) Each applicant for licensure as an electrologist shall:
- 5464 (a) submit an application in a form prescribed by the division;
- 5465 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5466 (c) be of good moral character;
- 5467 (d) provide satisfactory documentation of having graduated from a licensed or
- 5468 recognized electrology school after completing a curriculum of 600 hours of instruction or the
- 5469 equivalent number of credit hours; and
- 5470 (e) meet the examination requirement established by rule.
- 5471 (8) Each applicant for licensure as an electrologist instructor shall:
- 5472 (a) submit an application in a form prescribed by the division;
- 5473 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5474 (c) provide satisfactory documentation that the applicant is currently licensed as an
- 5475 electrologist;
- 5476 (d) be of good moral character;
- 5477 (e) provide satisfactory documentation of completion of:
- 5478 (i) an instructor training program conducted by an electrology school consisting of a
- 5479 minimum of 175 hours or the equivalent number of credit hours; or
- 5480 (ii) a minimum of 1,000 hours of experience as an electrologist; and
- 5481 (f) meet the examination requirement established by rule.
- 5482 (9) Each applicant for licensure as an electrologist school shall:
- 5483 (a) submit an application in a form prescribed by the division;
- 5484 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5485 (c) provide satisfactory documentation:
- 5486 (i) of appropriate registration with the Division of Corporations and Commercial
- 5487 Code;
- 5488 (ii) of business licensure from the city, town, or county in which the school is located;
- 5489 (iii) that the applicant's facilities comply with the requirements established by rule;

5490 and

5491 (iv) that the applicant meets the standards for electrologist schools, including staff,  
5492 curriculum, and accreditation requirements, established by rule.

5493 (10) Each applicant for licensure as an esthetician shall:

5494 (a) submit an application in a form prescribed by the division;

5495 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5496 (c) be of good moral character; and

5497 (d) provide satisfactory documentation of one of the following:

5498 (i) (A) graduation from a licensed or recognized esthetic school whose curriculum  
5499 consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the  
5500 equivalent number of credit hours; and

5501 (B) having met the examination requirement established by division rule;

5502 (ii) (A) completion of an approved esthetician apprenticeship; and

5503 (B) having met the examination requirement established by division rule; or

5504 (iii) having met the examination requirement established by division rule prior to

5505 December 31, 2001.

5506 (11) Each applicant for licensure as a master esthetician shall:

5507 (a) submit an application in a form prescribed by the division;

5508 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5509 (c) be of good moral character; and

5510 (d) provide satisfactory documentation of one of the following:

5511 (i) (A) completion of 1,200 hours of training or the equivalent number of credit hours  
5512 at a licensed or recognized esthetics school;

5513 (B) having met the examination requirement established by division rule; and

5514 (C) for practice of lymphatic massage, provide satisfactory documentation to show  
5515 completion of 200 hours of training or equivalent number of credit hours in lymphatic  
5516 massage;

5517 (ii) (A) completion of an approved master esthetician apprenticeship; and

- 5518 (B) having met the examination requirement established by division rule; or  
5519 (iii) having met the examination requirement established by division rule prior to  
5520 December 31, 2001.
- 5521 (12) Each applicant for licensure as an esthetician instructor shall:
- 5522 (a) submit an application in a form prescribed by the division;  
5523 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
5524 (c) provide satisfactory documentation that the applicant is currently licensed as a  
5525 master esthetician;
- 5526 (d) be of good moral character;  
5527 (e) provide satisfactory documentation of completion of:  
5528 (i) an instructor training program conducted by a licensed or recognized esthetics  
5529 school consisting of a minimum of 300 hours or the equivalent number of credit hours; or  
5530 (ii) a minimum of 1,000 hours of experience in esthetics; and  
5531 (f) meet the examination requirement established by rule.
- 5532 (13) Each applicant for licensure as an esthetics school shall:
- 5533 (a) submit an application in a form prescribed by the division;  
5534 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and  
5535 (c) provide satisfactory documentation:  
5536 (i) of appropriate registration with the Division of Corporations and Commercial  
5537 Code;  
5538 (ii) of business licensure from the city, town, or county in which the school is located;  
5539 (iii) that the applicant's physical facilities comply with the requirements established by  
5540 rule; and  
5541 (iv) that the applicant meets the standards for esthetics schools, including staff,  
5542 curriculum, and accreditation requirements, established by division rule made in collaboration  
5543 with the board.
- 5544 (14) Each applicant for licensure as a nail technician shall:  
5545 (a) submit an application in a form prescribed by the division;

- 5546 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5547 (c) be of good moral character; and
- 5548 (d) provide satisfactory documentation of one of the following:
- 5549 (i) (A) graduation from a licensed or recognized nail technology school whose
- 5550 curriculum consists of not less than 300 hours or the equivalent number of credit hours of not
- 5551 more than eight hours a day and six days a week during the program; and
- 5552 (B) having met the examination requirement established by division rule;
- 5553 (ii) (A) having completed an approved nail technician apprenticeship; and
- 5554 (B) having met the examination requirement established by division rule; or
- 5555 (iii) having met the examination requirement established by division rule prior to
- 5556 December 31, 2001.
- 5557 (15) Each applicant for licensure as a nail technician instructor shall:
- 5558 (a) submit an application in a form prescribed by the division;
- 5559 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5560 (c) provide satisfactory documentation that the applicant is currently licensed as a nail
- 5561 technician;
- 5562 (d) be of good moral character;
- 5563 (e) provide satisfactory documentation of completion of:
- 5564 (i) an instructor training program conducted by a licensed or recognized nail
- 5565 technology school consisting of a minimum of 150 hours or the equivalent number of credit
- 5566 hours; or
- 5567 (ii) a minimum of 600 hours of experience in nail technology; and
- 5568 (f) meet the examination requirement established by rule.
- 5569 (16) Each applicant for licensure as a nail technology school shall:
- 5570 (a) submit an application in a form prescribed by the division;
- 5571 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and
- 5572 (c) provide satisfactory documentation:
- 5573 (i) of appropriate registration with the Division of Corporations and Commercial

5574 Code;

5575 (ii) of business licensure from the city, town, or county in which the school is located;

5576 (iii) that the applicant's facilities comply with the requirements established by rule;

5577 and

5578 (iv) that the applicant meets the standards for nail technology schools, including staff,

5579 curriculum, and accreditation requirements, established by rule.

5580 (17) Each applicant for licensure under this chapter whose education in the field for  
5581 which a license is sought was completed at a foreign school may satisfy the educational  
5582 requirement for licensure by demonstrating, to the satisfaction of the division, the educational  
5583 equivalency of the foreign school education with a licensed school under this chapter.

5584 Section 138. Section **58-15-4** is amended to read:

5585 **58-15-4. Licensure requirements.**

5586 (1) An applicant for a license under this chapter shall submit a written application to  
5587 the division, verified under oath, that the applicant is of good moral character as it relates to  
5588 the functions and responsibilities of the practice of administration of a health facility.

5589 (2) After July 1, 1985, all new applicants are required to have, in addition to  
5590 Subsection (1), the education or experience requirements as established by rule and as  
5591 approved by the division.

5592 (3) The applicant shall pay a fee to the Department of Commerce determined by it  
5593 pursuant to Section [~~63J-1-303~~] 63J-1-504 for admission to the examination, for an initial  
5594 license, and for a renewal license.

5595 (4) The applicant shall pass a written examination in subjects determined by the  
5596 board. Upon passing the examination and payment of the license fee, the board shall  
5597 recommend issuance to the applicant of a license to practice as a health facility administrator.

5598 (5) A temporary license may be issued without examination to a person who meets the  
5599 requirements established by statute and by rule for an administrator. The temporary license  
5600 may be issued only to fill a position of administrator that unexpectedly becomes vacant and  
5601 may be issued for only a single period not to exceed six months.

5602 (6) A license may be granted to an applicant who is a licensed nursing home  
5603 administrator in another state if the standards for licensure in the other state are equivalent to  
5604 those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.

5605 Section 139. Section **58-16a-302** is amended to read:

5606 **58-16a-302. Qualifications for licensure.**

5607 (1) Each applicant for licensure as an optometrist shall:

5608 (a) submit an application in a form prescribed by the division;

5609 (b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504;

5610 (c) be of good moral character;

5611 (d) (i) be a doctoral graduate of a recognized school of optometry accredited by:

5612 (A) a regional accrediting body recognized by the Council on Post-Secondary

5613 Education; and

5614 (B) the American Optometric Association's Council on Optometric Education; or

5615 (ii) be a graduate of a school of optometry located outside the United States that meets

5616 the criteria that would qualify the school for accreditation under Subsection (1)(d)(i), as

5617 demonstrated by the applicant for licensure;

5618 (e) if the applicant graduated from a recognized school of optometry prior to July 1,

5619 1996, have successfully completed a course of study satisfactory to the division, in

5620 consultation with the board, in general and ocular pharmacology and emergency medical care;

5621 (f) have passed examinations approved by the division in consultation with the board

5622 that include:

5623 (i) a standardized national optometry examination;

5624 (ii) a standardized clinical examination;

5625 (iii) a standardized national therapeutics examination; and

5626 (iv) the Utah Optometry Law Examination; and

5627 (g) meet with the board and representatives of the division, if requested by either

5628 party, for the purpose of evaluating the applicant's qualifications for licensure.

5629 (2) An applicant for licensure as an optometrist qualifying under the endorsement

5630 provision of Section 58-1-302 shall:

- 5631 (a) be currently licensed in good standing in any state of the United States; and
- 5632 (b) have been actively engaged in the legal practice of optometry for not less than
- 5633 3,200 hours in the immediately preceding two years, in a manner that is consistent with the
- 5634 legal practice of optometry in this state.

5635 Section 140. Section **58-17b-303** is amended to read:

5636 **58-17b-303. Qualifications for licensure as a pharmacist.**

5637 (1) Each applicant for licensure as a pharmacist shall:

- 5638 (a) submit an application in a form prescribed by the division;
- 5639 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5640 (c) produce satisfactory evidence of good moral character as it relates to the
- 5641 applicant's ability to practice pharmacy;
- 5642 (d) complete a criminal background check and be free from criminal convictions as
- 5643 required by Section 58-17b-307, or as described in Section 58-1-501;
- 5644 (e) have no physical or mental condition of a nature which prevents the applicant from
- 5645 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
- 5646 public;
- 5647 (f) have graduated and received a professional entry degree from a school or college of
- 5648 pharmacy which is accredited by the Accreditation Council on Pharmacy Education;
- 5649 (g) have completed an internship meeting standards established by division rule made
- 5650 in collaboration with the board; and
- 5651 (h) have successfully passed examinations required by division rule made in
- 5652 collaboration with the board.

5653 (2) Each applicant for licensure as a pharmacist whose pharmacy education was

5654 completed at a foreign pharmacy school shall, in addition to the requirements under

5655 Subsections (1)(a) through (e), (g), and (h), obtain a certification of equivalency from a

5656 credentialing agency required by division rule made in collaboration with the board.

5657 (3) Each applicant for a license by endorsement as a pharmacist under this section

5658 shall:

- 5659 (a) submit a written application in the form prescribed by the division;
- 5660 (b) pay the fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5661 (c) be of good moral character as required of applicants for licensure as pharmacists
- 5662 under Subsection (1);
- 5663 (d) complete a criminal background check and be free from criminal convictions as
- 5664 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;
- 5665 (e) have no physical or mental condition of a nature which prevents the applicant from
- 5666 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the
- 5667 public;
- 5668 (f) have lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the
- 5669 four years immediately preceding the date of application;
- 5670 (g) produce satisfactory evidence of completing the professional education required
- 5671 under Subsection (1);
- 5672 (h) be currently licensed in good standing as a pharmacist in another state, territory, or
- 5673 possession of the United States;
- 5674 (i) produce satisfactory evidence that the examination requirements are or were at the
- 5675 time the license was issued, equal to those of this state; and
- 5676 (j) pass the jurisprudence examination prescribed by division rule made in
- 5677 collaboration with the board.

5678 Section 141. Section **58-17b-304** is amended to read:

5679 **58-17b-304. Qualifications for licensure of pharmacy intern.**

5680 Each applicant for licensure as a pharmacy intern shall:

- 5681 (1) submit an application in a form prescribed by the division;
- 5682 (2) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5683 (3) produce satisfactory evidence of good moral character as it relates to the
- 5684 applicant's ability to practice pharmacy;
- 5685 (4) complete a criminal background check and be free from criminal convictions as

5686 required by Section 58-17b-307, or as otherwise described in Section 58-1-501;

5687 (5) have no physical or mental condition of a nature which prevents the applicant from  
5688 engaging in the practice of pharmacy with reasonable skill, competency, and safety to the  
5689 public;

5690 (6) meet the preliminary educational qualifications required by division rule made in  
5691 collaboration with the board; and

5692 (7) meet one of the following educational criteria:

5693 (a) be a current pharmacy student, a resident, or fellow in a program approved by  
5694 division rule made in collaboration with the board;

5695 (b) have graduated and received a pharmacy degree from a school or college of  
5696 pharmacy which is accredited by the Accreditation Council on Pharmacy Education but not  
5697 completed the internship hours required by division rule for licensure as a pharmacist; or

5698 (c) have graduated from a foreign pharmacy school and received certification of  
5699 equivalency from a credentialing agency approved by division rule made in collaboration with  
5700 the board.

5701 Section 142. Section **58-17b-305** is amended to read:

5702 **58-17b-305. Qualifications for licensure of pharmacy technician.**

5703 (1) Each applicant for licensure as a pharmacy technician shall:

5704 (a) submit an application in a form prescribed by the division;

5705 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5706 (c) produce satisfactory evidence of good moral character as it relates to the  
5707 applicant's ability to practice pharmacy;

5708 (d) complete a criminal background check and be free from criminal convictions as  
5709 required by Section 58-17b-307, or as otherwise permitted by Section 58-1-501;

5710 (e) have no physical or mental condition of a nature which prevents the applicant from  
5711 engaging in practice as a pharmacy technician with reasonable skill, competency, and safety to  
5712 the public;

5713 (f) have completed a board approved program and curriculum of education and

5714 training, meeting standards established by division rule made in collaboration with the board;  
5715 and

5716 (g) successfully complete the examinations requirement within the time periods  
5717 established by division rule made in collaboration with the board.

5718 (2) A pharmacist whose license has been denied, revoked, suspended, or restricted for  
5719 disciplinary purposes shall not be eligible to be a licensed pharmacy technician while on  
5720 probation with the division.

5721 Section 143. Section **58-17b-306** is amended to read:

5722 **58-17b-306. Qualifications for licensure as a pharmacy.**

5723 (1) Each applicant for licensure under this section, except for those applying for a  
5724 class D license, shall:

5725 (a) submit a written application in the form prescribed by the division;

5726 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5727 (c) satisfy the division that the applicant, and each owner, officer, or manager of the  
5728 applicant have not engaged in any act, practice, or omission, which when considered with the  
5729 duties and responsibilities of a licensee under this section indicates there is cause to believe  
5730 that issuing a license to the applicant is inconsistent with the interest of the public's health,  
5731 safety, or welfare;

5732 (d) demonstrate the licensee's operations will be in accordance with all federal, state,  
5733 and local laws relating to the type of activity engaged in by the licensee, including regulations  
5734 of the Federal Drug Enforcement Administration and Food and Drug Administration;

5735 (e) maintain operating standards established by division rule made in collaboration  
5736 with the board; and

5737 (f) acknowledge the division's authority to inspect the licensee's business premises  
5738 pursuant to Section 58-17b-103.

5739 (2) Each applicant applying for a class D license shall:

5740 (a) submit a written application in the form prescribed by the division;

5741 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5742 (c) present to the division verification of licensure in the state where physically located  
5743 and verification that such license is in good standing;

5744 (d) provide a statement of the scope of pharmacy services that will be provided and a  
5745 detailed description of the protocol as described by rule by which pharmacy care will be  
5746 provided, including any collaborative practice arrangements with other health care  
5747 practitioners;

5748 (e) sign an affidavit attesting that any healthcare practitioners employed by the  
5749 applicant and physically located in Utah have the appropriate license issued by the division  
5750 and in good standing; and

5751 (f) sign an affidavit attesting that the applicant will abide by the pharmacy laws and  
5752 regulations of the jurisdiction in which the pharmacy is located.

5753 (3) Each license issued under this section shall be issued for a single, specific address,  
5754 and is not transferable or assignable.

5755 Section 144. Section **58-20a-302** is amended to read:

5756 **58-20a-302. Qualifications for licensure.**

5757 (1) Except as provided in Subsection (2), an applicant for licensure as an  
5758 environmental health scientist shall:

5759 (a) submit an application in a form prescribed by the division;

5760 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5761 (c) be of good moral character;

5762 (d) hold a bachelor's degree from an accredited program in a university or college,  
5763 which degree includes completion of specific coursework as defined by rule;

5764 (e) pass an examination as determined by division rule in collaboration with the board;  
5765 and

5766 (f) pass the Utah Law and Rules Examination for Environmental Health Scientists  
5767 administered by the division.

5768 (2) An applicant for licensure who is currently actively engaged in the practice of  
5769 environmental health science in Utah on July 1, 1995, and has been practicing in Utah for at

5770 least three consecutive months immediately prior to July 1, 1995, shall:

5771 (a) submit an application in a form prescribed by the division;

5772 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5773 (c) be of good moral character;

5774 (d) hold a bachelor's degree from an accredited program in a university or college,

5775 which degree includes completion of specific coursework as defined by rule;

5776 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists

5777 administered by the division; and

5778 (f) submit an affidavit from the applicant's immediate supervisor in the applicant's

5779 employment, attesting to the applicant's competence to practice environmental health science.

5780 (3) An applicant for licensure as an environmental health scientist-in-training shall:

5781 (a) submit an application in a form prescribed by the division;

5782 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5783 (c) be of good moral character;

5784 (d) hold a bachelor's degree from an accredited program in a university or college,

5785 which degree includes completion of specific coursework as defined by rule;

5786 (e) pass the Utah Law and Rules Examination for Environmental Health Scientists

5787 administered by the division; and

5788 (f) present evidence acceptable to the division and the board that the applicant, when

5789 licensed, will practice as an environmental health scientist-in-training only under the general

5790 supervision of a supervising environmental health scientist licensed under this chapter.

5791 Section 145. Section **58-22-103** is amended to read:

5792 **58-22-103. Education and enforcement fund.**

5793 (1) There is created a restricted special revenue fund known as the "Professional  
5794 Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and  
5795 Enforcement Fund."

5796 (2) The fund consists of monies from:

5797 (a) a surcharge fee placed on initial, renewal, and reinstatement licensure fees under

5798 this chapter in accordance with the following:

5799 (i) the surcharge fee shall be established by the department in accordance with Section  
5800 [~~63J-1-303~~] 63J-1-504; and

5801 (ii) the surcharge fee shall not exceed 50% of the respective initial, renewal, or  
5802 reinstatement licensure fee; and

5803 (b) administrative penalties collected pursuant to this chapter.

5804 (3) The fund shall earn interest and all interest earned on fund monies shall be  
5805 deposited into the fund.

5806 (4) The director may, with concurrence of the board, make distributions from the fund  
5807 for the following purposes:

5808 (a) education and training of licensees under this chapter;

5809 (b) education and training of the public or other interested persons in matters  
5810 concerning engineering, structural engineering, and land surveying laws and practices; and

5811 (c) enforcement of this chapter by:

5812 (i) investigating unprofessional or unlawful conduct; and

5813 (ii) providing legal representation to the division when the division takes legal action  
5814 against a person engaging in unprofessional or unlawful conduct.

5815 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
5816 excess shall be transferred to the General Fund.

5817 (6) The division shall report annually to the appropriate appropriations subcommittee  
5818 of the Legislature concerning the fund.

5819 Section 146. Section **58-22-302** is amended to read:

5820 **58-22-302. Qualifications for licensure.**

5821 (1) Each applicant for licensure as a professional engineer shall:

5822 (a) submit an application in a form prescribed by the division;

5823 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5824 (c) provide satisfactory evidence of good moral character;

5825 (d) (i) have graduated and received a bachelors or masters degree from an engineering

5826 program meeting criteria established by rule by the division in collaboration with the board; or  
5827       (ii) have completed the Transportation Engineering Technology and Fundamental  
5828 Engineering College Program prior to July 1, 1998, under the direction of the Utah  
5829 Department of Transportation and as certified by the Utah Department of Transportation;

5830       (e) have successfully completed a program of qualifying experience established by rule  
5831 by the division in collaboration with the board;

5832       (f) have successfully passed examinations established by rule by the division in  
5833 collaboration with the board; and

5834       (g) meet with the board or representative of the division upon request for the purpose  
5835 of evaluating the applicant's qualification for licensure.

5836       (2) Each applicant for licensure as a professional structural engineer shall:

5837       (a) submit an application in a form prescribed by the division;

5838       (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5839       (c) provide satisfactory evidence of good moral character;

5840       (d) have graduated and received an earned bachelors or masters degree from an  
5841 engineering program meeting criteria established by rule by the division in collaboration with  
5842 the board;

5843       (e) have successfully completed three years of licensed professional engineering  
5844 experience established by rule by the division in collaboration with the board, except that prior  
5845 to January 1, 2009, an applicant for licensure may submit a signed affidavit in a form  
5846 prescribed by the division stating that the applicant is currently engaged in the practice of  
5847 structural engineering;

5848       (f) have successfully passed examinations established by rule by the division in  
5849 collaboration with the board, except that prior to January 1, 2009, an applicant for licensure  
5850 may submit a signed affidavit in a form prescribed by the division stating that the applicant is  
5851 currently engaged in the practice of structural engineering; and

5852       (g) meet with the board or representative of the division upon request for the purpose  
5853 of evaluating the applicant's qualification for licensure.

- 5854 (3) Each applicant for licensure as a professional land surveyor shall:
- 5855 (a) submit an application in a form prescribed by the division;
- 5856 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5857 (c) provide satisfactory evidence of good moral character;
- 5858 (d) (i) have graduated and received an associates, bachelors, or masters degree from a
- 5859 land surveying program, or an equivalent land surveying program, such as a program offered
- 5860 by the Utah College of Applied Technology as approved by the State Board of Regents,
- 5861 established by rule by the division in collaboration with the board, and have successfully
- 5862 completed a program of qualifying experience in land surveying established by rule by the
- 5863 division in collaboration with the board; or
- 5864 (ii) have successfully completed a program of qualifying experience in land surveying
- 5865 prior to January 1, 2007, in accordance with rules established by the division in collaboration
- 5866 with the board;
- 5867 (e) have successfully passed examinations established by rule by the division in
- 5868 collaboration with the board; and
- 5869 (f) meet with the board or representative of the division upon request for the purpose
- 5870 of evaluating the applicant's qualification for licensure.
- 5871 (4) Each applicant for licensure by endorsement shall:
- 5872 (a) submit an application in a form prescribed by the division;
- 5873 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5874 (c) provide satisfactory evidence of good moral character;
- 5875 (d) submit satisfactory evidence of:
- 5876 (i) current licensure in good standing in a jurisdiction recognized by rule by the
- 5877 division in collaboration with the board;
- 5878 (ii) having successfully passed an examination established by rule by the division in
- 5879 collaboration with the board; and
- 5880 (iii) full-time employment as a licensed professional engineer, professional structural
- 5881 engineer, or professional land surveyor as a principal for at least five of the last seven years

5882 immediately preceding the date of the application; and

5883 (e) meet with the board or representative of the division upon request for the purpose  
5884 of evaluating the applicant's qualifications for license.

5885 (5) The rules made to implement this section shall be in accordance with Title 63G,  
5886 Chapter 3, Utah Administrative Rulemaking Act.

5887 Section 147. Section **58-26a-302** is amended to read:

5888 **58-26a-302. Qualifications for licensure and registration -- Licensure by**  
5889 **endorsement.**

5890 (1) Each applicant for licensure under this chapter as a certified public accountant  
5891 shall:

5892 (a) submit an application in a form prescribed by the division;

5893 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5894 (c) show evidence of good moral character;

5895 (d) submit a certified transcript of credits from an accredited institution acceptable to  
5896 the board showing:

5897 (i) successful completion of a total of 150 semester hours or 225 quarter hours of  
5898 collegiate level education with a concentration in accounting, auditing, and business;

5899 (ii) a baccalaureate degree or its equivalent at a college or university approved by the  
5900 board; and

5901 (iii) compliance with any other education requirements established by rule by the  
5902 division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah  
5903 Administrative Rulemaking Act;

5904 (e) submit evidence of one year of accounting experience in a form prescribed by the  
5905 division;

5906 (f) submit evidence of having successfully completed the qualifying examinations in  
5907 accordance with Section 58-26a-306; and

5908 (g) submit to an interview by the board, if requested, for the purpose of examining the  
5909 applicant's competence and qualifications for licensure.

5910 (2) (a) The division may issue a license under this chapter to a person who holds a  
5911 license as a certified public accountant issued by any other jurisdiction of the United States of  
5912 America if the applicant for licensure by endorsement:

5913 (i) submits an application in a form prescribed by the division;

5914 (ii) pays a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5915 (iii) shows evidence of good moral character;

5916 (iv) submits to an interview by the board, if requested, for the purpose of examining  
5917 the applicant's competence and qualifications for licensure; and

5918 (v) (A) (I) shows evidence of having passed the qualifying examinations; and

5919 (II) (Aa) meets the requirements for licensure which were applicable in this state at the  
5920 time of the issuance of the applicant's license by the jurisdiction from which the original  
5921 licensure by satisfactorily passing the AICPA Uniform CPA Examination was issued; or

5922 (Bb) had four years of professional experience after passing the AICPA Uniform CPA  
5923 Examination upon which the original license was based, within the ten years immediately  
5924 preceding the application for licensure by endorsement; or

5925 (B) shows evidence that the applicant's education, examination record, and experience  
5926 are substantially equivalent to the requirements of Subsection (1), as provided by rule.

5927 (b) This Subsection (2) applies only to a person seeking to obtain a license issued by  
5928 this state and does not apply to a person practicing as a certified public accountant in the state  
5929 under Subsection 58-26a-305(1).

5930 (3) (a) Each applicant for registration as a Certified Public Accountant firm shall:

5931 (i) submit an application in a form prescribed by the division;

5932 (ii) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5933 (iii) have, notwithstanding any other provision of law, a simple majority of the  
5934 ownership of the Certified Public Accountant firm, in terms of financial interests and voting  
5935 rights of all partners, officers, shareholders, members, or managers, held by individuals who  
5936 are certified public accountants, licensed under this chapter or another jurisdiction of the  
5937 United States of America, and the partners, officers, shareholders, members, or managers,

5938 whose principal place of business is in this state, and who perform professional services in this  
5939 state hold a valid license issued under Subsection 58-26a-301(2) or the corresponding  
5940 provisions of prior law; and

5941 (iv) meet any other requirements established by rule by the division in collaboration  
5942 with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5943 (b) Each separate location of a qualified business entity within the state seeking  
5944 registration as a Certified Public Accountant firm shall register separately.

5945 (c) A Certified Public Accountant firm may include owners who are not licensed  
5946 under this chapter as outlined in Subsection (3)(a)(iii), provided that:

5947 (i) the firm designates a licensee of this state who is responsible for the proper  
5948 registration of the Certified Public Accountant firm and identifies that individual to the  
5949 division; and

5950 (ii) all nonlicensed owners are active individual participants in the CPA firm.

5951 Section 148. Section **58-26a-306** is amended to read:

5952 **58-26a-306. Examination requirements.**

5953 (1) Before taking the qualifying examinations, an applicant shall:

5954 (a) submit an application in a form approved by the division;

5955 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

5956 (c) demonstrate completion of the education requirement in Subsection  
5957 58-26a-302(1)(d); and

5958 (d) be approved by the board to take the qualifying examinations.

5959 (2) A person must sit for and meet the conditioning requirements of the AICPA  
5960 Uniform CPA Examination as established by the AICPA.

5961 Section 149. Section **58-26a-307** is amended to read:

5962 **58-26a-307. CPA emeritus status -- Renewal of license.**

5963 (1) A person currently licensed as a certified public accountant may, on any renewal  
5964 date of that license, apply for and obtain a transfer of that license to a status of CPA emeritus  
5965 registration if:

- 5966 (a) (i) the licensee is at least 60 years of age as of the date of renewal;  
5967 (ii) the licensee is disabled; or  
5968 (iii) the board finds other good cause for believing that the licensee will not return to  
5969 the practice of public accountancy;
- 5970 (b) the licensee makes an application for transfer of status and registration and pays a  
5971 registration fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 5972 (c) the licensee, on application for transfer, certifies that the licensee will not engage  
5973 in the practice of public accountancy while in the status of CPA emeritus registration; and  
5974 (d) the licensee is in good standing as a CPA and not subject to any order of  
5975 revocation, suspension, or probation.
- 5976 (2) Each CPA emeritus registration shall be issued in accordance with a two-year  
5977 renewal cycle established by rule.
- 5978 (3) CPA emeritus registrants may not engage in the practice of public accountancy.
- 5979 (4) CPA emeritus registrants are not required to fulfill the continuing professional  
5980 education or peer review provisions of this chapter.
- 5981 (5) Each CPA emeritus registrant is responsible for renewing the registration,  
5982 according to procedures that the division establishes by rule in collaboration with the board in  
5983 accordance with Section 58-1-308.
- 5984 (6) A CPA emeritus registrant may reinstate the CPA license by:  
5985 (a) submitting an application in a form prescribed by the division;  
5986 (b) paying a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
5987 and  
5988 (c) showing evidence of having completed the continuing professional education  
5989 requirement established by rule.
- 5990 Section 150. Section **58-28-302** is amended to read:  
5991 **58-28-302. License qualifications.**  
5992 (1) Every applicant for a license to practice veterinary medicine, surgery, and dentistry  
5993 shall:

5994 (a) be of good moral character as it relates to the functions and duties of a licensed  
5995 veterinarian;

5996 (b) pass an examination approved by the board on the theory and practice of the  
5997 science of veterinary medicine, surgery, dentistry, and other subjects determined by the board,  
5998 knowledge of which is generally required of veterinarians;

5999 (c) (i) graduate from a veterinary college accredited by the AVMA; or

6000 (ii) obtain a certificate issued by the Educational Commission for Foreign Veterinary  
6001 Graduates issued by the AVMA;

6002 (d) (i) have practiced under the supervision of a veterinarian licensed to practice in  
6003 this state for a period of at least six months;

6004 (ii) have participated in veterinary investigational, educational, or sanitary control  
6005 work of a nature and duration as to be the equivalent of the experience of Subsection (1)(d)(i);

6006 (iii) have practiced as a licensed veterinarian outside Utah for a period of at least six  
6007 months; or

6008 (iv) have practiced as a veterinarian while employed by the United States government,  
6009 its agencies, or the state or its political subdivisions for a period of at least six months; and

6010 (e) pay a fee to the Department of Commerce determined by it pursuant to Section  
6011 [~~63J-1-303~~] 63J-1-504 for the examination, for an initial license, and for a renewal license.

6012 (2) (a) An applicant for licensure as a veterinary intern shall comply with the  
6013 provisions of Subsections (1)(a) and (c).

6014 (b) An applicant's license as a veterinary intern is limited to the period of time  
6015 necessary to complete clinical training as described in Subsection (1)(d) and extends not more  
6016 than one year from the date the minimum requirement for training is completed, unless the  
6017 individual presents satisfactory evidence to the division and the board that the individual is  
6018 making reasonable progress toward passing the qualifying examination or is otherwise on a  
6019 course reasonably expected to lead to licensure as a veterinarian, but the period of time under  
6020 this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical  
6021 training has been completed.

6022 Section 151. Section **58-31b-302** is amended to read:

6023 **58-31b-302. Qualifications for licensure or certification -- Criminal background**  
6024 **checks.**

6025 (1) An applicant for certification as a medication aide shall:

6026 (a) submit an application to the division on a form prescribed by the division;

6027 (b) pay a fee to the division as determined under Section [~~63J-1-303~~] 63J-1-504;

6028 (c) have a high school diploma or its equivalent;

6029 (d) have a current certification as a nurse aide, in good standing, from the Department  
6030 of Health;

6031 (e) have a minimum of 2,000 hours of experience within the two years prior to  
6032 application, working as a certified nurse aide in a long-term care facility;

6033 (f) obtain letters of recommendation from a long-term care facility administrator and  
6034 one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

6035 (g) be in a condition of physical and mental health that will permit the applicant to  
6036 practice safely as a medication aide certified;

6037 (h) have completed an approved education program or an equivalent as determined by  
6038 the division in collaboration with the board;

6039 (i) have passed the examinations as required by division rule made in collaboration  
6040 with the board; and

6041 (j) meet with the board, if requested, to determine the applicant's qualifications for  
6042 certification.

6043 (2) An applicant for licensure as a licensed practical nurse shall:

6044 (a) submit to the division an application in a form prescribed by the division;

6045 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6046 (c) have a high school diploma or its equivalent;

6047 (d) be in a condition of physical and mental health that will permit the applicant to  
6048 practice safely as a licensed practical nurse;

6049 (e) have completed an approved practical nursing education program or an equivalent

6050 as determined by the board;

6051 (f) have passed the examinations as required by division rule made in collaboration  
6052 with the board; and

6053 (g) meet with the board, if requested, to determine the applicant's qualifications for  
6054 licensure.

6055 (3) An applicant for licensure as a registered nurse shall:

6056 (a) submit to the division an application form prescribed by the division;

6057 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6058 (c) have a high school diploma or its equivalent;

6059 (d) be in a condition of physical and mental health that will allow the applicant to  
6060 practice safely as a registered nurse;

6061 (e) have completed an approved registered nursing education program;

6062 (f) have passed the examinations as required by division rule made in collaboration  
6063 with the board; and

6064 (g) meet with the board, if requested, to determine the applicant's qualifications for  
6065 licensure.

6066 (4) Applicants for licensure as an advanced practice registered nurse shall:

6067 (a) submit to the division an application on a form prescribed by the division;

6068 (b) pay to the division a fee determined under Section [~~63J-1-303~~] 63J-1-504;

6069 (c) be in a condition of physical and mental health which will allow the applicant to  
6070 practice safely as an advanced practice registered nurse;

6071 (d) hold a current registered nurse license in good standing issued by the state or be  
6072 qualified at the time for licensure as a registered nurse;

6073 (e) (i) have earned a graduate degree in:

6074 (A) an advanced practice registered nurse nursing education program; or

6075 (B) a related area of specialized knowledge as determined appropriate by the division  
6076 in collaboration with the board; or

6077 (ii) have completed a nurse anesthesia program in accordance with Subsection

6078 (4)(f)(ii);  
6079 (f) have completed:  
6080 (i) course work in patient assessment, diagnosis and treatment, and  
6081 pharmacotherapeutics from an education program approved by the division in collaboration  
6082 with the board; or  
6083 (ii) a nurse anesthesia program which is approved by the Council on Accreditation of  
6084 Nurse Anesthesia Educational Programs;  
6085 (g) have successfully completed clinical practice in psychiatric and mental health  
6086 nursing, including psychotherapy as defined by division rule, after completion of the masters  
6087 degree required for licensure, to practice within the psychiatric and mental health nursing  
6088 specialty;  
6089 (h) have passed the examinations as required by division rule made in collaboration  
6090 with the board;  
6091 (i) be currently certified by a program approved by the division in collaboration with  
6092 the board and submit evidence satisfactory to the division of the certification; and  
6093 (j) meet with the board, if requested, to determine the applicant's qualifications for  
6094 licensure.  
6095 (5) For each applicant for licensure or certification under this chapter:  
6096 (a) the applicant shall:  
6097 (i) submit fingerprint cards in a form acceptable to the division at the time the  
6098 application is filed; and  
6099 (ii) consent to a fingerprint background check by the Utah Bureau of Criminal  
6100 Identification and the Federal Bureau of Investigation regarding the application; and  
6101 (b) the division shall request the Department of Public Safety to complete a Federal  
6102 Bureau of Investigation criminal background check through the national criminal history  
6103 system (NCIC) or any successor system.  
6104 (6) For purposes of conducting the criminal background checks required in Subsection  
6105 (5), the division shall have direct access to criminal background information maintained

6106 pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

6107 (7) (a) (i) Any new nurse license or certification issued under this section shall be  
6108 conditional, pending completion of the criminal background check.

6109 (ii) If the criminal background check discloses the applicant has failed to accurately  
6110 disclose a criminal history, the license or certification shall be immediately and automatically  
6111 revoked.

6112 (b) (i) Any person whose conditional license or certification has been revoked under  
6113 Subsection (7)(a) shall be entitled to a postrevocation hearing to challenge the revocation.

6114 (ii) The hearing shall be conducted in accordance with Title 63G, Chapter 4,  
6115 Administrative Procedures Act.

6116 (8) (a) If a person has been charged with a violent felony, as defined in Subsection  
6117 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of guilty or  
6118 nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the  
6119 successful completion of probation:

6120 (i) the person is disqualified for licensure under this chapter; and

6121 (ii) (A) if the person is licensed under this chapter, the division:

6122 (I) shall act upon the license as required under Section 58-1-401; and

6123 (II) may not renew or subsequently issue a license to the person under this chapter; and

6124 (B) if the person is not licensed under this chapter, the division may not issue a license  
6125 to the person under this chapter.

6126 (b) If a person has been charged with a felony other than a violent felony, as defined in  
6127 Subsection 76-3-203.5(1)(c), and, as a result, the person has been convicted, entered a plea of  
6128 guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance  
6129 pending the successful completion of probation:

6130 (i) if the person is licensed under this chapter, the division shall determine whether the  
6131 felony disqualifies the person for licensure under this chapter and act upon the license, as  
6132 required, in accordance with Section 58-1-401; and

6133 (ii) if the person is not licensed under this chapter, the person may not file an

6134 application for licensure under this chapter any sooner than five years after having completed  
6135 the conditions of the sentence or plea agreement.

6136 Section 152. Section **58-31b-304** is amended to read:

6137 **58-31b-304. Qualifications for admission to the examinations.**

6138 (1) To be admitted to the examinations required for certification as a medication aide  
6139 certified, a person shall:

- 6140 (a) submit an application on a form prescribed by the division;
- 6141 (b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504; and
- 6142 (c) meet all requirements of Subsection 58-31b-302(1), except the passing of the  
6143 examination.

6144 (2) To be admitted to the examinations required for licensure as a practical nurse, a  
6145 person shall:

- 6146 (a) submit an application form prescribed by the division;
- 6147 (b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504; and
- 6148 (c) meet all requirements of Subsection 58-31b-302(2), except Subsection (2)(f).

6149 (3) To be admitted to the examinations required for licensure as a registered nurse, a  
6150 person shall:

- 6151 (a) submit an application form prescribed by the division;
- 6152 (b) pay a fee as determined by the division under Section [~~63J-1-303~~] 63J-1-504; and
- 6153 (c) meet all the requirements of Subsection 58-31b-302(3), except Subsection (3)(f).

6154 Section 153. Section **58-31b-305** is amended to read:

6155 **58-31b-305. Term of license -- Expiration -- Renewal.**

6156 (1) The division shall issue each license or certification under this chapter in  
6157 accordance with a two-year renewal cycle established by rule. The division may by rule  
6158 extend or shorten a renewal period by as much as one year to stagger the renewal cycles it  
6159 administers.

6160 (2) At the time of renewal, the licensee or person certified under this chapter shall  
6161 show satisfactory evidence of each of the following renewal requirements:

6162 (a) complete and submit an application for renewal in a form prescribed by the  
6163 division and pay the renewal fee determined under Section [~~63J-1-303~~] 63J-1-504; and

6164 (b) meet continuing competency requirements as established by rule, which shall  
6165 include continuing education requirements for medication aide certified established by the  
6166 board and adopted by the division by rule.

6167 (3) In addition to the renewal requirements under Subsection (2), a person licensed as  
6168 a advanced practice registered nurse shall be currently certified by a program approved by the  
6169 division in collaboration with the board and submit evidence satisfactory to the division of  
6170 that qualification or if licensed prior to July 1, 1992, meet the requirements established by  
6171 rule.

6172 (4) Each license or certification automatically expires on the expiration date shown on  
6173 the license or certification unless renewed in accordance with Section 58-1-308.

6174 Section 154. Section **58-37-6** is amended to read:

6175 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**  
6176 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**  
6177 **required -- Prescriptions.**

6178 (1) (a) The division may adopt rules relating to the licensing and control of the  
6179 manufacture, distribution, production, prescription, administration, dispensing, conducting of  
6180 research with, and performing of laboratory analysis upon controlled substances within this  
6181 state.

6182 (b) The division may assess reasonable fees to defray the cost of issuing original and  
6183 renewal licenses under this chapter pursuant to Section [~~63J-1-303~~] 63J-1-504.

6184 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes,  
6185 dispenses, administers, conducts research with, or performs laboratory analysis upon any  
6186 controlled substance in Schedules II through V within this state, or who proposes to engage in  
6187 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting  
6188 research with, or performing laboratory analysis upon controlled substances included in  
6189 Schedules II through V within this state shall obtain a license issued by the division.

6190 (ii) The division shall issue each license under this chapter in accordance with a  
6191 two-year renewal cycle established by rule. The division may by rule extend or shorten a  
6192 renewal period by as much as one year to stagger the renewal cycles it administers.

6193 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,  
6194 administer, conduct research with, or perform laboratory analysis upon controlled substances  
6195 in Schedules II through V within this state may possess, manufacture, produce, distribute,  
6196 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon  
6197 those substances to the extent authorized by their license and in conformity with this chapter.

6198 (c) The following persons are not required to obtain a license and may lawfully  
6199 possess controlled substances under this section:

6200 (i) an agent or employee, except a sales representative, of any registered manufacturer,  
6201 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the  
6202 usual course of the person's business or employment; however, nothing in this subsection shall  
6203 be interpreted to permit an agent, employee, sales representative, or detail man to maintain an  
6204 inventory of controlled substances separate from the location of the person's employer's  
6205 registered and licensed place of business;

6206 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or  
6207 warehouseman, who possesses any controlled substance in the usual course of the person's  
6208 business or employment; and

6209 (iii) an ultimate user, or any person who possesses any controlled substance pursuant  
6210 to a lawful order of a practitioner.

6211 (d) The division may enact rules waiving the license requirement for certain  
6212 manufacturers, producers, distributors, prescribers, dispensers, administrators, research  
6213 practitioners, or laboratories performing analysis if consistent with the public health and  
6214 safety.

6215 (e) A separate license is required at each principal place of business or professional  
6216 practice where the applicant manufactures, produces, distributes, dispenses, conducts research  
6217 with, or performs laboratory analysis upon controlled substances.

6218 (f) The division may enact rules providing for the inspection of a licensee or  
6219 applicant's establishment, and may inspect the establishment according to those rules.

6220 (3) (a) Upon proper application, the division shall license a qualified applicant to  
6221 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon  
6222 controlled substances included in Schedules I through V, unless it determines that issuance of  
6223 a license is inconsistent with the public interest. The division shall not issue a license to any  
6224 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining  
6225 public interest, the division shall consider whether or not the applicant has:

6226 (i) maintained effective controls against diversion of controlled substances and any  
6227 Schedule I or II substance compounded from any controlled substance into other than  
6228 legitimate medical, scientific, or industrial channels;

6229 (ii) complied with applicable state and local law;

6230 (iii) been convicted under federal or state laws relating to the manufacture,  
6231 distribution, or dispensing of substances;

6232 (iv) past experience in the manufacture of controlled dangerous substances;

6233 (v) established effective controls against diversion; and

6234 (vi) complied with any other factors that the division establishes that promote the  
6235 public health and safety.

6236 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,  
6237 produce, distribute, conduct research with, or perform laboratory analysis upon controlled  
6238 substances in Schedule I other than those specified in the license.

6239 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with  
6240 substances in Schedules II through V if they are authorized to administer, dispense, or conduct  
6241 research under the laws of this state.

6242 (ii) The division need not require a separate license for practitioners engaging in  
6243 research with nonnarcotic controlled substances in Schedules II through V where the licensee  
6244 is already licensed under this act in another capacity.

6245 (iii) With respect to research involving narcotic substances in Schedules II through V,

6246 or where the division by rule requires a separate license for research of nonnarcotic substances  
6247 in Schedules II through V, a practitioner shall apply to the division prior to conducting  
6248 research.

6249 (iv) Licensing for purposes of bona fide research with controlled substances by a  
6250 practitioner considered qualified may be denied only on a ground specified in Subsection (4),  
6251 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard  
6252 adequately the practitioner's supply of substances against diversion from medical or scientific  
6253 use.

6254 (v) Practitioners registered under federal law to conduct research in Schedule I  
6255 substances may conduct research in Schedule I substances within this state upon furnishing  
6256 the division evidence of federal registration.

6257 (d) Compliance by manufacturers, producers, and distributors with the provisions of  
6258 federal law respecting registration, excluding fees, entitles them to be licensed under this  
6259 chapter.

6260 (e) The division shall initially license those persons who own or operate an  
6261 establishment engaged in the manufacture, production, distribution, dispensation, or  
6262 administration of controlled substances prior to April 3, 1980, and who are licensed by the  
6263 state.

6264 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed  
6265 on probation, or revoked by the division upon finding that the applicant or licensee has:

6266 (i) materially falsified any application filed or required pursuant to this chapter;

6267 (ii) been convicted of an offense under this chapter or any law of the United States, or  
6268 any state, relating to any substance defined as a controlled substance;

6269 (iii) been convicted of a felony under any other law of the United States or any state  
6270 within five years of the date of the issuance of the license;

6271 (iv) had a federal license denied, suspended, or revoked by competent federal authority  
6272 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of  
6273 controlled substances;

6274 (v) had the licensee's license suspended or revoked by competent authority of another  
6275 state for violation of laws or regulations comparable to those of this state relating to the  
6276 manufacture, distribution, or dispensing of controlled substances;

6277 (vi) violated any division rule that reflects adversely on the licensee's reliability and  
6278 integrity with respect to controlled substances;

6279 (vii) refused inspection of records required to be maintained under this chapter by a  
6280 person authorized to inspect them; or

6281 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the  
6282 purpose of manipulating human hormonal structure so as to:

6283 (A) increase muscle mass, strength, or weight without medical necessity and without a  
6284 written prescription by any practitioner in the course of the practitioner's professional practice;  
6285 or

6286 (B) improve performance in any form of human exercise, sport, or game.

6287 (b) The division may limit revocation or suspension of a license to a particular  
6288 controlled substance with respect to which grounds for revocation or suspension exist.

6289 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant  
6290 to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division  
6291 of Occupational and Professional Licensing Act, and conducted in conjunction with the  
6292 appropriate representative committee designated by the director of the department.

6293 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and  
6294 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,  
6295 except where the division is designated by law to perform those functions, or, when not  
6296 designated by law, is designated by the executive director of the Department of Commerce to  
6297 conduct the proceedings.

6298 (d) (i) The division may suspend any license simultaneously with the institution of  
6299 proceedings under this section if it finds there is an imminent danger to the public health or  
6300 safety.

6301 (ii) Suspension shall continue in effect until the conclusion of proceedings, including

6302 judicial review, unless withdrawn by the division or dissolved by a court of competent  
6303 jurisdiction.

6304 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled  
6305 substances owned or possessed by the licensee may be placed under seal in the discretion of  
6306 the division.

6307 (ii) Disposition may not be made of substances under seal until the time for taking an  
6308 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,  
6309 orders the sale of perishable substances and the proceeds deposited with the court.

6310 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.

6311 (f) The division shall notify promptly the Drug Enforcement Administration of all  
6312 orders suspending or revoking a license and all forfeitures of controlled substances.

6313 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and  
6314 inventories in conformance with the record keeping and inventory requirements of federal and  
6315 state law and any additional rules issued by the division.

6316 (b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is  
6317 authorized to administer or professionally use a controlled substance shall keep a record of the  
6318 drugs received by him and a record of all drugs administered, dispensed, or professionally  
6319 used by him otherwise than by a prescription.

6320 (ii) A person using small quantities or solutions or other preparations of those drugs  
6321 for local application has complied with this Subsection (5)(b) if the person keeps a record of  
6322 the quantity, character, and potency of those solutions or preparations purchased or prepared  
6323 by him, and of the dates when purchased or prepared.

6324 (6) Controlled substances in Schedules I through V may be distributed only by a  
6325 licensee and pursuant to an order form prepared in compliance with division rules or a lawful  
6326 order under the rules and regulations of the United States.

6327 (7) (a) A person may not write or authorize a prescription for a controlled substance  
6328 unless the person is:

6329 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this

6330 state or under the laws of another state having similar standards; and

6331 (ii) licensed under this chapter or under the laws of another state having similar  
6332 standards.

6333 (b) A person other than a pharmacist licensed under the laws of this state, or the  
6334 pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not  
6335 dispense a controlled substance.

6336 (c) (i) A controlled substance may not be dispensed without the written prescription of  
6337 a practitioner, if the written prescription is required by the federal Controlled Substances Act.

6338 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and  
6339 in conformity with Subsection (7)(d).

6340 (iii) In emergency situations, as defined by division rule, controlled substances may be  
6341 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms  
6342 designated by the division and filed by the pharmacy.

6343 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with  
6344 Subsection (7)(d).

6345 (d) Except for emergency situations designated by the division, a person may not  
6346 issue, fill, compound, or dispense a prescription for a controlled substance unless the  
6347 prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic  
6348 signature of the prescriber as authorized by division rule, and contains the following  
6349 information:

6350 (i) the name, address, and registry number of the prescriber;

6351 (ii) the name, address, and age of the person to whom or for whom the prescription is  
6352 issued;

6353 (iii) the date of issuance of the prescription; and

6354 (iv) the name, quantity, and specific directions for use by the ultimate user of the  
6355 controlled substance.

6356 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I  
6357 controlled substance.

6358 (f) Except when administered directly to an ultimate user by a licensed practitioner,  
6359 controlled substances are subject to the following restrictions:

6360 (i) (A) A prescription for a Schedule II substance may not be refilled.

6361 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a  
6362 one-month's supply, as directed on the daily dosage rate of the prescriptions.

6363 (ii) A Schedule III or IV controlled substance may be filled only within six months of  
6364 issuance, and may not be refilled more than six months after the date of its original issuance or  
6365 be refilled more than five times after the date of the prescription unless renewed by the  
6366 practitioner.

6367 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's  
6368 prescription directs, but they may not be refilled one year after the date the prescription was  
6369 issued unless renewed by the practitioner.

6370 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not  
6371 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days  
6372 after the date the prescription was issued, or 30 days after the dispensing date, if that date is  
6373 specified separately from the date of issue.

6374 (v) A practitioner may issue more than one prescription at the same time for the same  
6375 Schedule II controlled substance, but only under the following conditions:

6376 (A) no more than three prescriptions for the same Schedule II controlled substance  
6377 may be issued at the same time;

6378 (B) no one prescription may exceed a 30-day supply;

6379 (C) a second or third prescription shall include the date of issuance and the date for  
6380 dispensing; and

6381 (D) unless the practitioner determines there is a valid medical reason to the contrary,  
6382 the date for dispensing a second or third prescription may not be fewer than 30 days from the  
6383 dispensing date of the previous prescription.

6384 (vi) Each prescription for a controlled substance may contain only one controlled  
6385 substance per prescription form and may not contain any other legend drug or prescription

6386 item.

6387 (g) An order for a controlled substance in Schedules II through V for use by an  
6388 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this  
6389 Subsection (7) if the order is:

6390 (i) issued or made by a prescribing practitioner who holds an unrestricted registration  
6391 with the federal Drug Enforcement Administration, and an active Utah controlled substance  
6392 license in good standing issued by the division under this section, or a medical resident who is  
6393 exempted from licensure under Subsection 58-1-307(1)(c);

6394 (ii) authorized by the prescribing practitioner treating the patient and the prescribing  
6395 practitioner designates the quantity ordered;

6396 (iii) entered upon the record of the patient, the record is signed by the prescriber  
6397 affirming the prescriber's authorization of the order within 48 hours after filling or  
6398 administering the order, and the patient's record reflects the quantity actually administered;  
6399 and

6400 (iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within  
6401 the physical structure of the hospital, or the order is taken from a supply lawfully maintained  
6402 by the hospital and the amount taken from the supply is administered directly to the patient  
6403 authorized to receive it.

6404 (h) A practitioner licensed under this chapter may not prescribe, administer, or  
6405 dispense a controlled substance to a child, without first obtaining the consent required in  
6406 Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child  
6407 except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the same  
6408 meaning as defined in Section 78A-6-105, and "emergency" means any physical condition  
6409 requiring the administration of a controlled substance for immediate relief of pain or suffering.

6410 (i) A practitioner licensed under this chapter may not prescribe or administer dosages  
6411 of a controlled substance in excess of medically recognized quantities necessary to treat the  
6412 ailment, malady, or condition of the ultimate user.

6413 (j) A practitioner licensed under this chapter may not prescribe, administer, or

6414 dispense any controlled substance to another person knowing that the other person is using a  
6415 false name, address, or other personal information for the purpose of securing the controlled  
6416 substance.

6417 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense  
6418 a controlled substance may not manufacture, distribute, or dispense a controlled substance to  
6419 another licensee or any other authorized person not authorized by this license.

6420 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a  
6421 symbol required by this chapter or by a rule issued under this chapter.

6422 (m) A person licensed under this chapter may not refuse or fail to make, keep, or  
6423 furnish any record notification, order form, statement, invoice, or information required under  
6424 this chapter.

6425 (n) A person licensed under this chapter may not refuse entry into any premises for  
6426 inspection as authorized by this chapter.

6427 (o) A person licensed under this chapter may not furnish false or fraudulent material  
6428 information in any application, report, or other document required to be kept by this chapter or  
6429 willfully make any false statement in any prescription, order, report, or record required by this  
6430 chapter.

6431 (8) (a) (i) Any person licensed under this chapter who is found by the division to have  
6432 violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to  
6433 exceed \$5,000. The division shall determine the procedure for adjudication of any violations  
6434 in accordance with Sections 58-1-106 and 58-1-108.

6435 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the  
6436 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).

6437 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through  
6438 (7)(j) is:

6439 (i) upon first conviction, guilty of a class B misdemeanor;

6440 (ii) upon second conviction, guilty of a class A misdemeanor; and

6441 (iii) on third or subsequent conviction, guilty of a third degree felony.

6442 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through  
6443 (7)(o) shall upon conviction be guilty of a third degree felony.

6444 (9) Any information communicated to any licensed practitioner in an attempt to  
6445 unlawfully procure, or to procure the administration of, a controlled substance is not  
6446 considered to be a privileged communication.

6447 Section 155. Section **58-39a-5** is amended to read:

6448 **58-39a-5. Qualifications for certification.**

6449 Applicants for certification as an alternative dispute resolution provider shall:

- 6450 (1) submit an application in a form as prescribed by the division;
- 6451 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 6452 (3) be of good moral character; and
- 6453 (4) complete a program of education or training, or both, in ADR or have  
6454 demonstrated sufficient experience in ADR, as determined by the division in collaboration  
6455 with the board.

6456 Section 156. Section **58-40a-302** is amended to read:

6457 **58-40a-302. Qualifications for licensure.**

6458 The division shall issue a license to practice as an athletic trainer to an applicant who:

- 6459 (1) has obtained a bachelor's or advanced degree from an accredited four-year college  
6460 or university and meets the minimum athletic training curriculum requirement established by  
6461 the board by rule;
- 6462 (2) has successfully completed the certification examination administered by the  
6463 Board of Certification Inc. or equivalent examination approved or recognized by the board;
- 6464 (3) is in good standing with and provides documentation of current certification by the  
6465 Board of Certification Inc. or a nationally recognized credentialing agency approved by the  
6466 board;
- 6467 (4) submits an application to the division on a form prescribed by the division; and
- 6468 (5) pays the required licensing fee as determined by the department under Section  
6469 [~~63J-1-303~~] 63J-1-504.

6470 Section 157. Section **58-41-5** is amended to read:

6471 **58-41-5. Licensure requirements.**

6472 To obtain and maintain a license as a speech-language pathologist or audiologist, the  
6473 applicant must:

6474 (1) submit a completed application in the form and content prescribed by the division  
6475 and pay a fee to the department in accordance with Section [~~63J-1-303~~] 63J-1-504;

6476 (2) be of good moral character;

6477 (3) provide the committee with verification:

6478 (a) from the educational institutions involved, that the applicant is the legal holder of a  
6479 doctor's or master's degree or its equivalent in the area of speech-language pathology, speech  
6480 science, or audiology, from an accredited university or college, based on a program of studies  
6481 primarily in the field of speech-language pathology, speech sciences, or audiology; and

6482 (b) that the applicant has had training and experience in treating and managing the  
6483 major communication disabilities identified in speech-language pathology or audiology;

6484 (4) be in compliance with the regulations of conduct and codes of ethics for the  
6485 profession of speech-language pathology and audiology;

6486 (5) submit to the board certified evidence of having completed at least one year of  
6487 professional experience (at least 30 hours per week for an academic year) of direct clinical  
6488 experience in treatment and management of patients. That treatment and management shall be  
6489 supervised and attested by one holding a license under this chapter, the CCC, or their full  
6490 equivalent;

6491 (6) submit transcripts to the board from the educational institutions involved,  
6492 indicating a doctor's or master's degree from an accredited program or satisfactory completion  
6493 of at least 90 quarter hours in speech or hearing disorders, of which at least 50 shall be for  
6494 graduate level credit. No less than nine and no more than 12 quarter hours shall be in basic  
6495 and clinical audiology for persons applying for the license in speech-language pathology. No  
6496 less than nine and no more than 12 quarter hours shall be in basic and functional  
6497 speech-language pathology for persons applying for a license in audiology. No more than

6498 three-quarter hours shall be in thesis or student research; and

6499 (7) pass a nationally standardized examination in speech-language pathology or  
6500 audiology which is the same as or equivalent to the examination required for the CCC and  
6501 with pass-fail criteria equivalent to current ASHA standards. The board may, in its discretion,  
6502 require an applicant to pass an acceptable practical demonstration of clinical skills to an  
6503 examining committee of licensed speech-language pathologists appointed by the board.

6504 Section 158. Section **58-41-13** is amended to read:

6505 **58-41-13. Fees.**

6506 The department shall set fees in cooperation with the board and in accordance with  
6507 Section [~~63J-1-303~~] 63J-1-504 and shall collect all fees.

6508 Section 159. Section **58-42a-302** is amended to read:

6509 **58-42a-302. Qualifications for licensure.**

6510 (1) All applicants for licensure as an occupational therapist shall:

6511 (a) submit an application in a form as prescribed by the division;

6512 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6513 (c) be of good moral character as it relates to the functions and responsibilities of the  
6514 practice of occupational therapy;

6515 (d) graduate with a bachelors or graduate degree in occupational therapy from a  
6516 program accredited by the Accreditation Council for Occupational Therapy Education; and

6517 (e) be certified by the National Board for Certification in Occupational Therapy as an  
6518 occupational therapist registered.

6519 (2) All applicants for licensure as an occupational therapist assistant shall:

6520 (a) submit an application in a form as prescribed by the division;

6521 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6522 (c) be of good moral character as it relates to the functions and responsibilities of the  
6523 practice of occupational therapy;

6524 (d) graduate with a two-year associate degree in occupational therapy from a program  
6525 accredited by the Accreditation Council for Occupational Therapy Education; and

6526 (e) be certified by the National Board for Certification in Occupational Therapy as a  
6527 certified occupational therapist assistant.

6528 Section 160. Section **58-44a-302** is amended to read:

6529 **58-44a-302. Qualifications for licensure.**

6530 (1) An applicant for licensure as a nurse midwife shall:

6531 (a) submit an application in a form as prescribed by the division;

6532 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6533 (c) be of good moral character;

6534 (d) at the time of application for licensure hold a license in good standing as a  
6535 registered nurse in Utah, or be at that time qualified for a license as a registered nurse under  
6536 Title 58, Chapter 31b, Nurse Practice Act;

6537 (e) have completed:

6538 (i) a certified nurse midwifery education program accredited by the American College  
6539 of Nurse Midwives and approved by the division; or

6540 (ii) a nurse midwifery education program located outside of the United States which is  
6541 approved by the division and is equivalent to a program accredited by the American College of  
6542 Nurse Midwives, as demonstrated by a graduate's being accepted to sit for the national  
6543 certifying examination administered by the American College of Nurse Midwives or its  
6544 designee; and

6545 (f) have passed examinations established by the division rule in collaboration with the  
6546 board within two years after completion of the approved education program required under  
6547 Subsection (1)(e).

6548 (2) For purposes of Subsection (1)(e), as of January 1, 2010, the accredited education  
6549 program or it's equivalent must grant a graduate degree, including post-master's certificate, in  
6550 nurse midwifery.

6551 Section 161. Section **58-46a-302** is amended to read:

6552 **58-46a-302. Qualifications for licensure.**

6553 (1) Each applicant for licensure as a hearing instrument specialist shall:

- 6554 (a) submit to the division an application in a form prescribed by the division;
- 6555 (b) pay a fee as determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504;
- 6556 (c) be of good moral character;
- 6557 (d) (i) have successfully completed 4,000 hours of practice as a hearing instrument
- 6558 intern within the state under supervision by a supervising hearing instrument specialist in
- 6559 accordance with Section 58-46a-302.5 or an equivalent as approved by the division; or
- 6560 (ii) demonstrate successful practice for the equivalent of two years of full-time
- 6561 practice as a licensed hearing instrument specialist in another state requiring licensure and
- 6562 practice in conformity with defined lawful and professional standards of practice;
- 6563 (e) have qualified for and currently hold board certification by the National Board for
- 6564 Certification - Hearing Instrument Sciences, or an equivalent certification approved by the
- 6565 division in collaboration with the board;
- 6566 (f) have passed the Utah Law and Rules Examination for Hearing Instrument
- 6567 Specialists; and
- 6568 (g) if the applicant holds a hearing instrument intern license, surrender the hearing
- 6569 instrument intern license at the time of licensure as a hearing instrument specialist.
- 6570 (2) Each applicant for licensure as a hearing instrument intern shall:
- 6571 (a) submit to the division an application in a form prescribed by the division;
- 6572 (b) pay a fee as determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504;
- 6573 (c) be of good moral character;
- 6574 (d) have passed the Utah Law and Rules Examination for Hearing Instrument
- 6575 Specialists; and
- 6576 (e) present evidence acceptable to the division and the board that the applicant, when
- 6577 licensed, will practice as a hearing instrument intern only under supervision of a supervising
- 6578 hearing instrument specialist as required under Subsection (1)(d).
- 6579 Section 162. Section **58-47b-302** is amended to read:
- 6580 **58-47b-302. License classifications -- Qualifications for licensure.**
- 6581 (1) The division shall issue licenses under this chapter in the classifications of:

- 6582 (a) massage therapist; and  
6583 (b) massage apprentice.
- 6584 (2) Each applicant for licensure as a massage therapist shall:  
6585 (a) submit an application in a form prescribed by the division;  
6586 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
6587 (c) be of good moral character;  
6588 (d) be 18 years of age or older;  
6589 (e) have either:  
6590 (i) (A) graduated from a school of massage having a curriculum which meets  
6591 standards established by division rule made in collaboration with the board; or  
6592 (B) completed equivalent education and training in compliance with division rule; or  
6593 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000  
6594 hours of supervised training over a minimum of 12 months and in accordance with standards  
6595 established by the division by rule made in collaboration with the board; and  
6596 (f) pass examinations established by rule by the division in collaboration with the  
6597 board.
- 6598 (3) Each applicant for licensure as a massage apprentice shall:  
6599 (a) submit an application in a form prescribed by the division;  
6600 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
6601 (c) be of good moral character;  
6602 (d) be 18 years of age or older;  
6603 (e) provide satisfactory evidence to the division that the individual will practice as a  
6604 massage apprentice only under the direct supervision of a licensed massage therapist in good  
6605 standing and who has engaged in the lawful practice of massage therapy as a licensed massage  
6606 therapist for not less than 6,000 hours; and  
6607 (f) successfully complete an examination as required by division rule.
- 6608 (4) (a) Any new massage therapist or massage apprentice applicant shall submit  
6609 fingerprint cards in a form acceptable to the division at the time the license application is filed

6610 and shall consent to a fingerprint background check by the Utah Bureau of Criminal  
6611 Identification and the Federal Bureau of Investigation regarding the application.

6612 (b) The division shall request the Department of Public Safety to complete a Federal  
6613 Bureau of Investigation criminal background check for each new massage therapist or  
6614 apprentice applicant through the national criminal history system (NCIC) or any successor  
6615 system.

6616 (c) The cost of the background check and the fingerprinting shall be borne by the  
6617 applicant.

6618 (5) (a) Any new massage therapist or massage apprentice license issued under this  
6619 section shall be conditional, pending completion of the criminal background check. If the  
6620 criminal background check discloses the applicant has failed to accurately disclose a criminal  
6621 history, the license shall be immediately and automatically revoked.

6622 (b) Any person whose conditional license has been revoked under Subsection (5)(a)  
6623 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be  
6624 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

6625 (6) An applicant who successfully completes a fingerprint background check under  
6626 Subsection (4) may not be required by any other state or local government body to submit to a  
6627 second fingerprint background check as a condition of lawfully practicing massage therapy in  
6628 this state.

6629 Section 163. Section **58-53-103** is amended to read:

6630 **58-53-103. Education and enforcement fund.**

6631 (1) There is created a restricted special revenue fund known as the "Landscape  
6632 Architects Education and Enforcement Fund."

6633 (2) The fund consists of monies from:

6634 (a) a surcharge placed on application fees for initial, renewal, and reinstatement  
6635 licensure under this chapter, in an amount established by the division with the collaboration of  
6636 the board in accordance with Section [~~63J-1-303~~] 63J-1-504, not to exceed 50% of the  
6637 respective fee; and

6638 (b) administrative penalties collected pursuant to this chapter.

6639 (3) The fund shall earn interest, and all interest earned on fund monies shall be  
6640 deposited into the fund.

6641 (4) The director may, with concurrence of the board, make distributions from the fund  
6642 for the following purposes:

6643 (a) education and training of licensees under this chapter;

6644 (b) education and training of the public or other interested persons in matters  
6645 concerning landscape architectural laws and practices; and

6646 (c) enforcement of this chapter by:

6647 (i) investigating unprofessional or unlawful conduct; and

6648 (ii) providing legal representation to the division when the division takes legal action  
6649 against a person engaging in unprofessional or unlawful conduct.

6650 (5) If the balance in the fund exceeds \$100,000 at the close of any fiscal year, the  
6651 excess shall be transferred to the General Fund.

6652 (6) The division shall report annually to the appropriate appropriations subcommittee  
6653 of the Legislature concerning the fund.

6654 Section 164. Section **58-53-302** is amended to read:

6655 **58-53-302. Qualifications for licensure.**

6656 (1) Each applicant for licensure as a landscape architect shall:

6657 (a) submit an application in a form prescribed by the division;

6658 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6659 (c) provide satisfactory evidence of good moral character;

6660 (d) (i) have graduated and received an earned bachelors or masters degree from a  
6661 landscape architecture program meeting criteria established by rule by the division in  
6662 collaboration with the board; or

6663 (ii) have completed not less than eight years of supervised practical experience in  
6664 landscape architecture which meets the requirements established by rule by the division in  
6665 collaboration with the board; and

6666 (e) have successfully passed examinations established by rule by the division in  
6667 collaboration with the board.

6668 (2) Satisfactory completion of each year of a landscape architectural program  
6669 described in Subsection (1)(d)(i) is equivalent to one year of experience for purposes of  
6670 Subsection (1)(d)(ii).

6671 Section 165. Section **58-54-5** is amended to read:

6672 **58-54-5. Requirements for licensure.**

6673 (1) Each applicant for licensure as a radiology technologist or radiology practical  
6674 technician shall:

6675 (a) submit an application in a form prescribed by the division in collaboration with the  
6676 board;

6677 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~]  
6678 63J-1-504; and

6679 (c) be of good moral character.

6680 (2) Each applicant for licensure as a radiology technologist shall, in addition to the  
6681 requirements of Subsection (1):

6682 (a) be a graduate of an accredited educational program in radiology technology or  
6683 certified by the American Registry of Radiologic Technologists or any equivalent educational  
6684 program approved by the division in collaboration with the board; and

6685 (b) have passed an examination approved by the division in collaboration with the  
6686 board.

6687 (3) Each applicant for licensure as a radiology practical technician shall, in addition to  
6688 the requirements of Subsection (1), have passed a basic examination and one or more specialty  
6689 examinations that are competency based, using a task analysis of the scope of practice of  
6690 radiology practical technicians in the state. The basic examination and the speciality  
6691 examination shall be approved by the division in collaboration with the board and the  
6692 licensing board of the profession within which the radiology practical technician will be  
6693 practicing.

6694 (4) The division shall provide for administration of the radiology practical technician  
6695 examination not less than monthly at offices designated by the division and located:

6696 (a) in Salt Lake City; and

6697 (b) within each local health department jurisdictional area.

6698 Section 166. Section **58-55-103** is amended to read:

6699 **58-55-103. Construction Services Commission created -- Functions --**

6700 **Appointment -- Qualifications and terms of members -- Vacancies -- Expenses --**

6701 **Meetings.**

6702 (1) (a) There is created within the division the Construction Services Commission.

6703 (b) The commission shall:

6704 (i) with the concurrence of the director, make reasonable rules under Title 63G,

6705 Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which  
6706 are consistent with this chapter including:

6707 (A) licensing of various licensees;

6708 (B) examination requirements and administration of the examinations, to include  
6709 approving and establishing a passing score for applicant examinations;

6710 (C) standards of supervision for students or persons in training to become qualified to  
6711 obtain a license in the trade they represent; and

6712 (D) standards of conduct for various licensees;

6713 (ii) approve or disapprove fees adopted by the division under Section [~~63J-1-303~~]  
6714 63J-1-504;

6715 (iii) except where the boards conduct them, conduct all administrative hearings not  
6716 delegated to an administrative law judge relating to the licensing of any applicant;

6717 (iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the  
6718 concurrence of the director, impose sanctions against licensees and certificate holders with the  
6719 same authority as the division under Section 58-1-401;

6720 (v) advise the director on the administration and enforcement of any matters affecting  
6721 the division and the construction industry;

6722 (vi) advise the director on matters affecting the division budget;

6723 (vii) advise and assist trade associations in conducting construction trade seminars

6724 and industry education and promotion; and

6725 (viii) perform other duties as provided by this chapter.

6726 (2) (a) Initially the commission shall be comprised of the five members of the

6727 Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing

6728 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.

6729 (b) The terms of office of the commission members who are serving on the

6730 Contractors Licensing Board shall continue as they serve on the commission.

6731 (c) Beginning July 1, 2004, the commission shall be comprised of nine members

6732 appointed by the executive director with the approval of the governor from the following

6733 groups:

6734 (i) one member shall be a licensed general engineering contractor;

6735 (ii) one member shall be a licensed general building contractor;

6736 (iii) two members shall be licensed residential and small commercial contractors;

6737 (iv) three members shall be the three chair persons from the Plumbers Licensing

6738 Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board;

6739 and

6740 (v) two members shall be from the general public, provided, however that the certified

6741 public accountant on the Contractors Licensing Board will continue to serve until the current

6742 term expires, after which both members under this Subsection (2)(c)(v) shall be appointed

6743 from the general public.

6744 (3) (a) Except as required by Subsection (3)(b), as terms of current commission

6745 members expire, the executive director with the approval of the governor shall appoint each

6746 new member or reappointed member to a four-year term ending June 30.

6747 (b) Notwithstanding the requirements of Subsection (3)(a), the executive director with

6748 the approval of the governor shall, at the time of appointment or reappointment, adjust the

6749 length of terms to stagger the terms of commission members so that approximately 1/2 of the

6750 commission members are appointed every two years.

6751 (c) A commission member may not serve more than two consecutive terms.

6752 (4) The commission shall elect annually one of its members as chair, for a term of one  
6753 year.

6754 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
6755 appointed for the unexpired term.

6756 (6) (a) Members may not receive compensation or benefits for their services, but may  
6757 receive per diem and expenses incurred in the performance of the members' official duties at  
6758 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

6759 (b) Members may decline to receive per diem and expenses for their service.

6760 (7) (a) The commission shall meet at least monthly unless the director determines  
6761 otherwise.

6762 (b) The director may call additional meetings at the director's discretion, upon the  
6763 request of the chair, or upon the written request of four or more commission members.

6764 (8) (a) Five members constitute a quorum for the transaction of business.

6765 (b) If a quorum is present when a vote is taken, the affirmative vote of commission  
6766 members present is the act of the commission.

6767 (9) The commission shall comply with the procedures and requirements of Title 13,  
6768 Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures  
6769 Act, in all of its adjudicative proceedings.

6770 Section 167. Section **58-55-302** is amended to read:

6771 **58-55-302. Qualifications for licensure.**

6772 (1) Each applicant for a license under this chapter shall:

6773 (a) submit an application prescribed by the division;

6774 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;

6775 (c) (i) meet the examination requirements established by rule by the commission with  
6776 the concurrence of the director, except for the classifications of apprentice plumber and  
6777 apprentice electrician for whom no examination is required; or

- 6778           (ii) if required in Section 58-55-304, the individual qualifier must pass the required  
6779 examination if the applicant is a business entity;
- 6780           (d) if an apprentice, identify the proposed supervisor of the apprenticeship;
- 6781           (e) if an applicant for a contractor's license:
- 6782           (i) produce satisfactory evidence of financial responsibility, except for a construction  
6783 trades instructor for whom evidence of financial responsibility is not required;
- 6784           (ii) produce satisfactory evidence of knowledge and experience in the construction  
6785 industry and knowledge of the principles of the conduct of business as a contractor, reasonably  
6786 necessary for the protection of the public health, safety, and welfare; and
- 6787           (iii) be a licensed master electrician if an applicant for an electrical contractor's license  
6788 or a licensed master residential electrician if an applicant for a residential electrical  
6789 contractor's license; or
- 6790           (iv) be a licensed master plumber if an applicant for a plumbing contractor's license or  
6791 a licensed master residential plumber if an applicant for a residential plumbing contractor's  
6792 license; and
- 6793           (f) if an applicant for a construction trades instructor license, satisfy any additional  
6794 requirements established by rule.
- 6795           (2) After approval of an applicant for a contractor's license by the applicable board  
6796 and the division, the applicant shall file the following with the division before the division  
6797 issues the license:
- 6798           (a) proof of workers' compensation insurance which covers employees of the applicant  
6799 in accordance with applicable Utah law;
- 6800           (b) proof of public liability insurance in coverage amounts and form established by  
6801 rule except for a construction trades instructor for whom public liability insurance is not  
6802 required; and
- 6803           (c) proof of registration as required by applicable law with the:
- 6804           (i) Utah Department of Commerce;
- 6805           (ii) Division of Corporations and Commercial Code;

6806 (iii) Unemployment Insurance Division in the Department of Workforce Services, for  
6807 purposes of Title 35A, Chapter 4, Employment Security Act;

6808 (iv) State Tax Commission; and

6809 (v) Internal Revenue Service.

6810 (3) In addition to the general requirements for each applicant in Subsection (1),  
6811 applicants shall comply with the following requirements to be licensed in the following  
6812 classifications:

6813 (a) (i) A master plumber shall produce satisfactory evidence that the applicant:

6814 (A) has been a licensed journeyman plumber for at least two years and had two years  
6815 of supervisory experience as a licensed journeyman plumber in accordance with division rule;

6816 (B) has received at least an associate of applied science degree or similar degree  
6817 following the completion of a course of study approved by the division and had one year of  
6818 supervisory experience as a licensed journeyman plumber in accordance with division rule; or

6819 (C) meets the qualifications determined by the division in collaboration with the board  
6820 to be equivalent to Subsection (3)(a)(i)(A) or (B).

6821 (ii) An individual holding a valid Utah license as a journeyman plumber, based on at  
6822 least four years of practical experience as a licensed apprentice under the supervision of a  
6823 licensed journeyman plumber and four years as a licensed journeyman plumber, in effect  
6824 immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current  
6825 master plumber license under this chapter, and satisfies the requirements of this Subsection  
6826 (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

6827 (iii) An individual holding a valid plumbing contractor's license or residential  
6828 plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May  
6829 5, 2008:

6830 (A) considered to hold a current master plumber license under this chapter if licensed  
6831 as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this  
6832 Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section  
6833 58-55-303; and

6834 (B) considered to hold a current residential master plumber license under this chapter  
6835 if licensed as a residential plumbing contractor and a residential journeyman plumber, and  
6836 satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of  
6837 that license under Section 58-55-303.

6838 (b) A master residential plumber applicant shall produce satisfactory evidence that the  
6839 applicant:

6840 (i) has been a licensed residential journeyman plumber for at least two years and had  
6841 two years of supervisory experience as a licensed residential journeyman plumber in  
6842 accordance with division rule; or

6843 (ii) meets the qualifications determined by the division in collaboration with the board  
6844 to be equivalent to Subsection (3)(b)(i).

6845 (c) A journeyman plumber applicant shall produce satisfactory evidence of:

6846 (i) successful completion of the equivalent of at least four years of full-time training  
6847 and instruction as a licensed apprentice plumber under supervision of a licensed master  
6848 plumber or journeyman plumber and in accordance with a planned program of training  
6849 approved by the division;

6850 (ii) at least eight years of full-time experience approved by the division in  
6851 collaboration with the Plumbers Licensing Board; or

6852 (iii) satisfactory evidence of meeting the qualifications determined by the board to be  
6853 equivalent to Subsection (3)(c)(i) or (c)(ii).

6854 (d) A residential journeyman plumber shall produce satisfactory evidence of:

6855 (i) completion of the equivalent of at least three years of full-time training and  
6856 instruction as a licensed apprentice plumber under the supervision of a licensed residential  
6857 master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in  
6858 accordance with a planned program of training approved by the division;

6859 (ii) completion of at least six years of full-time experience in a maintenance or repair  
6860 trade involving substantial plumbing work; or

6861 (iii) meeting the qualifications determined by the board to be equivalent to Subsection

6862 (3)(d)(i) or (d)(ii).

6863 (e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be  
6864 in accordance with the following:

6865 (i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be  
6866 under the immediate supervision of a licensed master plumber, licensed residential master  
6867 plumber, licensed journeyman plumber, or a licensed residential journeyman plumber; and

6868 (ii) a licensed apprentice plumber in the fourth through tenth year of training may  
6869 work without supervision for a period not to exceed eight hours in any 24-hour period, but if  
6870 the apprentice does not become a licensed journeyman plumber or licensed residential  
6871 journeyman plumber by the end of the tenth year of apprenticeship, this nonsupervision  
6872 provision no longer applies.

6873 (f) A master electrician applicant shall produce satisfactory evidence that the  
6874 applicant:

6875 (i) is a graduate electrical engineer of an accredited college or university approved by  
6876 the division and has one year of practical electrical experience as a licensed apprentice  
6877 electrician;

6878 (ii) is a graduate of an electrical trade school, having received an associate of applied  
6879 sciences degree following successful completion of a course of study approved by the division,  
6880 and has two years of practical experience as a licensed journeyman electrician;

6881 (iii) has four years of practical experience as a journeyman electrician; or

6882 (iv) meets the qualifications determined by the board to be equivalent to Subsection  
6883 (3)(f)(i), (ii), or (iii).

6884 (g) A master residential electrician applicant shall produce satisfactory evidence that  
6885 the applicant:

6886 (i) has at least two years of practical experience as a residential journeyman  
6887 electrician; or

6888 (ii) meets the qualifications determined by the board to be equivalent to this practical  
6889 experience.

6890 (h) A journeyman electrician applicant shall produce satisfactory evidence that the  
6891 applicant:

6892 (i) has successfully completed at least four years of full-time training and instruction  
6893 as a licensed apprentice electrician under the supervision of a master electrician or journeyman  
6894 electrician and in accordance with a planned training program approved by the division;

6895 (ii) has at least eight years of full-time experience approved by the division in  
6896 collaboration with the Electricians Licensing Board; or

6897 (iii) meets the qualifications determined by the board to be equivalent to Subsection  
6898 (3)(h)(i) or (ii).

6899 (i) A residential journeyman electrician applicant shall produce satisfactory evidence  
6900 that the applicant:

6901 (i) has successfully completed two years of training in an electrical training program  
6902 approved by the division;

6903 (ii) has four years of practical experience in wiring, installing, and repairing electrical  
6904 apparatus and equipment for light, heat, and power under the supervision of a licensed master,  
6905 journeyman, residential master, or residential journeyman electrician; or

6906 (iii) meets the qualifications determined by the division and applicable board to be  
6907 equivalent to Subsection (3)(i)(i) or (ii).

6908 (j) The conduct of licensed apprentice electricians and their licensed supervisors shall  
6909 be in accordance with the following:

6910 (i) A licensed apprentice electrician shall be under the immediate supervision of a  
6911 licensed master, journeyman, residential master, or residential journeyman electrician. An  
6912 apprentice in the fourth year of training may work without supervision for a period not to  
6913 exceed eight hours in any 24-hour period.

6914 (ii) A licensed master, journeyman, residential master, or residential journeyman  
6915 electrician may have under immediate supervision on a residential project up to three licensed  
6916 apprentice electricians.

6917 (iii) A licensed master or journeyman electrician may have under immediate

6918 supervision on nonresidential projects only one licensed apprentice electrician.

6919 (k) An alarm company applicant shall:

6920 (i) have a qualifying agent who is an officer, director, partner, proprietor, or manager  
6921 of the applicant who:

6922 (A) demonstrates 6,000 hours of experience in the alarm company business;

6923 (B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm  
6924 company business or in a construction business; and

6925 (C) passes an examination component established by rule by the commission with the  
6926 concurrence of the director;

6927 (ii) if a corporation, provide:

6928 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint  
6929 cards of all corporate officers, directors, and those responsible management personnel  
6930 employed within the state or having direct responsibility for managing operations of the  
6931 applicant within the state; and

6932 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint  
6933 cards of all shareholders owning 5% or more of the outstanding shares of the corporation,  
6934 except this shall not be required if the stock is publicly listed and traded;

6935 (iii) if a limited liability company, provide:

6936 (A) the names, addresses, dates of birth, Social Security numbers, and fingerprint  
6937 cards of all company officers, and those responsible management personnel employed within  
6938 the state or having direct responsibility for managing operations of the applicant within the  
6939 state; and

6940 (B) the names, addresses, dates of birth, Social Security numbers, and fingerprint  
6941 cards of all individuals owning 5% or more of the equity of the company;

6942 (iv) if a partnership, the names, addresses, dates of birth, Social Security numbers, and  
6943 fingerprint cards of all general partners, and those responsible management personnel  
6944 employed within the state or having direct responsibility for managing operations of the  
6945 applicant within the state;

6946 (v) if a proprietorship, the names, addresses, dates of birth, Social Security numbers,  
6947 and fingerprint cards of the proprietor, and those responsible management personnel employed  
6948 within the state or having direct responsibility for managing operations of the applicant within  
6949 the state;

6950 (vi) be of good moral character in that officers, directors, shareholders described in  
6951 Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel have  
6952 not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime  
6953 that when considered with the duties and responsibilities of an alarm company is considered  
6954 by the board to indicate that the best interests of the public are served by granting the  
6955 applicant a license;

6956 (vii) document that none of the applicant's officers, directors, shareholders described  
6957 in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel have  
6958 been declared by any court of competent jurisdiction incompetent by reason of mental defect  
6959 or disease and not been restored;

6960 (viii) document that none of the applicant's officers, directors, shareholders described  
6961 in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are  
6962 currently suffering from habitual drunkenness or from drug addiction or dependence;

6963 (ix) file and maintain with the division evidence of:

6964 (A) comprehensive general liability insurance in form and in amounts to be  
6965 established by rule by the commission with the concurrence of the director;

6966 (B) workers' compensation insurance that covers employees of the applicant in  
6967 accordance with applicable Utah law; and

6968 (C) registration as is required by applicable law with the:

6969 (I) Division of Corporations and Commercial Code;

6970 (II) Unemployment Insurance Division in the Department of Workforce Services, for  
6971 purposes of Title 35A, Chapter 4, Employment Security Act;

6972 (III) State Tax Commission; and

6973 (IV) Internal Revenue Service; and

- 6974 (x) meet with the division and board.
- 6975 (l) Each applicant for licensure as an alarm company agent shall:
- 6976 (i) submit an application in a form prescribed by the division accompanied by
- 6977 fingerprint cards;
- 6978 (ii) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 6979 (iii) be of good moral character in that the applicant has not been convicted of a
- 6980 felony, a misdemeanor involving moral turpitude, or any other crime that when considered
- 6981 with the duties and responsibilities of an alarm company agent is considered by the board to
- 6982 indicate that the best interests of the public are served by granting the applicant a license;
- 6983 (iv) not have been declared by any court of competent jurisdiction incompetent by
- 6984 reason of mental defect or disease and not been restored;
- 6985 (v) not be currently suffering from habitual drunkenness or from drug addiction or
- 6986 dependence; and
- 6987 (vi) meet with the division and board if requested by the division or the board.
- 6988 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 6989 the division may make rules establishing when Federal Bureau of Investigation records shall
- 6990 be checked for applicants as an alarm company or alarm company agent.
- 6991 (5) To determine if an applicant meets the qualifications of Subsections (3)(k)(vi) and
- 6992 (3)(l)(iii), the division shall provide an appropriate number of copies of fingerprint cards to the
- 6993 Department of Public Safety with the division's request to:
- 6994 (a) conduct a search of records of the Department of Public Safety for criminal history
- 6995 information relating to each applicant for licensure as an alarm company or alarm company
- 6996 agent and each applicant's officers, directors, shareholders described in Subsection
- 6997 (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and
- 6998 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant
- 6999 requiring a check of records of the F.B.I. for criminal history information under this section.
- 7000 (6) The Department of Public Safety shall send to the division:
- 7001 (a) a written record of criminal history, or certification of no criminal history record,

7002 as contained in the records of the Department of Public Safety in a timely manner after receipt  
7003 of a fingerprint card from the division and a request for review of Department of Public Safety  
7004 records; and

7005 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
7006 receipt of information from the F.B.I.

7007 (7) (a) The division shall charge each applicant for licensure as an alarm company or  
7008 alarm company agent a fee, in accordance with Section [~~63J-1-303~~] 63J-1-504, equal to the  
7009 cost of performing the records reviews under this section.

7010 (b) The division shall pay the Department of Public Safety the costs of all records  
7011 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
7012 under this section.

7013 (8) Information obtained by the division from the reviews of criminal history records  
7014 of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
7015 only for the purpose of determining if an applicant for licensure as an alarm company or alarm  
7016 company agent is qualified for licensure.

7017 (9) (a) An application for licensure under this chapter shall be denied if:

7018 (i) the applicant has had a previous license, which was issued under this chapter,  
7019 suspended or revoked within one year prior to the date of the applicant's application;

7020 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

7021 (B) any corporate officer, director, shareholder holding 25% or more of the stock in  
7022 the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
7023 status, performing similar functions, or directly or indirectly controlling the applicant has  
7024 served in any similar capacity with any person or entity which has had a previous license,  
7025 which was issued under this chapter, suspended or revoked within one year prior to the date of  
7026 the applicant's application; or

7027 (iii) (A) the applicant is an individual or sole proprietorship; and

7028 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
7029 Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued

7030 under this chapter, suspended or revoked within one year prior to the date of the applicant's  
7031 application.

7032 (b) An application for licensure under this chapter shall be reviewed by the  
7033 appropriate licensing board prior to approval if:

7034 (i) the applicant has had a previous license, which was issued under this chapter,  
7035 suspended or revoked more than one year prior to the date of the applicant's application;

7036 (ii) (A) the applicant is a partnership, corporation, or limited liability company; and

7037 (B) any corporate officer, director, shareholder holding 25% or more of the stock in  
7038 the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar  
7039 status, performing similar functions, or directly or indirectly controlling the applicant has  
7040 served in any similar capacity with any person or entity which has had a previous license,  
7041 which was issued under this chapter, suspended or revoked more than one year prior to the  
7042 date of the applicant's application; or

7043 (iii) (A) the applicant is an individual or sole proprietorship; and

7044 (B) any owner or agent acting as a qualifier has served in any capacity listed in  
7045 Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued  
7046 under this chapter, suspended or revoked more than one year prior to the date of the applicant's  
7047 application.

7048 Section 168. Section **58-56-16** is amended to read:

7049 **58-56-16. Registration of dealers -- Bonding requirements -- Renewal --**  
7050 **Exemptions -- Discipline.**

7051 (1) Each person engaged in the sale of factory built housing in the state, except as  
7052 provided in Subsection (4), shall register with the division as a dealer.

7053 (2) Each applicant for registration under this section shall:

7054 (a) submit an application in a form prescribed by the division;

7055 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504; and

7056 (c) provide the division with a registration bond in accordance with rules established  
7057 by the division.

7058 (3) (a) The division shall issue each registration under this section in accordance with  
7059 a two-year renewal cycle established by rule.

7060 (b) The division may by rule extend or shorten a renewal cycle by as much as one year  
7061 to stagger the renewal cycles it administers.

7062 (c) Each registration under this section automatically expires on the expiration date on  
7063 the certificate of registration unless the registrant renews it in accordance with Section  
7064 58-1-308.

7065 (4) Subsection (1) does not apply to:

7066 (a) a person not regularly engaged in the sale of factory built housing who is selling a  
7067 unit the person owns for the person's own account;

7068 (b) a principal broker licensed under Title 61, Chapter 2, Division of Real Estate; or

7069 (c) a sales agent or associate broker licensed under Title 61, Chapter 2, Division of  
7070 Real Estate, who sells factory built housing as an agent for, and under the supervision of, the  
7071 licensed principal broker with whom the sales agent or associate broker is affiliated.

7072 (5) Grounds for refusing to issue a registration, for refusing to renew a registration, for  
7073 revoking, suspending, restricting, or placing on probation a registration, for issuing a public or  
7074 private reprimand to a registrant, and for issuing a cease and desist order shall be in  
7075 accordance with Section 58-1-401.

7076 Section 169. Section **58-57-4** is amended to read:

7077 **58-57-4. Qualifications for a license.**

7078 (1) The division shall issue a respiratory care practitioner license to an applicant who  
7079 meets the requirements specified in this section.

7080 (2) An applicant seeking licensure as a respiratory care practitioner shall:

7081 (a) submit an application on a form prescribed by the division;

7082 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~]

7083 63J-1-504;

7084 (c) show evidence of good moral character;

7085 (d) possess a high school education or its equivalent, as determined by the division in

7086 collaboration with the board;

7087 (e) have completed a respiratory care practitioner educational program that is  
7088 accredited by a nationally accredited organization acceptable to the division as defined by  
7089 rule; and

7090 (f) pass an examination approved by the division in collaboration with the board.

7091 Section 170. Section **58-60-115** is amended to read:

7092 **58-60-115. License by endorsement.**

7093 The division shall issue a license by endorsement under this chapter to a person who:

7094 (1) submits an application on a form provided by the division;

7095 (2) pays a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7096 (3) provides documentation of current licensure in good standing in any state, district,  
7097 or territory of the United States to practice in the profession in which licensure is being  
7098 sought;

7099 (4) provides documentation of having been actively engaged in the legal practice of  
7100 the person's profession, including, but not limited to, mental health therapy, for not less than  
7101 4,000 hours during the three years immediately preceding the date of application for licensure  
7102 in Utah;

7103 (5) has passed the profession specific jurisprudence examination if required of a new  
7104 applicant; and

7105 (6) is of good moral character and professional standing, and has no disciplinary  
7106 action pending or in effect against the applicant's license in any jurisdiction.

7107 Section 171. Section **58-60-117** is amended to read:

7108 **58-60-117. Externship licenses.**

7109 (1) The division shall issue a temporary license under Part 2, [~~3, or 4~~] Social Worker  
7110 Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional  
7111 Counselor Licensing Act, of this chapter to a person who:

7112 (a) submits an application for licensure under Part 2, [~~3, or 4~~] Social Worker

7113 Licensing Act, Part 3, Marriage and Family Therapist Licensing Act, or Part 4, Professional

7114 Counselor Licensing Act;

7115 (b) pays a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7116 (c) holds an earned doctoral degree or master's degree in a discipline that is a  
7117 prerequisite for practice as a mental health therapist;

7118 (d) has one or more deficiencies in course work, experience, or training;

7119 (e) provides mental health therapy as an employee of a public or private organization,  
7120 which provides mental health therapy, while under the supervision of a person licensed under  
7121 this chapter; and

7122 (f) is of good moral character and has no disciplinary action pending or in effect  
7123 against the applicant in connection with the practice of mental health therapy, in any  
7124 jurisdiction.

7125 (2) A temporary license issued under this section shall expire upon the earlier of:

7126 (a) issuance of the license applied for; or

7127 (b) three years from the date the temporary license was issued.

7128 (3) The temporary license issued under this section is an externship license.

7129 Section 172. Section **58-60-205** is amended to read:

7130 **58-60-205. Qualifications for licensure or certification as a clinical or certified**  
7131 **social worker, certified social worker intern, and social service worker.**

7132 (1) An applicant for licensure as a clinical social worker shall:

7133 (a) submit an application on a form provided by the division;

7134 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7135 (c) be of good moral character;

7136 (d) produce certified transcripts from an accredited institution of higher education  
7137 recognized by the division in collaboration with the board verifying satisfactory completion of  
7138 an education and earned degree as follows:

7139 (i) an earned master's degree in social work resulting from completion of an education  
7140 program accredited by the Council on Social Work Education; or

7141 (ii) an earned doctoral degree in social work that results from successful completion of

7142 a clinical concentration and practicum approved by the division and defined by rule under  
7143 Section 58-1-203;

7144 (e) have completed a minimum of 4,000 hours of clinical social work training as  
7145 defined by division rule under Section 58-1-203 in not less than two years and under the  
7146 supervision of a clinical social worker supervisor approved by the division in collaboration  
7147 with the board;

7148 (f) document successful completion of not less than 1,000 hours of supervised training  
7149 in mental health therapy obtained after completion of the education requirement in Subsection  
7150 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
7151 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
7152 obtained under the direct personal face to face supervision of a clinical social worker approved  
7153 by the division in collaboration with the board;

7154 (g) have completed a case work, group work, or family treatment course sequence with  
7155 a clinical practicum in content as defined by rule under Section 58-1-203; and

7156 (h) pass the examination requirement established by rule under Section 58-1-203.

7157 (2) An applicant for licensure as a certified social worker shall:

7158 (a) submit an application on a form provided by the division;

7159 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7160 (c) be of good moral character;

7161 (d) produce certified transcripts from an accredited institution of higher education  
7162 recognized by the division in collaboration with the Social Worker Licensing Board verifying  
7163 satisfactory completion of an education and an earned degree as follows:

7164 (i) a social work education program accredited by the Council on Social Work  
7165 Education and an earned master's degree resulting from completion of that program; or

7166 (ii) an education program that contains approved clinical social work concentration  
7167 and practicum in content as defined by rule under Section 58-1-203 and an earned doctorate  
7168 resulting from completion of that program; and

7169 (e) pass the examination requirement established by rule under Section 58-1-203.

7170 (3) (a) An applicant for certification as a certified social worker intern shall meet the  
7171 requirements of Subsections (2)(a), (b), (c), and (d).

7172 (b) Certification under Subsection (3)(a) is limited to the time necessary to pass the  
7173 examination required under Subsection (2)(e) or six months, whichever occurs first.

7174 (c) A certified social worker intern may provide mental health therapy under the  
7175 general supervision of a clinical social worker.

7176 (4) An applicant for licensure as a social service worker shall:

7177 (a) submit an application on a form provided by the division;

7178 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7179 (c) be of good moral character;

7180 (d) produce certified transcripts from an accredited institution of higher education  
7181 recognized by the division in collaboration with the Social Worker Licensing Board verifying  
7182 satisfactory completion of an earned degree resulting from education as follows:

7183 (i) a bachelor's degree in a social work program accredited by the Council on Social  
7184 Work Education;

7185 (ii) a master's degree in a field approved by the division in collaboration with the  
7186 social worker board; [or]

7187 (iii) a bachelor's degree in sociology, psychology, family sciences, or other field  
7188 approved by the division in collaboration with the Social Worker Licensing Board and also  
7189 documentation of 2,000 hours of supervised social work activity approved by the division in  
7190 collaboration with the board, which is performed after completing bachelor's degree  
7191 requirements under this Subsection (4);

7192 (iv) a bachelor's degree in any field, if the applicant has completed:

7193 (A) the equivalent of three credit hours of course work or other approved training in  
7194 full-life human growth behavior, abnormal psychology, social work values and ethics, social  
7195 welfare, or social welfare policy;

7196 (B) an approved social work practice methods course; and

7197 (C) one year of qualifying experience under the supervision of a licensed certified or

7198 clinical social worker, which experience is approved by the division in collaboration with the  
7199 Social Worker Licensing Board, and which is performed after completion of the requirements  
7200 to obtain the bachelor's degree required under this Subsection (4); or

7201 (v) successful completion of the first academic year of a Council on Social Work  
7202 Education approved master's of social work curriculum and practicum; and

7203 (e) pass the examination requirement established by rule under Section 58-1-203.

7204 Section 173. Section **58-60-305** is amended to read:

7205 **58-60-305. Qualifications for licensure.**

7206 (1) All applicants for licensure as marriage and family therapists shall:

7207 (a) submit an application on a form provided by the division;

7208 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7209 (c) be of good moral character;

7210 (d) produce certified transcripts evidencing completion of a masters or doctorate  
7211 degree in marriage and family therapy from:

7212 (i) a program accredited by the Commission on Accreditation for Marriage and Family  
7213 Therapy Education; or

7214 (ii) an accredited institution meeting criteria for approval established by rule under  
7215 Section 58-1-203;

7216 (e) have completed a minimum of 4,000 hours of marriage and family therapy training  
7217 as defined by division rule under Section 58-1-203, in not less than two years, under the  
7218 supervision of a marriage and family therapist supervisor who meets the requirements of  
7219 Section 58-60-307, and obtained after completion of the education requirement in Subsection  
7220 (1)(d);

7221 (f) document successful completion of not less than 1,000 hours of supervised training  
7222 in mental health therapy obtained after completion of the education requirement described in  
7223 Subsection (1)(d)(i) or (1)(d)(ii), which training may be included as part of the 4,000 hours of  
7224 training described in Subsection (1)(e), and of which documented evidence demonstrates not  
7225 less than 100 of the supervised hours were obtained during direct, personal, face-to-face

7226 supervision by a marriage and family therapist supervisor qualified under Section 58-60-307;  
7227 and

7228 (g) pass the examination requirement established by division rule under Section  
7229 58-1-203.

7230 (2) (a) All applicants for certification as a marriage and family therapist intern shall  
7231 comply with the provisions of Subsections (1)(a), (b), (c), and (d).

7232 (b) An individual's certification as a marriage and family therapist intern is limited to  
7233 the period of time necessary to complete clinical training as described in Subsections (1)(e)  
7234 and (f) and extends not more than one year from the date the minimum requirement for  
7235 training is completed, unless the individual presents satisfactory evidence to the division and  
7236 the appropriate board that the individual is making reasonable progress toward passing of the  
7237 qualifying examination for that profession or is otherwise on a course reasonably expected to  
7238 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
7239 past the date the minimum supervised clinical training requirement has been completed.

7240 Section 174. Section **58-60-305.5** is amended to read:

7241 **58-60-305.5. Qualification for licensure before May 1, 2000.**

7242 (1) A person who was licensed under this chapter as of May 1, 2000, may apply for  
7243 renewal of licensure without being required to fulfill the educational requirements described in  
7244 Subsection [~~58-60-305(4)~~] 58-60-305(1)(d).

7245 (2) A person who seeks licensure under this chapter before July 1, 2002, need comply  
7246 only with the licensure requirements in effect before May 1, 2000.

7247 Section 175. Section **58-60-308** is amended to read:

7248 **58-60-308. Scope of practice -- Limitations.**

7249 (1) A licensed marriage and family therapist may engage in all acts and practices  
7250 defined as the practice of marriage and family therapy without supervision, in private and  
7251 independent practice, or as an employee of another person, limited only by the licensee's  
7252 education, training, and competence.

7253 (2) (a) To the extent an individual has completed the educational requirements of

7254 [~~Subsections 58-60-305(1)(a) through (1)(d)~~] Subsection 58-60-305(1)(d), a certified marriage  
7255 and family therapist intern may engage in all acts and practices defined as the practice of  
7256 marriage and family therapy if the practice is:

7257 (i) within the scope of employment as a certified marriage and family therapist intern  
7258 with a public agency or a private clinic as defined by division rule; and

7259 (ii) under the supervision of a licensed marriage and family therapist who is qualified  
7260 as a supervisor under Section 58-60-307.

7261 (b) A certified marriage and family therapy intern may not engage in the independent  
7262 practice of marriage and family therapy.

7263 Section 176. Section **58-60-405** is amended to read:

7264 **58-60-405. Qualifications for licensure.**

7265 (1) All applicants for licensure as a professional counselor shall:

7266 (a) submit an application on a form provided by the division;

7267 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7268 (c) be of good moral character;

7269 (d) produce certified transcripts from an accredited institution of higher education  
7270 recognized by the division in collaboration with the board verifying satisfactory completion of:

7271 (i) an education and degree in an education program in counseling with a core  
7272 curriculum defined by division rule under Section 58-1-203 preparing one to competently  
7273 engage in mental health therapy; and

7274 (ii) an earned doctoral or master's degree resulting from that education program;

7275 (e) have completed a minimum of 4,000 hours of professional counselor training as  
7276 defined by division rule under Section 58-1-203, in not less than two years, under the  
7277 supervision of a professional counselor, psychiatrist, psychologist, clinical social worker,  
7278 registered psychiatric mental health nurse specialist, or marriage and family therapist  
7279 supervisor approved by the division in collaboration with the board, and obtained after  
7280 completion of the education requirement in Subsection (1)(d);

7281 (f) document successful completion of not less than 1,000 hours of supervised training

7282 in mental health therapy obtained after completion of the education requirement in Subsection  
7283 (1)(d), which training may be included as part of the 4,000 hours of training in Subsection  
7284 (1)(e), and of which documented evidence demonstrates not less than 100 of the hours were  
7285 obtained under the direct personal face to face supervision of a mental health therapist  
7286 approved by the division in collaboration with the board; and

7287 (g) pass the examination requirement established by division rule under Section  
7288 58-1-203.

7289 (2) (a) All applicants for certification as a professional counselor intern shall comply  
7290 with the provisions of Subsections (1)(a), (b), (c), and (d).

7291 (b) An individual's certification as a professional counselor intern is limited to the  
7292 period of time necessary to complete clinical training as described in Subsections (1)(e) and (f)  
7293 and extends not more than one year from the date the minimum requirement for training is  
7294 completed, unless the individual presents satisfactory evidence to the division and the  
7295 appropriate board that the individual is making reasonable progress toward passing of the  
7296 qualifying examination for that profession or is otherwise on a course reasonably expected to  
7297 lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years  
7298 past the date the minimum supervised clinical training requirement has been completed.

7299 Section 177. Section **58-60-407** is amended to read:

7300 **58-60-407. Scope of practice -- Limitations.**

7301 (1) A licensed professional counselor may engage in all acts and practices defined as  
7302 the practice of professional counseling without supervision, in private and independent  
7303 practice, or as an employee of another person, limited only by the licensee's education,  
7304 training, and competence.

7305 (2) (a) To the extent an individual has completed the educational requirements of  
7306 [~~Subsections 58-60-405(1)(a) through (1)(d)~~] Subsection 58-60-305(1)(d), a certified  
7307 professional counseling intern may engage in all acts and practices defined as the practice of  
7308 professional counseling if the practice is:

7309 (i) within the scope of employment as a certified professional counselor with a public

7310 agency or private clinic as defined by division rule; and

7311 (ii) under supervision of a qualified licensed mental health therapist as defined in  
7312 Subsection 58-60-102(5).

7313 (b) A certified professional counselor intern may not engage in the independent  
7314 practice of professional counseling.

7315 Section 178. Section **58-60-506** is amended to read:

7316 **58-60-506. Qualifications for licensure on and after July 1, 2007.**

7317 (1) An applicant for licensure under this part on and after July 1, 2007, must meet the  
7318 following qualifications:

7319 (a) submit an application in a form prescribed by the division;

7320 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7321 (c) be of good moral character;

7322 (d) satisfy the requirements of Subsection (2), (3), (4), or (5) respectively; and

7323 (e) except for licensure as a certified substance abuse counselor intern, satisfy the  
7324 examination requirement established by rule under Section 58-1-203.

7325 (2) An applicant for licensure as a licensed substance abuse counselor shall meet one  
7326 of the following:

7327 (a) The applicant shall produce:

7328 (i) certified transcripts from an accredited institution of higher education meeting  
7329 standards established by the division by rule in collaboration with the board verifying  
7330 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;

7331 (ii) documentation of the applicant's completion of a substance abuse education  
7332 program; and

7333 (iii) documentation of the applicant's completion of 2,000 hours of supervised  
7334 experience in substance abuse treatment:

7335 (A) meeting standards established by the division in collaboration with the board; and

7336 (B) performed within a two-year period after the applicant's completion of the  
7337 substance abuse education program described in Subsection (2)(a)(ii).

- 7338 (b) The applicant shall produce:
- 7339 (i) certified transcripts from an accredited institution meeting standards established by
- 7340 the division by rule in collaboration with the board verifying satisfactory completion of a
- 7341 baccalaureate or graduate degree or a high school diploma or equivalent;
- 7342 (ii) documentation of the applicant's completion of a substance abuse education
- 7343 program; and
- 7344 (iii) documentation of the applicant's completion of 4,000 hours of supervised
- 7345 experience in substance abuse treatment:
- 7346 (A) meeting standards established by the division in collaboration with the board; and
- 7347 (B) performed within a four-year period after the applicant's completion of the
- 7348 substance abuse education program described in Subsection (2)(b)(ii).
- 7349 (c) Before January 1, 2009, the applicant shall produce:
- 7350 (i) certified transcripts from an accredited institution of higher education meeting
- 7351 standards established by the division by rule in collaboration with the board verifying
- 7352 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;
- 7353 and
- 7354 (ii) documentation of the applicant's completion of 4,000 hours of supervised
- 7355 experience in substance abuse treatment:
- 7356 (A) meeting standards established by the division in collaboration with the board; and
- 7357 (B) performed within a four-year period.
- 7358 (d) Before January 1, 2009, the applicant shall produce:
- 7359 (i) certified transcripts from an accredited institution meeting standards established by
- 7360 the division by rule in collaboration with the board verifying satisfactory completion of a
- 7361 baccalaureate or graduate degree or a high school diploma or equivalent; and
- 7362 (ii) documentation of the applicant's completion of 6,000 hours of supervised
- 7363 experience in substance abuse treatment:
- 7364 (A) meeting standards established by the division in collaboration with the board; and
- 7365 (B) performed within a six-year period.

7366 (3) An applicant for licensure as a certified substance abuse counselor shall meet one  
7367 of the following:

7368 (a) The applicant shall produce:

7369 (i) certified transcripts from an accredited institution of higher education meeting  
7370 standards established by the division by rule in collaboration with the board verifying  
7371 satisfactory completion of a baccalaureate or graduate degree in behavioral or social sciences;  
7372 and

7373 (ii) documentation of the applicant's completion of a substance abuse education  
7374 program.

7375 (b) The applicant shall produce:

7376 (i) certified transcripts from an accredited institution meeting standards established by  
7377 the division by rule in collaboration with the board verifying satisfactory completion of a  
7378 baccalaureate or graduate degree or a high school diploma or equivalent; and

7379 (ii) documentation of the applicant's completion of a substance abuse education  
7380 program.

7381 (c) Before January 1, 2009, the applicant shall produce certified transcripts from an  
7382 accredited institution of higher education meeting standards established by the division by rule  
7383 in collaboration with the board verifying satisfactory completion of a baccalaureate or  
7384 graduate degree in behavioral or social sciences.

7385 (d) Before January 1, 2009, the applicant shall produce certified transcripts from an  
7386 accredited institution meeting standards established by the division by rule in collaboration  
7387 with the board verifying satisfactory completion of a baccalaureate or graduate degree or a  
7388 high school diploma or equivalent.

7389 (4) (a) An applicant for licensure as a certified substance abuse counselor intern shall  
7390 meet the requirements for licensure as a certified substance abuse counselor under Subsection  
7391 (3).

7392 (b) A certified substance abuse counselor intern license expires at the earlier of:

7393 (i) the licensee passing the examination required for licensure as a certified substance

7394 abuse counselor; or

7395 (ii) six months after the certified substance abuse counselor intern license is issued.

7396 (5) (a) An applicant for licensure as a certified substance abuse counselor extern shall  
7397 meet the requirements of Subsection (2)(a)(iii) or (2)(b)(iii).

7398 (b) A certified substance abuse counselor extern license is valid for two years from the  
7399 day on which it is issued or until January 1, 2010, whichever comes first.

7400 (c) A certified substance abuse counselor extern whose license expires before the  
7401 licensee completes a substance abuse education program under Subsection (2)(a)(ii) or  
7402 (2)(b)(ii) may not practice under this part until the licensee meets the requirements of  
7403 Subsection (2) or (3).

7404 Section 179. Section **58-61-304** is amended to read:

7405 **58-61-304. Qualifications for licensure by examination or endorsement.**

7406 (1) An applicant for licensure as a psychologist based upon education, clinical  
7407 training, and examination shall:

7408 (a) submit an application on a form provided by the division;

7409 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7410 (c) be of good moral character;

7411 (d) produce certified transcripts of credit verifying satisfactory completion of a  
7412 doctoral degree in psychology that includes specific core course work established by division  
7413 rule under Section 58-1-203, from an institution of higher education whose doctoral program,  
7414 at the time the applicant received the doctoral degree, met approval criteria established by  
7415 division rule made in consultation with the board;

7416 (e) have completed a minimum of 4,000 hours of psychology training as defined by  
7417 division rule under Section 58-1-203 in not less than two years and under the supervision of a  
7418 psychologist supervisor approved by the division in collaboration with the board;

7419 (f) to be qualified to engage in mental health therapy, document successful completion  
7420 of not less than 1,000 hours of supervised training in mental health therapy obtained after  
7421 completion of a master's level of education in psychology, which training may be included as

7422 part of the 4,000 hours of training required in Subsection (1)(e), and for which documented  
7423 evidence demonstrates not less than one hour of supervision for each 40 hours of supervised  
7424 training was obtained under the direct personal face to face supervision of a psychologist  
7425 approved by the division in collaboration with the board;

7426 (g) pass the examination requirement established by division rule under Section  
7427 58-1-203; and

7428 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
7429 applicant's qualifications for licensure.

7430 (2) An applicant for licensure as a psychologist by endorsement based upon licensure  
7431 in another jurisdiction shall:

7432 (a) submit an application on a form provided by the division;

7433 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7434 (c) be of good moral character and professional standing, and not have any  
7435 disciplinary action pending or in effect against the applicant's psychologist license in any  
7436 jurisdiction;

7437 (d) have passed the Utah Psychologist Law and Ethics Examination established by  
7438 division rule;

7439 (e) provide satisfactory evidence the applicant is currently licensed in another state,  
7440 district, or territory of the United States, or in any other jurisdiction approved by the division  
7441 in collaboration with the board;

7442 (f) provide satisfactory evidence the applicant has actively practiced psychology in  
7443 that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

7444 (g) provide satisfactory evidence that:

7445 (i) the education, supervised experience, examination, and all other requirements for  
7446 licensure in that jurisdiction at the time the applicant obtained licensure were substantially  
7447 equivalent to the licensure requirements for a psychologist in Utah at the time the applicant  
7448 obtained licensure in the other jurisdiction; or

7449 (ii) the applicant is:

7450 (A) a current holder of diplomate status in good standing from the American Board of  
7451 Professional Psychology;

7452 (B) currently credentialed as a health service provider in psychology by the National  
7453 Register of Health Service Providers in Psychology; or

7454 (C) currently holds a Certificate of Professional Qualification (CPQ) granted by the  
7455 Association of State and Provincial Psychology Boards; and

7456 (h) meet with the board, upon request for good cause, for the purpose of evaluating the  
7457 applicant's qualifications for licensure.

7458 (3) (a) An applicant for certification as a psychology resident shall comply with the  
7459 provisions of Subsections (1)(a), (b), (c), (d), and (h).

7460 (b) (i) An individual's certification as a psychology resident is limited to the period of  
7461 time necessary to complete clinical training as described in Subsections (1)(e) and (f) and  
7462 extends not more than one year from the date the minimum requirement for training is  
7463 completed, unless the individual presents satisfactory evidence to the division and the  
7464 Psychologist Licensing Board that the individual is making reasonable progress toward  
7465 passing the qualifying examination or is otherwise on a course reasonably expected to lead to  
7466 licensure as a psychologist.

7467 (ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the  
7468 date the minimum supervised clinical training requirement has been completed.

7469 Section 180. Section **58-63-302** is amended to read:

7470 **58-63-302. Qualifications for licensure.**

7471 (1) Each applicant for licensure as an armored car company or a contract security  
7472 company shall:

7473 (a) submit an application in a form prescribed by the division;

7474 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7475 (c) have a qualifying agent who:

7476 (i) (A) is a resident of the state and an officer, director, partner, proprietor, or manager  
7477 of the applicant; and

7478 (B) passes an examination component established by rule by the division in  
7479 collaboration with the board; and

7480 (ii) (A) demonstrates 6,000 hours of experience as a manager, supervisor, or  
7481 administrator of an armored car company or a contract security company; or

7482 (B) demonstrates 6,000 hours of supervisory experience acceptable to the division in  
7483 collaboration with the board with a federal, United States military, state, county, or municipal  
7484 law enforcement agency;

7485 (d) if a corporation, provide:

7486 (i) the names, addresses, dates of birth, and Social Security numbers of all corporate  
7487 officers, directors, and those responsible management personnel employed within the state or  
7488 having direct responsibility for managing operations of the applicant within the state; and

7489 (ii) the names, addresses, dates of birth, and Social Security numbers, of all  
7490 shareholders owning 5% or more of the outstanding shares of the corporation, unless waived  
7491 by the division if the stock is publicly listed and traded;

7492 (e) if a limited liability company, provide:

7493 (i) the names, addresses, dates of birth, and Social Security numbers of all company  
7494 officers, and those responsible management personnel employed within the state or having  
7495 direct responsibility for managing operations of the applicant within the state; and

7496 (ii) the names, addresses, dates of birth, and Social Security numbers of all individuals  
7497 owning 5% or more of the equity of the company;

7498 (f) if a partnership, the names, addresses, dates of birth, and Social Security numbers  
7499 of all general partners, and those responsible management personnel employed within the state  
7500 or having direct responsibility for managing operations of the applicant within the state;

7501 (g) if a proprietorship, the names, addresses, dates of birth, and Social Security  
7502 numbers of the proprietor, and those responsible management personnel employed within the  
7503 state or having direct responsibility for managing operations of the applicant within the state;

7504 (h) have good moral character in that officers, directors, shareholders described in  
7505 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not

7506 been convicted of:

7507           (i) a felony;

7508           (ii) a misdemeanor involving moral turpitude; or

7509           (iii) a crime that when considered with the duties and responsibilities of a contract

7510 security company or an armored car company by the division and the board indicates that the

7511 best interests of the public are not served by granting the applicant a license;

7512           (i) document that none of the applicant's officers, directors, shareholders described in

7513 Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

7514           (i) have been declared by a court of competent jurisdiction incompetent by reason of

7515 mental defect or disease and not been restored; and

7516           (ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

7517           (j) file and maintain with the division evidence of:

7518           (i) comprehensive general liability insurance in a form and in amounts established by

7519 rule by the division in collaboration with the board;

7520           (ii) workers' compensation insurance that covers employees of the applicant in

7521 accordance with applicable Utah law;

7522           (iii) registration with the Division of Corporations and Commercial Code; and

7523           (iv) registration as required by applicable law with the:

7524           (A) Unemployment Insurance Division in the Department of Workforce Services, for

7525 purposes of Title 35A, Chapter 4, Employment Security Act;

7526           (B) State Tax Commission; and

7527           (C) Internal Revenue Service; and

7528           (k) meet with the division and board if requested by the division or board.

7529           (2) Each applicant for licensure as an armed private security officer shall:

7530           (a) submit an application in a form prescribed by the division;

7531           (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7532           (c) have good moral character in that the applicant has not been convicted of:

7533           (i) a felony;

- 7534 (ii) a misdemeanor involving moral turpitude; or  
7535 (iii) a crime that when considered with the duties and responsibilities of an armed  
7536 private security officer by the division and the board indicates that the best interests of the  
7537 public are not served by granting the applicant a license;
- 7538 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7539 of mental defect or disease and not been restored;
- 7540 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7541 dependence;
- 7542 (f) successfully complete basic education and training requirements established by rule  
7543 by the division in collaboration with the board;
- 7544 (g) successfully complete firearms training requirements established by rule by the  
7545 division in collaboration with the board;
- 7546 (h) pass the examination requirement established by rule by the division in  
7547 collaboration with the board; and
- 7548 (i) meet with the division and board if requested by the division or the board.
- 7549 (3) Each applicant for licensure as an unarmed private security officer shall:
- 7550 (a) submit an application in a form prescribed by the division;
- 7551 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 7552 (c) have good moral character in that the applicant has not been convicted of:
- 7553 (i) a felony;
- 7554 (ii) a misdemeanor involving moral turpitude; or
- 7555 (iii) a crime that when considered with the duties and responsibilities of an unarmed  
7556 private security officer by the division and the board indicates that the best interests of the  
7557 public are not served by granting the applicant a license;
- 7558 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7559 of mental defect or disease and not been restored;
- 7560 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7561 dependence;

7562 (f) successfully complete basic education and training requirements established by rule  
7563 by the division in collaboration with the board;

7564 (g) pass the examination requirement established by rule by the division in  
7565 collaboration with the board; and

7566 (h) meet with the division and board if requested by the division or board.

7567 (4) Each applicant for licensure as an armored car security officer shall:

7568 (a) submit an application in a form prescribed by the division;

7569 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7570 (c) have good moral character in that the applicant has not been convicted of:

7571 (i) a felony;

7572 (ii) a misdemeanor involving moral turpitude; or

7573 (iii) a crime that when considered with the duties and responsibilities of an armored  
7574 car security officer by the division and the board indicates that the best interests of the public  
7575 are not served by granting the applicant a license;

7576 (d) not have been declared incompetent by a court of competent jurisdiction by reason  
7577 of mental defect or disease and not been restored;

7578 (e) not be currently suffering from habitual drunkenness or from drug addiction or  
7579 dependence;

7580 (f) successfully complete basic education and training requirements established by rule  
7581 by the division in collaboration with the board;

7582 (g) successfully complete firearms training requirements established by rule by the  
7583 division in collaboration with the board;

7584 (h) pass the examination requirements established by rule by the division in  
7585 collaboration with the board; and

7586 (i) meet with the division and board if requested by the division or the board.

7587 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
7588 the division may make a rule establishing when the division shall request a Federal Bureau of  
7589 Investigation records' review for an applicant.

7590 (6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c),  
7591 (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint  
7592 cards to the Department of Public Safety with the division's request to:

7593 (a) conduct a search of records of the Department of Public Safety for criminal history  
7594 information relating to each applicant for licensure under this chapter and each applicant's  
7595 officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and  
7596 responsible management personnel; and

7597 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
7598 requiring a check of records of the F.B.I. for criminal history information under this section.

7599 (7) The Department of Public Safety shall send the division:

7600 (a) a written record of criminal history, or certification of no criminal history record,  
7601 as contained in the records of the Department of Public Safety in a timely manner after receipt  
7602 of a fingerprint card from the division and a request for review of Department of Public Safety  
7603 records; and

7604 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
7605 receipt of information from the F.B.I.

7606 (8) (a) The division shall charge each applicant a fee, in accordance with Section  
7607 [~~63J-1-303~~] 63J-1-504, equal to the cost of performing the records reviews under this section.

7608 (b) The division shall pay the Department of Public Safety the costs of all records  
7609 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
7610 under this chapter.

7611 (9) The division shall use or disseminate the information it obtains from the reviews of  
7612 criminal history records of the Department of Public Safety and the F.B.I. only to determine if  
7613 an applicant for licensure under this chapter is qualified for licensure.

7614 Section 181. Section **58-64-302** is amended to read:

7615 **58-64-302. Qualifications for licensure.**

7616 (1) Each applicant for licensure as a deception detection examiner shall:

7617 (a) submit an application in a form prescribed by the division;

7618 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7619 (c) be of good moral character in that the applicant has not been convicted of a felony,  
7620 a misdemeanor involving moral turpitude, or any other crime which when considered with the  
7621 duties and responsibilities of a deception detection examiner is considered by the division and  
7622 the board to indicate that the best interests of the public will not be served by granting the  
7623 applicant a license;

7624 (d) not have been declared by any court of competent jurisdiction incompetent by  
7625 reason of mental defect or disease and not been restored;

7626 (e) may not be currently suffering from habitual drunkenness or from drug addiction  
7627 or dependence;

7628 (f) have completed one of the following:

7629 (i) have earned a bachelor's degree from a four year university or college meeting  
7630 standards established by the division by rule in collaboration with the board;

7631 (ii) have completed not less than 8,000 hours of investigation experience approved by  
7632 the division in collaboration with the board; or

7633 (iii) have completed a combination of university or college education and  
7634 investigation experience, as defined by rule by the division in collaboration with the board as  
7635 being equivalent to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

7636 (g) have successfully completed a training program in detection deception meeting  
7637 criteria established by rule by the division in collaboration with the board; and

7638 (h) have performed satisfactorily as a licensed deception detection intern for a period  
7639 of not less than one year and shall have satisfactorily conducted not less than 100 deception  
7640 detection examinations under the supervision of a licensed deception detection examiner.

7641 (2) Each applicant for licensure as a deception detection intern shall:

7642 (a) submit an application in a form prescribed by the division;

7643 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7644 (c) be of good moral character in that the applicant has not been convicted of a felony,  
7645 a misdemeanor involving moral turpitude, or any other crime which when considered with the

7646 duties and responsibilities of a deception detection intern is considered by the division and the  
7647 board to indicate that the best interests of the public will not be served by granting the  
7648 applicant a license;

7649 (d) not have been declared by any court of competent jurisdiction incompetent by  
7650 reason of mental defect or disease and not been restored;

7651 (e) may not be currently suffering from habitual drunkenness or from drug addiction  
7652 or dependence;

7653 (f) have completed one of the following:

7654 (i) have earned a bachelor's degree from a four year university or college meeting  
7655 standards established by the division by rule in collaboration with the board;

7656 (ii) have completed not less than 8,000 hours of investigation experience approved by  
7657 the division in collaboration with the board; or

7658 (iii) have completed a combination of university or college education and  
7659 investigation experience, as defined by rule by the division in collaboration with the board as  
7660 being equivalent to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

7661 (g) have successfully completed a training program in detection deception meeting  
7662 criteria established by rule by the division in collaboration with the board; and

7663 (h) provide the division with an intern supervision agreement in a form prescribed by  
7664 the division under which:

7665 (i) a licensed deception detection examiner agrees to supervise the intern; and

7666 (ii) the applicant agrees to be supervised by that licensed deception detection  
7667 examiner.

7668 (3) To determine if an applicant meets the qualifications of Subsection (1)(c) or (2)(c),  
7669 the division shall provide an appropriate number of copies of fingerprint cards to the  
7670 Department of Public Safety with the division's request to:

7671 (a) conduct a search of records of the Department of Public Safety for criminal history  
7672 information relating to each applicant for licensure under this chapter; and

7673 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant

7674 requiring a check of records of the F.B.I. for criminal history information under this section.

7675 (4) The Department of Public Safety shall send to the division:

7676 (a) a written record of criminal history, or certification of no criminal history record,  
7677 as contained in the records of the Department of Public Safety in a timely manner after receipt  
7678 of a fingerprint card from the division and a request for review of Department of Public Safety  
7679 records; and

7680 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
7681 receipt of information from the F.B.I.

7682 (5) (a) The division shall charge each applicant a fee, in accordance with Section  
7683 [~~63J-1-303~~] 63J-1-504, equal to the cost of performing the records reviews under this section.

7684 (b) The division shall pay the Department of Public Safety the costs of all records  
7685 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
7686 under this chapter.

7687 (6) Information obtained by the division from the reviews of criminal history records  
7688 of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division  
7689 only for the purpose of determining if an applicant for licensure under this chapter is qualified  
7690 for licensure.

7691 Section 182. Section **58-67-302** is amended to read:

7692 **58-67-302. Qualifications for licensure.**

7693 (1) An applicant for licensure as a physician and surgeon, except as set forth in  
7694 Subsection (2), shall:

7695 (a) submit an application in a form prescribed by the division, which may include:

7696 (i) submissions by the applicant of information maintained by practitioner data banks,  
7697 as designated by division rule, with respect to the applicant; and

7698 (ii) a record of professional liability claims made against the applicant and settlements  
7699 paid by or on behalf of the applicant;

7700 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7701 (c) be of good moral character;

7702 (d) provide satisfactory documentation of having successfully completed a program of  
7703 professional education preparing an individual as a physician and surgeon, as evidenced by  
7704 having received an earned degree of doctor of medicine from:

7705 (i) an LCME accredited medical school or college; or

7706 (ii) a medical school or college located outside of the United States or its jurisdictions  
7707 which at the time of the applicant's graduation, met criteria for LCME accreditation;

7708 (e) hold a current certification by the Educational Commission for Foreign Medical  
7709 Graduates or any successor organization approved by the division in collaboration with the  
7710 board, if the applicant graduated from a medical school or college located outside of the  
7711 United States or its jurisdictions;

7712 (f) satisfy the division and board that the applicant:

7713 (i) has successfully completed 24 months of progressive resident training in a program  
7714 approved by the ACGME, the Royal College of Physicians and Surgeons, the College of  
7715 Family Physicians of Canada, or any similar body in the United States or Canada approved by  
7716 the division in collaboration with the board; or

7717 (ii) (A) has successfully completed 12 months of resident training in an ACGME  
7718 approved program after receiving a degree of doctor of medicine as required under Subsection  
7719 (1)(d);

7720 (B) has been accepted in and is successfully participating in progressive resident  
7721 training in an ACGME approved program within Utah, in the applicant's second or third year  
7722 of postgraduate training; and

7723 (C) has agreed to surrender to the division the applicant's license as a physician and  
7724 surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act,  
7725 and has agreed the applicant's license as a physician and surgeon will be automatically  
7726 revoked by the division if the applicant fails to continue in good standing in an ACGME  
7727 approved progressive resident training program within the state;

7728 (g) pass the licensing examination sequence required by division rule made in  
7729 collaboration with the board;

7730 (h) be able to read, write, speak, understand, and be understood in the English  
7731 language and demonstrate proficiency to the satisfaction of the board if requested by the  
7732 board;

7733 (i) meet with the board and representatives of the division, if requested, for the  
7734 purpose of evaluating the applicant's qualifications for licensure;

7735 (j) designate:

7736 (i) a contact person for access to medical records in accordance with the federal Health  
7737 Insurance Portability and Accountability Act; and

7738 (ii) an alternate contact person for access to medical records, in the event the original  
7739 contact person is unable or unwilling to serve as the contact person for access to medical  
7740 records; and

7741 (k) establish a method for notifying patients of the identity and location of the contact  
7742 person and alternate contact person, if the applicant will practice in a location with no other  
7743 persons licensed under this chapter.

7744 (2) An applicant for licensure as a physician and surgeon by endorsement shall:

7745 (a) be currently licensed with a full unrestricted license in good standing in any state,  
7746 district, or territory of the United States;

7747 (b) have been actively engaged in the legal practice of medicine in any state, district,  
7748 or territory of the United States for not less than 6,000 hours during the five years immediately  
7749 preceding the date of application for licensure in Utah;

7750 (c) not have any action pending against the applicant's license;

7751 (d) not have a license that was suspended or revoked in any state, unless the license  
7752 was subsequently reinstated as a full unrestricted license in good standing; and

7753 (e) produce satisfactory evidence of the applicant's qualifications, identity, and good  
7754 standing to the satisfaction of the division in collaboration with the board.

7755 (3) An applicant for licensure by endorsement may engage in the practice of medicine  
7756 under a temporary license while the applicant's application for licensure is being processed by  
7757 the division, provided:

- 7758 (a) the applicant submits a complete application required for temporary licensure to  
7759 the division;
- 7760 (b) the applicant submits a written document to the division from:
- 7761 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
7762 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
7763 health care facility; or
- 7764 (ii) two individuals licensed under this chapter, whose license is in good standing and  
7765 who practice in the same clinical location, both stating that:
- 7766 (A) the applicant is practicing under the invitation of the individual; and
- 7767 (B) the applicant will practice at the same clinical location as the individual;
- 7768 (c) the applicant submits a signed certification to the division that the applicant meets  
7769 the requirements of Subsection (2);
- 7770 (d) the applicant does not engage in the practice of medicine until the division has  
7771 issued a temporary license;
- 7772 (e) the temporary license is only issued for and may not be extended beyond the  
7773 duration of one year from issuance; and
- 7774 (f) the temporary license expires immediately and prior to the expiration of one year  
7775 from issuance, upon notification from the division that the applicant's application for licensure  
7776 by endorsement is denied.
- 7777 (4) The division shall issue a temporary license under Subsection (3) within 15  
7778 business days after the applicant satisfies the requirements of Subsection (3).
- 7779 Section 183. Section **58-68-302** is amended to read:
- 7780 **58-68-302. Qualifications for licensure.**
- 7781 (1) An applicant for licensure as an osteopathic physician and surgeon, except as set  
7782 forth in Subsection (2) or (3), shall:
- 7783 (a) submit an application in a form prescribed by the division, which may include:
- 7784 (i) submissions by the applicant of information maintained by practitioner data banks,  
7785 as designated by division rule, with respect to the applicant; and

7786 (ii) a record of professional liability claims made against the applicant and settlements  
7787 paid by or on behalf of the applicant;

7788 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7789 (c) be of good moral character;

7790 (d) provide satisfactory documentation of having successfully completed a program of  
7791 professional education preparing an individual as an osteopathic physician and surgeon, as  
7792 evidenced by having received an earned degree of doctor of osteopathic medicine from:

7793 (i) an AOA approved medical school or college; or

7794 (ii) an osteopathic medical school or college located outside of the United States or its  
7795 jurisdictions which at the time of the applicant's graduation, met criteria for accreditation by  
7796 the AOA;

7797 (e) hold a current certification by the Educational Commission for Foreign Medical  
7798 Graduates or any successor organization approved by the division in collaboration with the  
7799 board, if the applicant graduated from a medical school or college located outside of the  
7800 United States or its jurisdictions;

7801 (f) satisfy the division and board that the applicant:

7802 (i) has successfully completed 24 months of progressive resident training in an  
7803 ACGME or AOA approved program after receiving a degree of doctor of osteopathic medicine  
7804 required under Subsection (1)(d); or

7805 (ii) (A) has successfully completed 12 months of resident training in an ACGME or  
7806 AOA approved program after receiving a degree of doctor of osteopathic medicine as required  
7807 under Subsection (1)(d);

7808 (B) has been accepted in and is successfully participating in progressive resident  
7809 training in an ACGME or AOA approved program within Utah, in the applicant's second or  
7810 third year of postgraduate training; and

7811 (C) has agreed to surrender to the division the applicant's license as an osteopathic  
7812 physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative  
7813 Procedures Act, and has agreed the applicant's license as an osteopathic physician and surgeon

7814 will be automatically revoked by the division if the applicant fails to continue in good standing  
7815 in an ACGME or AOA approved progressive resident training program within the state;

7816 (g) pass the licensing examination sequence required by division rule, as made in  
7817 collaboration with the board;

7818 (h) be able to read, write, speak, understand, and be understood in the English  
7819 language and demonstrate proficiency to the satisfaction of the board, if requested by the  
7820 board;

7821 (i) meet with the board and representatives of the division, if requested for the purpose  
7822 of evaluating the applicant's qualifications for licensure;

7823 (j) designate:

7824 (i) a contact person for access to medical records in accordance with the federal Health  
7825 Insurance Portability and Accountability Act; and

7826 (ii) an alternate contact person for access to medical records, in the event the original  
7827 contact person is unable or unwilling to serve as the contact person; and

7828 (k) establish a method for notifying patients of the identity and location of the contact  
7829 person and alternate contact person, if the applicant will practice in a location with no other  
7830 persons licensed under this chapter.

7831 (2) An applicant for licensure as an osteopathic physician and surgeon qualifying  
7832 under the endorsement provision of Section 58-1-302 shall:

7833 (a) be currently licensed in good standing in another jurisdiction as set forth in Section  
7834 58-1-302;

7835 (b) (i) document having met all requirements for licensure under Subsection (1)  
7836 except, if an applicant received licensure in another state or jurisdiction based upon only 12  
7837 months residency training after graduation from medical school, the applicant may qualify for  
7838 licensure in Utah by endorsement only if licensed in the other state prior to July 1, 1996; or

7839 (ii) document having obtained licensure in another state or jurisdiction whose  
7840 licensure requirements were at the time of obtaining licensure equal to licensure requirements  
7841 at that time in Utah;

7842 (c) have passed the SPEX examination within 12 months preceding the date of  
7843 application for licensure in Utah if the date on which the applicant passed qualifying  
7844 examinations for licensure is greater than five years prior to the date of the application for  
7845 licensure in Utah, or meet medical specialty certification requirements which may be  
7846 established by division rule made in collaboration with the board;

7847 (d) have been actively engaged in the practice as an osteopathic physician and surgeon  
7848 for not less than 6,000 hours during the five years immediately preceding the date of  
7849 application for licensure in Utah;

7850 (e) meet with the board and representatives of the division, if requested for the purpose  
7851 of evaluating the applicant's qualifications for licensure; and

7852 (f) not have a license that was suspended or revoked in any state, unless the license  
7853 was subsequently reinstated as a full unrestricted license in good standing.

7854 (3) An applicant for licensure as an osteopathic physician and surgeon, who has been  
7855 licensed as an osteopathic physician in Utah, who has allowed the applicant's license in Utah  
7856 to expire for nonpayment of license fees, and who is currently licensed in good standing in  
7857 another state or jurisdiction of the United States shall:

7858 (a) submit an application in a form prescribed by the division;

7859 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7860 (c) be of good moral character;

7861 (d) have passed the SPEX examination within 12 months preceding the date of  
7862 application for licensure in Utah if the date on which the applicant passed qualifying  
7863 examinations for licensure is greater than five years prior to the date of the application for  
7864 licensure in Utah;

7865 (e) have been actively engaged in the practice as an osteopathic physician for not  
7866 fewer than 6,000 hours during the five years immediately preceding the date of application for  
7867 licensure; and

7868 (f) meet with the board and representatives of the division, if requested for the purpose  
7869 of evaluating the applicant's qualifications for licensure.

7870 (4) An applicant for licensure by endorsement may engage in the practice of medicine  
7871 under a temporary license while the applicant's application for licensure is being processed by  
7872 the division, provided:

7873 (a) the applicant submits a complete application required for temporary licensure to  
7874 the division;

7875 (b) the applicant submits a written document to the division from:

7876 (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
7877 Licensing and Inspection Act, stating that the applicant is practicing under the invitation of the  
7878 health care facility; or

7879 (ii) two individuals licensed under this chapter, whose license is in good standing and  
7880 who practice in the same clinical location, both stating that:

7881 (A) the applicant is practicing under the invitation of the individual; and

7882 (B) the applicant will practice at the same clinical location as the individual;

7883 (c) the applicant submits a signed certification to the division that the applicant meets  
7884 the requirements of Subsection (2);

7885 (d) the applicant does not engage in the practice of medicine until the division has  
7886 issued a temporary license;

7887 (e) the temporary license is only issued for and may not be extended beyond the  
7888 duration of one year from issuance; and

7889 (f) the temporary license expires immediately and prior to the expiration of one year  
7890 from issuance, upon notification from the division that the applicant's application for licensure  
7891 by endorsement is denied.

7892 (5) The division shall issue a temporary license under Subsection (4) within 15  
7893 business days after the applicant satisfies the requirements of Subsection (4).

7894 Section 184. Section **58-69-302** is amended to read:

7895 **58-69-302. Qualifications for licensure.**

7896 (1) An applicant for licensure as a dentist, except as set forth in Subsection (2), shall:

7897 (a) submit an application in a form as prescribed by the division;

- 7898 (b) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 7899 (c) be of good moral character;
- 7900 (d) provide satisfactory documentation of having successfully completed a program of
- 7901 professional education preparing an individual as a dentist as evidenced by having received an
- 7902 earned doctor's degree in dentistry from a dental school accredited by the Commission on
- 7903 Dental Accreditation of the American Dental Association;
- 7904 (e) pass the National Board Dental Examinations as administered by the Joint
- 7905 Commission on National Dental Examinations of the American Dental Association;
- 7906 (f) pass any one of the regional dental clinical licensure examinations unless the
- 7907 division, in collaboration with the board, determines that:
- 7908 (i) the examination is clearly inferior to the Western Regional Examination Board; and
- 7909 (ii) reliance upon the examination poses an unjustifiable threat to public health and
- 7910 safety;
- 7911 (g) pass any other examinations regarding applicable law, rules, or ethics as
- 7912 established by division rule made in collaboration with the board;
- 7913 (h) be able to read, write, speak, understand, and be understood in the English
- 7914 language and demonstrate proficiency to the satisfaction of the board if requested by the
- 7915 board; and
- 7916 (i) meet with the board if requested by the board or division for the purpose of
- 7917 examining the applicant's qualifications for licensure.
- 7918 (2) An applicant for licensure as a dentist qualifying under the endorsement provision
- 7919 of Section 58-1-302 shall:
- 7920 (a) be currently licensed in good standing in another jurisdiction set forth in Section
- 7921 58-1-302;
- 7922 (b) (i) document having met all requirements for licensure under Subsection (1)
- 7923 except, an applicant having received licensure in another state or jurisdiction prior to the year
- 7924 when the National Board Dental Examinations were first administered, shall document having
- 7925 passed a state administered examination acceptable to the division in collaboration with the

- 7926 board; or
- 7927 (ii) document having obtained licensure in another state or jurisdiction upon which
- 7928 licensure by endorsement is based by meeting requirements which were equal to licensure
- 7929 requirements in Utah at the time the applicant obtained licensure in the other state or
- 7930 jurisdiction; and
- 7931 (c) document having been successfully engaged in practice as a dentist for not less
- 7932 than 6,000 hours in the five years immediately preceding the date of application for licensure.
- 7933 (3) An applicant for licensure as a dental hygienist, except as set forth in Subsection
- 7934 (4), shall:
- 7935 (a) submit an application in a form as prescribed by the division;
- 7936 (b) pay a fee as determined by the department pursuant to Section [~~63J-1-303~~
- 7937 63J-1-504;
- 7938 (c) be of good moral character;
- 7939 (d) be a graduate holding a certificate or degree in dental hygiene from a school
- 7940 accredited by the Commission on Dental Accreditation of the American Dental Association;
- 7941 (e) pass the National Board Dental Hygiene Examination as administered by the Joint
- 7942 Commission on National Dental Examinations of the American Dental Association;
- 7943 (f) pass an examination consisting of practical demonstrations in the practice of dental
- 7944 hygiene and written or oral examination in the theory and practice of dental hygiene as
- 7945 established by division rule made in collaboration with the board;
- 7946 (g) pass any other examinations regarding applicable law, rules, and ethics as
- 7947 established by rule by division rule made in collaboration with the board;
- 7948 (h) be able to read, write, speak, understand, and be understood in the English
- 7949 language and demonstrate proficiency to the satisfaction of the board if requested by the
- 7950 board; and
- 7951 (i) meet with the board if requested by the board or division for the purpose of
- 7952 examining the applicant's qualifications for licensure.
- 7953 (4) An applicant for licensure as a dental hygienist qualifying under the endorsement

7954 provision of Section 58-1-302 shall:

7955 (a) be currently licensed in another jurisdiction set forth in Section 58-1-302;

7956 (b) (i) document having met all requirements for licensure under Subsection (3)  
7957 except, an applicant having received licensure in another state or jurisdiction prior to 1962, the  
7958 year when the National Board Dental Hygiene Examinations were first administered, shall  
7959 document having passed a state administered examination acceptable to the division in  
7960 collaboration with the board; or

7961 (ii) document having obtained licensure in another state or jurisdiction upon which  
7962 licensure by endorsement is based by meeting requirements which were equal to licensure  
7963 requirements in Utah at the time the applicant obtained licensure in the other state or  
7964 jurisdiction; and

7965 (c) document having been successfully engaged in practice as a dental hygienist for  
7966 not less than 2,000 hours in the two years immediately preceding the date of application for  
7967 licensure.

7968 Section 185. Section **58-70a-302** is amended to read:

7969 **58-70a-302. Qualifications for licensure.**

7970 Each applicant for licensure as a physician assistant shall:

7971 (1) submit an application in a form prescribed by the division;

7972 (2) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7973 (3) be of good moral character;

7974 (4) have successfully completed a physician assistant program accredited by the  
7975 Commission on Accreditation of Allied Health Education Programs;

7976 (5) have passed the licensing examinations required by division rule made in  
7977 collaboration with the board;

7978 (6) meet with the board and representatives of the division, if requested, for the  
7979 purpose of evaluating the applicant's qualifications for licensure; and

7980 (7) (a) if the applicant desires to practice in Utah, complete a form provided by the  
7981 division indicating:

7982 (i) the applicant has completed a delegation of services agreement signed by the  
7983 physician assistant, supervising physician, and substitute supervising physicians; and  
7984 (ii) the agreement is on file at the Utah practice sites; or  
7985 (b) complete a form provided by the division indicating the applicant is not practicing  
7986 in Utah and, prior to practicing in Utah, the applicant will meet the requirements of  
7987 Subsection (7)(a).

7988 Section 186. Section **58-71-302** is amended to read:

7989 **58-71-302. Qualifications for licensure.**

7990 (1) An applicant for licensure as a naturopathic physician, except as set forth in  
7991 Subsection (2), shall:

7992 (a) submit an application in a form prescribed by the division, which may include:

7993 (i) submissions by the applicant of information maintained by practitioner data banks,  
7994 as designated by division rule, with respect to the applicant; and

7995 (ii) a record of professional liability claims made against the applicant and settlements  
7996 paid by or in behalf of the applicant;

7997 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

7998 (c) be of good moral character;

7999 (d) provide satisfactory documentation of having successfully completed a program of  
8000 professional education preparing an individual as a naturopathic physician, as evidenced by  
8001 having received an earned degree of doctor of naturopathic medicine from:

8002 (i) a naturopathic medical school or college accredited by the Council of Naturopathic  
8003 Medical Education or its successor organization approved by the division;

8004 (ii) a naturopathic medical school or college that is a candidate for accreditation by the  
8005 Council of Naturopathic Medical Education or its successor organization, and is approved by  
8006 the division in collaboration with the board, upon a finding there is reasonable expectation the  
8007 school or college will be accredited; or

8008 (iii) a naturopathic medical school or college which, at the time of the applicant's  
8009 graduation, met current criteria for accreditation by the Council of Naturopathic Medical

8010 Education or its successor organization approved by the division;

8011 (e) provide satisfactory documentation of having successfully completed, after  
8012 successful completion of the education requirements set forth in Subsection (1)(d), 12 months  
8013 of clinical experience in naturopathic medicine in a residency program recognized by the  
8014 division and associated with an accredited school or college of naturopathic medicine, and  
8015 under the preceptorship of a licensed naturopathic physician, physician and surgeon, or  
8016 osteopathic physician;

8017 (f) pass the licensing examination sequence required by division rule established in  
8018 collaboration with the board;

8019 (g) be able to read, write, speak, understand, and be understood in the English  
8020 language and demonstrate proficiency to the satisfaction of the board if requested by the  
8021 board; and

8022 (h) meet with the board and representatives of the division, if requested, for the  
8023 purpose of evaluating the applicant's qualifications for licensure.

8024 (2) (a) In accordance with Subsection (2)(b), an applicant for licensure as a  
8025 naturopathic physician under the endorsement provision of Section 58-1-302 shall:

8026 (i) meet the requirements of Section 58-1-302;

8027 (ii) document having met all requirements for licensure under Subsection (1) except  
8028 the clinical experience requirement of Subsection (1)(e);

8029 (iii) have passed the examination requirements established under Subsection (1)(f)  
8030 which:

8031 (A) the applicant has not passed in connection with licensure in another state or  
8032 jurisdiction; and

8033 (B) are available to the applicant to take without requiring additional professional  
8034 education;

8035 (iv) have been actively engaged in the practice of a naturopathic physician for not less  
8036 than 6,000 hours during the five years immediately preceding the date of application for  
8037 licensure in Utah; and

8038 (v) meet with the board and representatives of the division for the purpose of  
8039 evaluating the applicant's qualifications for licensure.

8040 (b) The division may rely, either wholly or in part, on one or more credentialing  
8041 associations designated by division rule, made in collaboration with the board, to document  
8042 and certify in writing to the satisfaction of the division that an applicant has met each of the  
8043 requirements of this Subsection (2), including the requirements of Section 58-1-302 that:

8044 (i) the applicant holds a current license;

8045 (ii) the education, experience, and examination requirements of the foreign country or  
8046 the state, district, or territory of the United States that issued the applicant's license are, or  
8047 were at the time the license was issued, equal to those of this state for licensure as a  
8048 naturopathic physician; and

8049 (iii) the applicant has produced evidence satisfactory to the division of the applicant's  
8050 qualifications, identity, and good standing as a naturopathic physician.

8051 Section 187. Section **58-72-302** is amended to read:

8052 **58-72-302. Qualifications for licensure.**

8053 Notwithstanding Section 58-1-302, an applicant for licensure as a licensed  
8054 acupuncturist shall:

8055 (1) submit an application in a form prescribed by the division;

8056 (2) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8057 (3) be of good moral character;

8058 (4) meet the requirements for current active certification in acupuncture under  
8059 guidelines established by the National Commission for the Certification of Acupuncture and  
8060 Oriental Medicine (NCCAOM) as demonstrated through a current certificate or other  
8061 appropriate documentation;

8062 (5) pass the examination required by the division by rule;

8063 (6) establish procedures, as defined by rule, which shall enable patients to give  
8064 informed consent to treatment; and

8065 (7) meet with the board, if requested, for the purpose of evaluating the applicant's

8066 qualifications for licensure.

8067 Section 188. Section **58-73-302** is amended to read:

8068 **58-73-302. Qualifications for licensure.**

8069 (1) Each applicant for licensure as a chiropractic physician, other than those applying  
8070 for a license based on licensure as a chiropractor or chiropractic physician in another  
8071 jurisdiction, shall:

8072 (a) submit an application in a form prescribed by the division;

8073 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8074 (c) be of good moral character;

8075 (d) demonstrate satisfactory completion of at least two years of general study in a  
8076 college or university;

8077 (e) demonstrate having earned a degree of doctor of chiropractic from a chiropractic  
8078 college or university that at the time the degree was conferred was accredited by the Council  
8079 on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by  
8080 the United States Department of Education and by the division rule made in collaboration with  
8081 the board;

8082 (f) demonstrate successful completion of:

8083 (i) the National Chiropractic Boards:

8084 (A) Parts I and II;

8085 (B) Written Clinical Competency Examination; and

8086 (C) Physical Therapy;

8087 (ii) the Utah Chiropractic Law and Rules Examination; and

8088 (iii) a practical examination approved by the division in collaboration with the board;

8089 and

8090 (g) meet with the board, if requested, for the purpose of reviewing the applicant's  
8091 qualifications for licensure.

8092 (2) Each applicant for licensure as a chiropractic physician based on licensure as a  
8093 chiropractor or chiropractic physician in another jurisdiction shall:

- 8094 (a) submit an application in the form prescribed by the division;
- 8095 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 8096 (c) be of good moral character;
- 8097 (d) demonstrate having obtained licensure as a chiropractor or chiropractic physician
- 8098 in another state under education requirements which were equivalent to the education
- 8099 requirements in this state to obtain a chiropractor or chiropractic physician license at the time
- 8100 the applicant obtained the license in the other state;
- 8101 (e) demonstrate successful completion of:
  - 8102 (i) the Utah Chiropractic Law and Rules Examination; and
  - 8103 (ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board
  - 8104 of Chiropractic Examiners;
- 8105 (f) have been actively engaged in the practice of chiropractic for not less than two
- 8106 years immediately preceding application for licensure in this state; and
- 8107 (g) meet with the board, if requested, for the purpose of reviewing the applicant's
- 8108 qualifications for licensure.

8109 Section 189. Section **58-74-302** is amended to read:

8110 **58-74-302. Qualifications for licensure.**

- 8111 (1) Each applicant for licensure as a certified court reporter under this chapter shall:
  - 8112 (a) be at least 18 years of age;
  - 8113 (b) be a citizen of the United States;
  - 8114 (c) submit an application in a form prescribed by the division;
  - 8115 (d) pay a fee determined by the department under [~~Subsection 63J-1-301(2)~~] Section
  - 8116 63J-1-504;
  - 8117 (e) possess a high degree of skill and ability in the art of court reporting;
  - 8118 (f) produce satisfactory evidence of good moral character; and
  - 8119 (g) submit evidence that they have completed and passed the Registered Professional
  - 8120 Reporter Examination of the National Court Reporters Association or the Certified Verbatim
  - 8121 Reporter Examination of the National Verbatim Reporters Association.

8122 (2) Any person granted a certificate to practice as a certified shorthand reporter may  
8123 use the abbreviation "C.S.R." as long as the person's certificate is current and valid.

8124 (3) Any person granted a certificate to practice as a certified voice reporter may use  
8125 the abbreviation "C.V.R." as long as the person's certificate is current and valid.

8126 Section 190. Section **58-75-302** is amended to read:

8127 **58-75-302. Qualifications for licensure -- Temporary license.**

8128 (1) Except as provided in Subsection (2), each applicant for licensure as a genetic  
8129 counselor under this chapter shall:

8130 (a) submit an application in a form prescribed by the division;

8131 (b) pay a fee determined by the department under Section [~~63J-1-303~~] 63J-1-504;

8132 (c) be of good moral character;

8133 (d) provide satisfactory documentation of having earned:

8134 (i) a master's degree from a genetic counseling training program that is accredited by  
8135 the American Board of Genetic Counseling or an equivalent as determined by the division; or

8136 (ii) a doctoral degree from a medical genetics training program that is accredited by  
8137 the American Board of Medical Genetics or an equivalent as determined by the division; and

8138 (e) meet the examination requirement for certification as:

8139 (i) a genetic counselor by the American Board of Genetic Counseling or the American  
8140 Board of Medical Genetics; or

8141 (ii) a medical geneticist by the American Board of Medical Genetics.

8142 (2) The division may issue a temporary license, in accordance with Section 58-1-303  
8143 and any other conditions established by rule, to an applicant who meets all of the requirements  
8144 for licensure except the examination requirement of Subsection (1)(e).

8145 Section 191. Section **58-76-103** is amended to read:

8146 **58-76-103. Education and enforcement fund.**

8147 (1) There is created within the General Fund a restricted account known as the  
8148 "Professional Geologist Education and Enforcement Fund."

8149 (2) The account shall be nonlapsing and consist of monies from:

- 8150 (a) a surcharge fee established by the department in accordance with Section  
8151 [~~63J-1-303~~] 63J-1-504, placed on initial, renewal, and reinstatement licensure fees under this  
8152 chapter not to exceed 50% of the respective initial, renewal, or reinstatement licensure fee;
- 8153 (b) administrative penalties collected pursuant to this chapter; and  
8154 (c) interest earned on monies in the account.
- 8155 (3) Monies in the account may be appropriated by the Legislature for the following  
8156 purposes:
- 8157 (a) education and training of licensees under this chapter;  
8158 (b) education and training of the public or other interested persons in matters  
8159 concerning geology laws and practices;
- 8160 (c) enforcement of this chapter by:
- 8161 (i) investigating unprofessional or unlawful conduct;  
8162 (ii) providing legal representation to the division when legal action is taken against a  
8163 person engaging in unprofessional or unlawful conduct; and  
8164 (iii) monitoring compliance of renewal requirements; and  
8165 (d) education and training of board members.
- 8166 Section 192. Section **58-76-302** is amended to read:
- 8167 **58-76-302. Qualifications for licensure.**
- 8168 Each applicant for licensure as a professional geologist shall:
- 8169 (1) submit an application in a form as prescribed by the division;  
8170 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;  
8171 (3) be of good moral character;  
8172 (4) provide satisfactory evidence of:
- 8173 (a) a bachelors or graduate degree in the geosciences granted through an institution of  
8174 higher education that is accredited by a regional or national accrediting agency with a  
8175 minimum of 30 semester or 45 quarter hours of course work in the geosciences; or  
8176 (b) completion of other equivalent educational requirements as determined by the  
8177 division in collaboration with the board;

- 8178 (5) provide satisfactory evidence of:
- 8179 (a) with a bachelors degree, a specific record of five years of active professional
- 8180 practice in geological work of a character satisfactory to the division, indicating the applicant
- 8181 is competent to be placed in a responsible charge of the work;
- 8182 (b) with a masters degree, a specific record of three years of active professional
- 8183 practice in geological work of a character satisfactory to the division, indicating the applicant
- 8184 is competent to be placed in a responsible charge of the work; or
- 8185 (c) with a doctorate degree, a specific record of one year of active professional practice
- 8186 in geological work of a character satisfactory to the division, indicating the applicant is
- 8187 competent to be placed in a responsible charge of the work; and
- 8188 (6) after January 1, 2004, meet the examination requirement established by rule by the
- 8189 division in collaboration with the board.

8190 Section 193. Section **58-77-302** is amended to read:

8191 **58-77-302. Qualifications for licensure.**

8192 Each applicant for licensure as a licensed Direct-entry midwife shall:

- 8193 (1) submit an application in a form prescribed by the division;
- 8194 (2) pay a fee as determined by the department under Section [~~63J-1-303~~] 63J-1-504;
- 8195 (3) be of good moral character;
- 8196 (4) hold a Certified Professional Midwife certificate in good standing with the North
- 8197 American Registry of Midwives or equivalent certification approved by the division in
- 8198 collaboration with the board;
- 8199 (5) hold current adult and infant CPR and newborn resuscitation certifications through
- 8200 an organization approved by the division in collaboration with the board; and
- 8201 (6) provide documentation of successful completion of an approved pharmacology
- 8202 course as defined by division rule.

8203 Section 194. Section **59-1-305** is amended to read:

8204 **59-1-305. Convenience fee to cover the costs of electronic payments.**

- 8205 (1) As used in this section:

8206 (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.

8207 (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.

8208 (2) The commission may collect a convenience electronic payment fee established in  
8209 accordance with the procedures and requirements of Section [~~63J-1-303~~] 63J-1-504 to cover  
8210 the costs of electronic payments of taxes and fees administered by the commission.

8211 (3) Notwithstanding any other provisions of this title, the commission shall use a fee  
8212 imposed under this section as a dedicated credit to cover the costs of electronic payments.

8213 Section 195. Section **59-19-105** is amended to read:

8214 **59-19-105. Stamps to be affixed to marihuana and controlled substance --**

8215 **Anonymity provided when purchasing stamps -- Collection and distribution of tax --**

8216 **Property in kind.**

8217 (1) When a dealer purchases, acquires, transports, or imports into this state marihuana  
8218 or controlled substances, the dealer shall permanently affix the official indicia on the  
8219 marihuana or controlled substances evidencing the payment of the tax required under this  
8220 chapter. A stamp or other official indicia may not be used more than once.

8221 (2) Taxes imposed upon marihuana or controlled substances by this chapter are due  
8222 and payable immediately upon acquisition or possession in this state by a dealer.

8223 (3) Payments required by this chapter shall be made to the commission on forms  
8224 provided by the commission.

8225 (4) (a) A dealer is not required to give the dealer's name, address, Social Security  
8226 number, or other identifying information on the form.

8227 (b) The commission or its employees may not reveal any facts contained in any report,  
8228 form, or return required by this chapter or any information obtained from a dealer.

8229 (c) None of the information contained in a report, form, or return or otherwise  
8230 obtained from a dealer in connection with this section may be used against the dealer in any  
8231 criminal proceeding unless it is independently obtained, except in connection with a  
8232 proceeding involving taxes due under this chapter from the dealer making the return. This  
8233 Subsection (4)(c) supersedes any provision to the contrary.

8234 (d) A person who discloses information in violation of this Subsection (4) is guilty of  
8235 a class A misdemeanor.

8236 (5) This section does not prohibit the commission from publishing statistics that do  
8237 not disclose the identity of a dealer or the actual contents of any reports, forms, or returns.

8238 (6) (a) The commission shall collect all taxes imposed under this chapter. Amounts  
8239 collected under this chapter, whether characterized as taxes, interest, or penalties, shall be  
8240 deposited in the Drug Stamp Tax Fund as a dedicated credit and shall be applied and  
8241 distributed under Section [~~63J-1-404~~] 63J-1-104 of the Budgetary Procedures Act as follows:

8242 (i) [~~forty percent~~] 40% to the commission for administrative costs of recovery; and  
8243 (ii) [~~sixty percent~~] 60% to the law enforcement agency conducting the controlled  
8244 substance investigation, to be used and applied by the agency in the continued enforcement of  
8245 controlled substance laws.

8246 (b) If there is more than one participating law enforcement agency, the 60% under  
8247 Subsection (6)(a)(ii) shall be divided equitably and distributed among the agencies by the  
8248 administrative law judge conducting the hearing to determine taxpayer liability. The  
8249 distribution shall be based upon the extent of agency participation as appears from evidence  
8250 submitted by each agency relative to actual time and expense incurred in the investigation.

8251 (c) If no law enforcement agency is involved in the collection of a specific amount  
8252 under this chapter, the entire amount collected shall be applied under Subsection (6)(a)(i) to  
8253 administrative costs of recovery.

8254 (7) (a) If property in kind obtained from the taxpayer is of use or benefit to the  
8255 commission in the enforcement of this chapter or is of use or benefit to the participating law  
8256 enforcement agency in the continued enforcement of controlled substance laws, either the  
8257 commission or the law enforcement agency may apply to the administrative law judge for the  
8258 award of the property. If the administrative law judge finds the property is of use or benefit  
8259 either to the commission or the law enforcement agency, the property shall be awarded  
8260 accordingly.

8261 (b) Before an award under this Subsection (7) is ordered, the property shall be

8262 appraised by a court-appointed appraiser and the appraised value shall be credited to the  
8263 taxpayer. If the taxpayer objects to the results of the court-appointed appraisal, the taxpayer  
8264 may obtain the taxpayer's own appraisal at the taxpayer's own expense within ten days of the  
8265 court-appointed appraisal. The decision of the administrative law judge as to value is  
8266 controlling.

8267 (c) The value of any property in kind awarded to the commission or to the  
8268 participating law enforcement agency shall be counted as a portion of its percentage share  
8269 under Subsection (6).

8270 (8) Property of the taxpayer otherwise subject to forfeiture under Section 58-37-13 is  
8271 not affected by this chapter if there is compliance with Section 58-37-13 regarding the  
8272 forfeiture and the proceeds and property seized and forfeited are accordingly divided and  
8273 distributed.

8274 Section 196. Section **61-1-18.4** is amended to read:

8275 **61-1-18.4. Fees collected by division.**

8276 The Division of Securities shall establish, charge, and collect fees pursuant to Section  
8277 [~~63J-1-303~~] 63J-1-504, except when it can be demonstrated that the fee amount should be  
8278 based on factors other than cost, for the following:

8279 (1) the fair and reasonable cost of any examination, audit, or investigation authorized  
8280 or required by this chapter or other state law;

8281 (2) certificate of serving and mailing process served upon the division in any action or  
8282 proceeding commenced or prosecuted in this state against any person who has appointed the  
8283 division its agent as provided in Subsection 61-1-26(7); and

8284 (3) copies and authentication of all papers, publications, data, and other records  
8285 available to the public or issued under the division's authority.

8286 Section 197. Section **61-2-7.1** is amended to read:

8287 **61-2-7.1. Change of information -- Failure to notify -- Notification to an**  
8288 **applicant, licensee, or certificate holder.**

8289 (1) An applicant, licensee, or certificate holder shall send the division a signed

8290 statement in the form required by the division notifying the division within ten business days  
8291 of any change of:

- 8292 (a) principal broker;
- 8293 (b) principal business location;
- 8294 (c) mailing address;
- 8295 (d) home street address;
- 8296 (e) an individual's name; or
- 8297 (f) business name.

8298 (2) The division may charge a fee established in accordance with Section [~~63J-1-303~~]  
8299 63J-1-504 for processing any notification of change submitted by an applicant, licensee, or  
8300 certificate holder.

8301 (3) (a) When providing the division a business location or home street address, a  
8302 physical location or street address must be provided.

8303 (b) When providing a mailing address, an applicant, licensee, or certificate holder may  
8304 provide a post office box or other mail drop location.

8305 (4) Failure to notify the division of a change described in Subsection (1) is separate  
8306 grounds for disciplinary action against the applicant, licensee, or certificate holder.

8307 (5) An applicant, licensee, or certificate holder is considered to have received any  
8308 notification that has been sent to the last address furnished to the division by the applicant,  
8309 licensee, or certificate holder.

8310 Section 198. Section **61-2-9** is amended to read:

8311 **61-2-9. Examination and license fees -- Criminal background check -- Renewal**  
8312 **of licenses -- Education requirements -- Activation of inactive licenses -- Recertification**  
8313 **-- Licenses of firm, partnership, or association -- Miscellaneous fees.**

8314 (1) (a) Upon filing an application for a principal broker, associate broker, or sales  
8315 agent license examination, the applicant shall pay a nonrefundable fee as determined by the  
8316 commission with the concurrence of the division under Section [~~63J-1-303~~] 63J-1-504 for  
8317 admission to the examination.

8318 (b) A principal broker, associate broker, or sales agent applicant shall pay a  
8319 nonrefundable fee as determined by the commission with the concurrence of the division  
8320 under Section [~~63J-1-303~~] 63J-1-504 for issuance of an initial license or license renewal.

8321 (c) Each license issued under this Subsection (1) shall be issued for a period of not  
8322 less than two years as determined by the division with the concurrence of the commission.

8323 (d) (i) Any of the following applicants shall comply with this Subsection (1)(d):

8324 (A) a new sales agent applicant; or

8325 (B) an out-of-state broker applicant.

8326 (ii) An applicant described in this Subsection (1)(d) shall:

8327 (A) submit fingerprint cards in a form acceptable to the division at the time the license  
8328 application is filed; and

8329 (B) consent to a criminal background check by the Utah Bureau of Criminal  
8330 Identification and the Federal Bureau of Investigation regarding the application.

8331 (iii) The division shall request the Department of Public Safety to complete a Federal  
8332 Bureau of Investigation criminal background check for each applicant described in this  
8333 Subsection (1)(d) through the national criminal history system or any successor system.

8334 (iv) The cost of the criminal background check and the fingerprinting shall be borne  
8335 by the applicant.

8336 (v) Funds paid to the division by an applicant for the cost of the criminal background  
8337 check shall be nonlapsing.

8338 (e) (i) Any license issued under Subsection (1)(d) shall be conditional, pending  
8339 completion of the criminal background check. If the criminal background check discloses the  
8340 applicant has failed to accurately disclose a criminal history, the license shall be immediately  
8341 and automatically revoked.

8342 (ii) Any person whose conditional license has been revoked under Subsection (1)(e)(i)  
8343 shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be  
8344 conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

8345 (iii) The division director shall designate one of the following to act as the presiding

8346 officer in a postrevocation hearing described in this Subsection (1)(e):

8347 (A) the division; or

8348 (B) the division with the concurrence of the commission.

8349 (iv) The decision on whether relief from the revocation of a license under this

8350 Subsection (1)(e) will be granted shall be made by the presiding officer.

8351 (v) Relief from a revocation under this Subsection (1)(e) may be granted only if:

8352 (A) the criminal history upon which the division based the revocation:

8353 (I) did not occur; or

8354 (II) is the criminal history of another person;

8355 (B) (I) the revocation is based on a failure to accurately disclose a criminal history;

8356 and

8357 (II) the applicant had a reasonable good faith belief at the time of application that there

8358 was no criminal history to be disclosed; or

8359 (C) the division failed to follow the prescribed procedure for the revocation.

8360 (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a

8361 post-revocation hearing, the person may not apply for a new license until at least 12 months

8362 after the day on which the license is revoked.

8363 (2) (a) (i) A license expires if it is not renewed on or before its expiration date.

8364 (ii) As a condition of renewal, each active licensee shall demonstrate competence:

8365 (A) by viewing an approved real estate education video program and completing a

8366 supplementary workbook; or

8367 (B) by completing 12 hours of professional education approved by the division and

8368 commission within each two-year renewal period.

8369 (iii) The division with the concurrence of the commission shall certify education

8370 which may include:

8371 (A) state conventions;

8372 (B) home study courses;

8373 (C) video courses; and

8374 (D) closed circuit television courses.

8375 (iv) The commission with concurrence of the division may exempt a licensee from the  
8376 education requirement of this Subsection (2)(a) for a period not to exceed four years:

8377 (A) upon a finding of reasonable cause, including military service; and

8378 (B) under conditions established by rule made in accordance with Title 63G, Chapter  
8379 3, Utah Administrative Rulemaking Act.

8380 (b) For a period of 30 days after the expiration date of a license, the license may be  
8381 reinstated upon:

8382 (i) payment of a renewal fee and a late fee determined by the commission with the  
8383 concurrence of the division under Section [~~63J-1-303~~] 63J-1-504; and

8384 (ii) providing proof acceptable to the division and the commission of the licensee  
8385 having completed the hours of education or demonstrated competence as required under  
8386 Subsection (2)(a).

8387 (c) After the 30-day period described in Subsection (2)(b), and until six months after  
8388 the expiration date, the license may be reinstated by:

8389 (i) paying a renewal fee and a late fee determined by the commission with the  
8390 concurrence of the division under Section [~~63J-1-303~~] 63J-1-504;

8391 (ii) providing to the division proof of satisfactory completion of 12 hours of  
8392 continuing education:

8393 (A) in addition to the requirements for a timely renewal; and

8394 (B) on a subject determined by the commission by rule made in accordance with Title  
8395 63G, Chapter 3, Utah Administrative Rulemaking Act; and

8396 (iii) providing proof acceptable to the division and the commission of the licensee  
8397 having:

8398 (A) completed the hours of education; or

8399 (B) demonstrated competence as required under Subsection (2)(a).

8400 (d) A person who does not renew that person's license within six months after the  
8401 expiration date shall be relicensed as prescribed for an original application.

8402 (3) (a) As a condition for the activation of an inactive license that was in an inactive  
8403 status at the time of the licensee's most recent renewal, the licensee shall supply the division  
8404 with proof of:

8405 (i) successful completion of the respective sales agent or broker licensing examination  
8406 within six months prior to applying to activate the license; or

8407 (ii) the successful completion of 12 hours of continuing education that the licensee  
8408 would have been required to complete under Subsection (2)(a) if the license had been on  
8409 active status at the time of the licensee's most recent renewal.

8410 (b) The commission may, in accordance with Title 63G, Chapter 3, Utah  
8411 Administrative Rulemaking Act, establish by rule:

8412 (i) the nature or type of continuing education required for reactivation of a license; and

8413 (ii) how long prior to reactivation the continuing education must have been completed.

8414 (4) (a) A principal broker license may be granted to a corporation, partnership, or  
8415 association if the corporation, partnership, or association has affiliated with it an individual  
8416 who:

8417 (i) has qualified as a principal broker under the terms of this chapter; and

8418 (ii) serves in the capacity of a principal broker.

8419 (b) Application for the license described in Subsection (4)(a) shall be made in  
8420 accordance with the rules adopted by the division with the concurrence of the commission.

8421 (5) The division may charge and collect reasonable fees determined by the  
8422 commission with the concurrence of the division under Section [~~63J-1-303~~] 63J-1-504 to  
8423 cover the costs for:

8424 (a) issuance of a new or duplicate license;

8425 (b) license histories or certifications;

8426 (c) certified copies of official documents, orders, and other papers and transcripts;

8427 (d) certifying real estate schools, courses, and instructors, the fees for which shall,  
8428 notwithstanding Section 13-1-2, be deposited in the Real Estate Education, Research, and  
8429 Recovery Fund; and

8430 (e) other duties required by this chapter.

8431 (6) If a licensee submits or causes to be submitted a check, draft, or other negotiable  
8432 instrument to the division for payment of fees, and the check, draft, or other negotiable  
8433 instrument is dishonored, the transaction for which the payment was submitted is void and  
8434 will be reversed by the division if payment of the applicable fee is not received in full.

8435 (7) (a) The fees under this chapter and the additional license fee for the Real Estate  
8436 Education, Research, and Recovery Fund under Section 61-2a-4 are in lieu of all other license  
8437 fees or assessments that might otherwise be imposed or charged by the state or any of its  
8438 political subdivisions, upon, or as a condition of, the privilege of conducting the business  
8439 regulated by this chapter, except that a political subdivision within the state may charge a  
8440 business license fee on a principal broker if the principal broker maintains a place of business  
8441 within the jurisdiction of the political subdivision.

8442 (b) Unless otherwise exempt, each licensee under this chapter is subject to all taxes  
8443 imposed under Title 59, Revenue and Taxation.

8444 Section 199. Section **61-2b-6** is amended to read:

8445 **61-2b-6. Duties and powers of division.**

8446 (1) The division has the powers and duties listed in this Subsection (1).

8447 (a) The division shall:

8448 (i) receive an application for licensing, certification, or registration;

8449 (ii) establish appropriate administrative procedures for the processing of an  
8450 application for licensure, certification, or registration;

8451 (iii) issue a license or certification to a qualified applicant pursuant to this chapter;

8452 and

8453 (iv) register an individual who applies for registration as a trainee under this chapter.

8454 (b) (i) The division shall require an individual to register as a trainee with the division  
8455 before the individual acts in the capacity of a trainee earning experience for licensure.

8456 (ii) The board shall adopt rules in accordance with Title 63G, Chapter 3, Utah  
8457 Administrative Rulemaking Act, for the trainee registration required by this Subsection (1)(b).

- 8458 (c) The division shall hold public hearings under the direction of the board.
- 8459 (d) The division may:
- 8460 (i) solicit bids and enter into contracts with one or more educational testing services or  
8461 organizations for the preparation of a bank of questions and answers approved by the board for  
8462 licensing and certification examinations; and
- 8463 (ii) administer or contract for the administration of licensing and certification  
8464 examinations as may be required to carry out the division's responsibilities under this chapter.
- 8465 (e) The division shall provide administrative assistance to the board by providing to  
8466 the board the facilities, equipment, supplies, and personnel that are required to enable the  
8467 board to carry out the board's responsibilities under this chapter.
- 8468 (f) The division shall assist the board in upgrading and improving the quality of the  
8469 education and examinations required under this chapter.
- 8470 (g) The division shall assist the board in improving the quality of the continuing  
8471 education available to a person licensed and certified under this chapter.
- 8472 (h) The division shall assist the board with respect to the proper interpretation or  
8473 explanation of the Uniform Standards of Professional Appraisal Practice as required by  
8474 Section 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement  
8475 of this chapter.
- 8476 (i) The division shall establish fees in accordance with Section [~~63J-1-303~~] 63J-1-504:
- 8477 (i) for processing:
- 8478 (A) a trainee registration;
- 8479 (B) an application for licensing and certification; and
- 8480 (C) approval of an expert witness; and
- 8481 (ii) for all other functions required or permitted by this chapter.
- 8482 (j) The division may:
- 8483 (i) investigate a complaint against:
- 8484 (A) a trainee;
- 8485 (B) a person licensed or certified under this chapter; or

- 8486 (C) a person required to be licensed, certified, or registered under this chapter;  
8487 (ii) subpoena a witness;  
8488 (iii) subpoena the production of a book, document, record, or other paper;  
8489 (iv) administer an oath; and  
8490 (v) take testimony and receive evidence concerning a matter within the division's  
8491 jurisdiction.
- 8492 (k) The division may:
- 8493 (i) promote research and conduct studies relating to the profession of real estate  
8494 appraising; and  
8495 (ii) sponsor real estate appraisal educational activities.
- 8496 (l) The division shall adopt, with the concurrence of the board, rules for the  
8497 administration of this chapter pursuant to Title 63G, Chapter 3, Utah Administrative  
8498 Rulemaking Act, that are not inconsistent with this chapter or the constitution and laws of this  
8499 state or of the United States.
- 8500 (m) The division shall employ an appropriate staff to investigate allegations that a  
8501 person required to be licensed, certified, or registered under this chapter fails to comply with  
8502 this chapter.
- 8503 (n) The division may employ other professional, clerical, and technical staff as may be  
8504 necessary to properly administer the work of the division under this chapter.
- 8505 (o) The division may make available, at a reasonable cost determined by the division,  
8506 a list of the names and addresses of all persons licensed or certified by the division under this  
8507 chapter to the extent the information is a public record under Title 63G, Chapter 2,  
8508 Government Records Access and Management Act.
- 8509 (2) (a) The division shall approve an expert witness who is not otherwise licensed or  
8510 certified under this chapter to appear in an administrative or judicial tax proceeding to provide  
8511 evidence related to the valuation of real property that is assessed by the tax commission,  
8512 provided that the:
- 8513 (i) approval is limited to a specific proceeding;

- 8514 (ii) approval is valid until the proceeding becomes final;
- 8515 (iii) applicant pays an approval fee to the division;
- 8516 (iv) applicant provides the applicant's name, address, occupation, and professional
- 8517 credentials; and
- 8518 (v) applicant provides a notarized statement that:
- 8519 (A) the applicant is competent to render an appraisal and to testify as an expert witness
- 8520 in the proceeding; and
- 8521 (B) the appraisal and testimony to be offered shall be in accordance with the Uniform
- 8522 Standards of Professional Appraisal Practice adopted by the board.
- 8523 (b) Subsection (2)(a) is effective for an administrative or judicial property tax
- 8524 proceeding related to the valuation of real property that is assessed by the tax commission,
- 8525 including those filed but which are not final as of May 3, 1994.
- 8526 (3) (a) If the conditions of Subsection (3)(b) are met, the division is immune from any
- 8527 civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act
- 8528 of, or participating in a disciplinary proceeding concerning:
- 8529 (i) a person required to be licensed, certified, or registered pursuant to this chapter; or
- 8530 (ii) a person approved as an expert witness pursuant to this chapter.
- 8531 (b) This Subsection (3) applies if the division takes the action:
- 8532 (i) without malicious intent; and
- 8533 (ii) in the reasonable belief that the action is taken pursuant to the powers and duties
- 8534 vested in the division under this chapter.
- 8535 Section 200. Section **61-2b-18** is amended to read:
- 8536 **61-2b-18. Application for licensure, certification, or registration -- Approval as**
- 8537 **an expert witness.**
- 8538 (1) An application for the following shall be sent to the division on a form approved
- 8539 by the division:
- 8540 (a) original certification, licensure, or registration;
- 8541 (b) approval as an expert witness; and

8542 (c) renewal of certification or licensure.

8543 (2) The payment of the appropriate fee, as fixed by the division with the concurrence  
8544 of the board in accordance with Section [~~63J-1-303~~] 63J-1-504, must accompany an  
8545 application for:

8546 (a) approval as an expert witness;

8547 (b) original certification, licensure, or registration; and

8548 (c) renewal of certification or licensure.

8549 (3) At the time of filing an application described in Subsection (1), an applicant shall:

8550 (a) sign a pledge to comply with the Uniform Standards of Professional Appraisal

8551 Practice and the ethical rules to be observed by an appraiser that are established under Section  
8552 61-2b-27 for:

8553 (i) a certified or licensed appraiser;

8554 (ii) a trainee; or

8555 (iii) an expert witness approved under this chapter; and

8556 (b) certify that the applicant understands the types of misconduct, as set forth in this  
8557 chapter, for which a disciplinary proceeding may be initiated against a person certified,  
8558 licensed, or registered under this chapter.

8559 Section 201. Section **61-2b-37** is amended to read:

8560 **61-2b-37. Division service fees -- Federal registry fees.**

8561 (1) The division, with the concurrence of the board, shall establish and collect fees in  
8562 accordance with Section [~~63J-1-303~~] 63J-1-504 for its services under this chapter.

8563 (2) The division shall collect the annual registry fee established by the Federal  
8564 Financial Institutions Examinations Council from those certificate holders who seek to  
8565 perform appraisals in federally related transactions. The division shall transmit the fees to the  
8566 federal Appraisal Subcommittee at least annually.

8567 Section 202. Section **61-2c-103** is amended to read:

8568 **61-2c-103. Powers and duties of the division.**

8569 (1) The division shall administer this chapter.

8570 (2) In addition to any power or duty expressly provided in this chapter, the division  
8571 may:

8572 (a) receive and act on a complaint including:

8573 (i) taking action designed to obtain voluntary compliance with this chapter; or

8574 (ii) commencing an administrative or judicial proceeding on the division's own  
8575 initiative;

8576 (b) establish one or more programs for the education of consumers with respect to  
8577 residential mortgage loans;

8578 (c) (i) make one or more studies appropriate to effectuate the purposes and policies of  
8579 this chapter; and

8580 (ii) make the results of the studies described in Subsection (2)(c)(i) available to the  
8581 public;

8582 (d) visit and investigate an entity licensed under this chapter, regardless of whether the  
8583 entity is located in Utah; and

8584 (e) employ one or more necessary hearing examiners, investigators, clerks, and other  
8585 employees and agents.

8586 (3) The division shall make rules for the administration of this chapter in accordance  
8587 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including:

8588 (a) licensure procedures for:

8589 (i) an individual or entity required by this chapter to obtain a license with the division;  
8590 and

8591 (ii) the establishment of a branch office by an entity;

8592 (b) proper handling of funds received by a licensee;

8593 (c) record-keeping requirements by a licensee; and

8594 (d) standards of conduct for a licensee.

8595 (4) The division may make available to the public a list of the names and mailing  
8596 addresses of all licensees:

8597 (a) either directly or through a third party; and

8598 (b) at a reasonable cost.

8599 (5) The division shall:

8600 (a) certify an education provider who offers:

8601 (i) prelicensing education to candidates for licensure under this chapter; or

8602 (ii) continuing education to individuals licensed under this chapter; and

8603 (b) make available to the public, licensees, and candidates for licensure a list of the  
8604 names and addresses of all education providers certified under this Subsection (5).

8605 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
8606 the division shall make rules establishing:

8607 (a) certification criteria and procedures for a provider of prelicensing education and  
8608 continuing education; and

8609 (b) standards of conduct for a certified education provider.

8610 (7) The division may charge a fee established in accordance with Section [~~63J-1-303~~]  
8611 63J-1-504 for processing a change that a licensee is required by Section 61-2c-205 to report to  
8612 the division.

8613 (8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
8614 and this Subsection (8), the division shall make rules establishing a licensure procedure for  
8615 obtaining both a principal lending manager license and an entity license at the same time that  
8616 applies if the principal lending manager is the only individual that transacts the business of  
8617 residential mortgage loans on behalf of the entity, including as an employee or agent of the  
8618 entity.

8619 (b) A rule made under this Subsection (8) shall require that to obtain or renew both a  
8620 principal lending manager license and an entity license, an individual described in Subsection  
8621 (8)(a) is required to only:

8622 (i) complete one licensing process for the term of a license; and

8623 (ii) pay one licensing fee for the term of a license.

8624 Section 203. Section **61-2c-201** is amended to read:

8625 **61-2c-201. Licensure required of individuals and entities engaged in the business**

8626 **of residential mortgage loans -- Mortgage officer -- Principal lending manager.**

8627 (1) Unless exempt from this chapter under Section 61-2c-105, an individual or entity  
8628 may not transact the business of residential mortgage loans, as defined in Section 61-2c-102,  
8629 without obtaining a license under this chapter.

8630 (2) For purposes of this chapter, an individual or entity transacts business in this state  
8631 if:

8632 (a) (i) the individual or entity engages in an act that constitutes the business of  
8633 residential mortgage loans; and

8634 (ii) (A) the act described in Subsection (2)(a)(i) is directed to or received in this state;  
8635 and

8636 (B) the real property that is the subject of the act described in Subsection (2)(a)(i) is  
8637 located in this state; or

8638 (b) a representation is made by the individual or entity that the individual or entity  
8639 transacts the business of residential mortgage loans in this state.

8640 (3) An individual who has an ownership interest in an entity required to be licensed  
8641 under this chapter is not required to obtain an individual license under this chapter unless the  
8642 individual transacts the business of residential mortgage loans.

8643 (4) Unless otherwise exempted under this chapter, licensure under this chapter is  
8644 required of both:

8645 (a) the individual who directly transacts the business of residential mortgage loans;  
8646 and

8647 (b) if the individual transacts business as an employee or agent of an entity or  
8648 individual, the entity or individual for whom the employee or agent transacts the business of  
8649 residential mortgage loans.

8650 (5) (a) An individual licensed under this chapter may not engage in the business of  
8651 residential mortgage loans on behalf of more than one entity at the same time.

8652 (b) This Subsection (5) does not restrict the number of:

8653 (i) different lenders an individual or entity may use as a funding source for residential

8654 mortgage loans; or

8655 (ii) entities in which an individual may have an ownership interest, regardless of

8656 whether the entities are:

8657 (A) licensed under this chapter; or

8658 (B) exempt under Section 61-2c-105.

8659 (6) An individual licensed under this chapter may not transact the business of

8660 residential mortgage loans for the following at the same time:

8661 (a) an entity licensed under this chapter; and

8662 (b) an entity that is exempt from licensure under Section 61-2c-105.

8663 (7) A mortgage officer may not receive consideration for transacting the business of

8664 residential mortgage loans from any person or entity except the principal lending manager with

8665 whom the mortgage officer is licensed.

8666 (8) A mortgage officer shall conduct all business of residential mortgage loans:

8667 (a) through the principal lending manager with which the individual is licensed; and

8668 (b) in the business name under which the principal lending manager is authorized by

8669 the division to do business.

8670 (9) (a) (i) This Subsection (9)(a) does not apply to an individual who transacts the

8671 business of residential mortgage loans as an employee or agent of another individual or entity.

8672 (ii) If an entity that is authorized by this chapter to transact the business of residential

8673 mortgage loans transacts the business of residential mortgage loans under an assumed business

8674 name, the entity shall:

8675 (A) register the assumed name with the division; and

8676 (B) furnish the division proof that the assumed business name has been filed with the

8677 Division of Corporations and Commercial Code pursuant to Title 42, Chapter 2, Conducting

8678 Business Under Assumed Name.

8679 (b) The division may charge a fee established in accordance with Section [~~63J-1-303~~]

8680 63J-1-504 for registering an assumed name pursuant to this Subsection (9).

8681 (10) A licensee whose license is in inactive status may not transact the business of

8682 residential mortgage loans.

8683 Section 204. Section **61-2c-202** is amended to read:

8684 **61-2c-202. Licensure procedures.**

8685 (1) To apply for licensure under this chapter an applicant shall:

8686 (a) submit to the division a licensure statement that:

8687 (i) lists any name under which the individual or entity will transact business in this  
8688 state;

8689 (ii) lists the address of the principal business location of the applicant;

8690 (iii) if the applicant is an entity:

8691 (A) lists the principal lending manager of the entity; and

8692 (B) contains the signature of the principal lending manager;

8693 (iv) demonstrates that the applicant meets the qualifications listed in Section  
8694 61-2c-203;

8695 (v) if the applicant is an entity, lists:

8696 (A) all jurisdictions in which the entity is registered, licensed, or otherwise regulated  
8697 in the business of residential mortgage loans; and

8698 (B) the history of any disciplinary action or adverse administrative action taken  
8699 against the entity by any regulatory agency within the ten years preceding the application; and

8700 (vi) includes any information required by the division by rule;

8701 (b) pay to the division:

8702 (i) an application fee established by the division in accordance with Section

8703 [~~63J-1-303~~] 63J-1-504; and

8704 (ii) the reasonable expenses incurred in processing the application for licensure,  
8705 including the costs incurred by the division under Subsection (4); and

8706 (c) comply with Subsection (4).

8707 (2) (a) The division shall issue a license to an applicant if the division, with the  
8708 concurrence of the commission, finds that the applicant:

8709 (i) meets the qualifications of Section 61-2c-203; and

- 8710 (ii) complies with this section.
- 8711 (b) The commission may delegate to the division the authority to:
- 8712 (i) review a class or category of application for an initial or renewed license;
- 8713 (ii) determine whether an applicant meets the licensing criteria in Section 61-2c-203;
- 8714 (iii) conduct a necessary hearing on an application; and
- 8715 (iv) approve or deny a license application without concurrence by the commission.
- 8716 (c) If the commission delegates to the division the authority to approve or deny an
- 8717 application without concurrence by the commission and the division denies an application for
- 8718 licensure, the applicant who is denied licensure may petition the commission for review of the
- 8719 denial.
- 8720 (d) An applicant who is denied licensure under Subsection (2)(b) may seek agency
- 8721 review by the executive director only after the commission reviews the division's denial of the
- 8722 applicant's application.
- 8723 (3) Subject to Subsection (2)(d) and in accordance with Title 63G, Chapter 4,
- 8724 Administrative Procedures Act, an applicant who is denied licensure under this chapter may
- 8725 submit a request for agency review to the executive director within 30 days following the day
- 8726 on which the commission order denying the licensure is issued.
- 8727 (4) (a) An individual applying for a license under this chapter shall:
- 8728 (i) submit a fingerprint card in a form acceptable to the division at the time the
- 8729 licensure statement is filed;
- 8730 (ii) consent to a criminal background check by:
- 8731 (A) the Utah Bureau of Criminal Identification; and
- 8732 (B) the Federal Bureau of Investigation;
- 8733 (iii) provide proof using a method approved by the division of having successfully
- 8734 completed approved prelicensing education required by the commission under Section
- 8735 61-2c-104:
- 8736 (A) before taking the examination required by Subsection (4)(a)(iv); and
- 8737 (B) in the number of hours, not to exceed 90 hours, required by rule made by the

8738 division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and  
8739 (iv) provide proof using a method approved by the division of having successfully  
8740 passed an examination approved by the commission under Section 61-2c-104.

8741 (b) The division shall request the Department of Public Safety to complete a Federal  
8742 Bureau of Investigation criminal background check for an applicant through a national  
8743 criminal history system.

8744 (c) The applicant shall pay the cost of:

8745 (i) the fingerprinting required by this section; and

8746 (ii) the criminal background check required by this section.

8747 (d) (i) A license under this chapter is conditional pending completion of the criminal  
8748 background check required by this Subsection (4).

8749 (ii) If a criminal background check discloses that an applicant fails to accurately  
8750 disclose a criminal history, the license shall be immediately and automatically revoked.

8751 (iii) An individual or entity whose conditional license is revoked under Subsection  
8752 (4)(d)(ii) may appeal the revocation in a hearing conducted by the commission:

8753 (A) after the revocation; and

8754 (B) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

8755 (iv) The commission may delegate to the division or an administrative law judge the  
8756 authority to conduct a hearing described in Subsection (4)(d)(iii).

8757 (v) Relief from a revocation may be granted only if:

8758 (A) the criminal history upon which the division based the revocation:

8759 (I) did not occur; or

8760 (II) is the criminal history of another person;

8761 (B) (I) the revocation is based on a failure to accurately disclose a criminal history;

8762 and

8763 (II) the applicant had a reasonable good faith belief at the time of application that there  
8764 was no criminal history to be disclosed; or

8765 (C) the division fails to follow the prescribed procedure for the revocation.

8766 (e) If a license is revoked or a revocation is upheld after a hearing described in  
8767 Subsection (4)(d)(iii), the person may not apply for a new license for a period of 12 months  
8768 after the day on which the license is revoked.

8769 (f) The funds paid by an applicant for the cost of the criminal background check shall  
8770 be nonlapsing.

8771 (g) The commission may delegate to the division the authority to make a decision on  
8772 whether relief from a revocation should be granted.

8773 Section 205. Section **61-2c-205** is amended to read:

8774 **61-2c-205. Term of licensure -- Renewal -- Reporting of changes.**

8775 (1) (a) A license under this chapter is valid for a two-year period.

8776 (b) Notwithstanding Subsection (1)(a), the time period of a license may be extended or  
8777 shortened by as much as one year to maintain or change a renewal cycle established by rule by  
8778 the division.

8779 (2) To renew a license, no later than the date the license expires, a licensee shall:

8780 (a) (i) file the renewal form required by the division; and

8781 (ii) furnish the information required by Subsection 61-2c-202(1);

8782 (b) pay a fee to the division established by the division in accordance with Section  
8783 [~~63J-1-303~~] 63J-1-504; and

8784 (c) if the licensee is an individual and the individual's license is in active status at the  
8785 time of application for renewal, submit proof using forms approved by the division of having  
8786 completed during the two years prior to application the continuing education required by the  
8787 commission under Section 61-2c-104.

8788 (3) (a) A licensee under this chapter shall notify the division using the form required  
8789 by the division within ten days of the date on which there is a change in:

8790 (i) a name under which the licensee transacts the business of residential mortgage  
8791 loans in this state;

8792 (ii) (A) if the licensee is an entity, the business location of the licensee; or

8793 (B) if the licensee is an individual, the home and business addresses of the individual;

- 8794 (iii) the principal lending manager of the entity;
- 8795 (iv) the entity with which an individual licensee is licensed to conduct the business of  
8796 residential mortgage loans; or
- 8797 (v) any other information that is defined as material by rule made by the division.
- 8798 (b) Failure to notify the division of a change described in Subsection (3)(a) is separate  
8799 grounds for disciplinary action against a licensee.
- 8800 (4) A licensee shall notify the division by sending the division a signed statement  
8801 within ten business days of:
- 8802 (a) (i) a conviction of any criminal offense;
- 8803 (ii) the entry of a plea in abeyance to any criminal offense; or
- 8804 (iii) the potential resolution of any criminal case by:
- 8805 (A) a diversion agreement; or
- 8806 (B) any other agreement under which criminal charges are held in suspense for a  
8807 period of time;
- 8808 (b) filing a personal bankruptcy or bankruptcy of a business that transacts the business  
8809 of residential mortgage loans;
- 8810 (c) the suspension, revocation, surrender, cancellation, or denial of a professional  
8811 license or professional registration of the licensee, whether the license or registration is issued  
8812 by this state or another jurisdiction; or
- 8813 (d) the entry of a cease and desist order or a temporary or permanent injunction:
- 8814 (i) against the licensee by a court or licensing agency; and
- 8815 (ii) based on:
- 8816 (A) conduct or a practice involving the business of residential mortgage loans; or
- 8817 (B) conduct involving fraud, misrepresentation, or deceit.
- 8818 (5) (a) A license under this chapter expires if the licensee does not apply to renew the  
8819 license on or before the expiration date of the license.
- 8820 (b) Within 30 calendar days after the expiration date, a licensee whose license has  
8821 expired may apply to reinstate the expired license upon:

8822 (i) payment of a renewal fee and a late fee determined by the division under Section  
8823 [~~63J-1-303~~] 63J-1-504; and

8824 (ii) if the licensee is an individual and is applying to reinstate a license to active status,  
8825 providing proof using forms approved by the division of having completed, during the two  
8826 years prior to application, the continuing education required by the commission under Section  
8827 61-2c-104.

8828 (c) After the 30 calendar days described in Subsection (5)(b) and within six months  
8829 after the expiration date, a licensee whose license has expired may apply to reinstate an  
8830 expired license upon:

8831 (i) payment of a renewal fee and a late fee determined by the division under Section  
8832 [~~63J-1-303~~] 63J-1-504;

8833 (ii) if the licensee is an individual and is applying to reinstate a license to active status,  
8834 providing proof using forms approved by the division of having completed, during the two  
8835 years prior to application, the continuing education required by the commission under Section  
8836 61-2c-104; and

8837 (iii) in addition to the continuing education required for a timely renewal, completing  
8838 an additional 12 hours of continuing education approved by the commission under Section  
8839 61-2c-104.

8840 (d) A licensee whose license has been expired for more than six months shall be  
8841 relicensed as prescribed for an original application under Section 61-2c-202.

8842 Section 206. Section **61-2c-206** is amended to read:

8843 **61-2c-206. Principal lending manager licenses.**

8844 (1) To qualify as a principal lending manager under this chapter, an individual shall, in  
8845 addition to meeting the standards in Section 61-2c-203:

8846 (a) submit an application on a form approved by the division;

8847 (b) pay a fee determined by the division under Section [~~63J-1-303~~] 63J-1-504;

8848 (c) submit proof of having successfully completed 40 hours of prelicensing education  
8849 approved by the commission under Section 61-2c-104;

8850 (d) submit proof of having successfully completed the principal lending manager  
8851 examination approved by the commission under Section 61-2c-104;

8852 (e) submit proof on a form approved by the division of three years of full-time active  
8853 experience as a mortgage officer in the five years preceding the day on which the application  
8854 is submitted, or its equivalent as approved by the commission; and

8855 (f) if the individual is not licensed under this chapter at the time of application, submit  
8856 to the criminal background check required by Subsection 61-2c-202(4).

8857 (2) A principal lending manager may not engage in the business of residential  
8858 mortgage loans on behalf of more than one entity at the same time.

8859 Section 207. Section **61-2c-208** is amended to read:

8860 **61-2c-208. Activation and inactivation of license.**

8861 (1) (a) A licensee may request that the division place the license on inactive status by  
8862 submitting an inactivation form approved by the division.

8863 (b) The license of a mortgage officer or mortgage entity not affiliated with an active  
8864 license of a principal lending manager automatically converts to inactive status on the day on  
8865 which the mortgage officer or mortgage entity is not affiliated with the active license of the  
8866 principal lending manager.

8867 (c) A licensee whose license is in inactive status may not transact the business of  
8868 residential mortgage loans.

8869 (2) To activate a license that has been placed on inactive status, a licensee shall:

8870 (a) submit an activation form:

8871 (i) approved by the division; and

8872 (ii) signed by the principal lending manager with whom the licensee is affiliating;

8873 (b) pay an activation fee established by the division under Section [~~63J-1-303~~]

8874 63J-1-504; and

8875 (c) if the licensee is an individual whose license was in inactive status at the time of  
8876 the previous renewal, the licensee shall supply the division with proof of the successful  
8877 completion of the number of hours of continuing education that the licensee would have been

8878 required to complete under Subsection 61-2c-205(2)(c) if the licensee's license had been on  
8879 active status, up to a maximum of the number of hours required for two licensing periods.

8880 Section 208. Section **62A-2-105** is amended to read:

8881 **62A-2-105. Licensing board responsibilities.**

8882 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
8883 the licensing board shall review and approve rules regarding:

8884 (a) approving, denying, suspending, and revoking licenses;

8885 (b) conditional licenses, variances from department rule, and exclusions;

8886 (c) the protection of the basic health and safety of clients;

8887 (d) licensing of all persons and human services programs that are required to be  
8888 licensed under this chapter; and

8889 (e) notification to providers and subproviders of rights and responsibilities including  
8890 who to contact within the department when filing a complaint against a licensee or human  
8891 services program, and the responsibility of the department to follow up once contacted.

8892 (2) The licensing board shall:

8893 (a) define information that shall be submitted to the department with an application  
8894 for a license;

8895 (b) review and approve fees, in accordance with Section [~~63J-1-303~~] 63J-1-504, for  
8896 licenses issued under this chapter;

8897 (c) represent the community and licensees; and

8898 (d) advise the department as requested, concerning enforcement of rules established  
8899 under this chapter.

8900 Section 209. Section **62A-14-106** is amended to read:

8901 **62A-14-106. Board of Public Guardian Services.**

8902 (1) The Board of Public Guardian Services, created in accordance with this section  
8903 and Section 62A-1-105, is responsible for establishing the policy of the office in accordance  
8904 with this chapter and seeing that the legislative purposes for the office are carried out.

8905 (2) The executive director shall appoint nine members to the Board of Public Guardian

8906 Services, as follows:

- 8907 (a) a member of the Board of Aging and Adult Services or designee;
- 8908 (b) a member of the Board of Services for Persons with Disabilities or designee;
- 8909 (c) a member of the Board of Substance Abuse and Mental Health or designee;
- 8910 (d) a representative of the long-term care industry;
- 8911 (e) a representative of the hospital industry;
- 8912 (f) a representative of persons with disabilities;
- 8913 (g) a representative of senior citizens;
- 8914 (h) a physician; and
- 8915 (i) an attorney with experience in guardianship and conservatorship law.

8916 (3) (a) Except as provided in Subsection (3)(b), each member shall be appointed for a  
8917 four-year term and eligible for one reappointment.

8918 (b) Notwithstanding Subsection (3)(a), the executive director shall, at the time of  
8919 appointment or reappointment, adjust the length of terms to ensure that the terms of board  
8920 members are staggered so that approximately half of the board is appointed every two years,  
8921 taking into account the remaining term of board members who serve on other department  
8922 boards.

8923 (c) A board member shall continue in office until the expiration of the member's term  
8924 and until a successor is appointed, which may not exceed 90 days after the formal expiration  
8925 of the term.

8926 (d) When a vacancy occurs in membership for any reason, the replacement shall be  
8927 appointed for the unexpired term.

8928 (e) The make up of the board should reflect political and geographic diversity.

8929 (4) The board shall annually elect a chairperson from its membership. The board shall  
8930 hold meetings at least once every three months. Meetings shall be held from time to time on  
8931 the call of the chairperson or a majority of the board members. Five board members are  
8932 necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a  
8933 majority of members present shall be the action of the board.

8934 (5) (a) Board members who are not government employees may not receive  
8935 compensation or benefits for their services, but may receive per diem and expenses incurred in  
8936 the performance of their official duties at rates established by the Division of Finance under  
8937 Sections 63A-3-106 and 63A-3-107.

8938 (b) Members of the board may decline to receive per diem expenses for their services.

8939 (6) The board shall:

8940 (a) establish program policy for the office;

8941 (b) establish a mechanism for systematic and regular review of existing policy and for  
8942 consideration of policy changes; and

8943 (c) set fees for the office, excluding [~~attorneys~~] attorney fees, in accordance with  
8944 Section [~~63J-1-303~~] 63J-1-504.

8945 Section 210. Section **63A-1-114** is amended to read:

8946 **63A-1-114. Rate Committee -- Membership -- Duties.**

8947 (1) (a) There is created a Rate Committee which shall consist of:

8948 (i) the director of the Governor's Office of Planning and Budget, or a designee;

8949 (ii) the executive directors of three state agencies that use services and pay rates to one  
8950 of the department internal service funds, or their designee, appointed by the governor for a  
8951 two-year term;

8952 (iii) the executive director of the Department of Administrative Services, or a  
8953 designee;

8954 (iv) the director of the Division of Finance, or a designee; and

8955 (v) the chief information officer.

8956 (b) (i) The committee shall elect a chair from its members.

8957 (ii) Members of the committee who are state government employees and who do not  
8958 receive salary, per diem, or expenses from their agency for their service on the committee shall  
8959 receive no compensation, benefits, per diem, or expenses for the members' service on the  
8960 committee.

8961 (c) The Department of Administrative Services shall provide staff services to the

8962 committee.

8963 (2) (a) The internal service funds managed by the following divisions shall submit to  
8964 the committee a proposed rate and fee schedule for services rendered by the divisions to an  
8965 executive branch entity or an entity that subscribes to services rendered by the division, the:

8966 (i) Division of Facilities Construction and Management;

8967 (ii) Division of Fleet Operations;

8968 (iii) Division of Purchasing and General Services; and

8969 (iv) Division of Risk Management.

8970 (b) The committee shall:

8971 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public  
8972 Meetings Act;

8973 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease  
8974 the rate and fee;

8975 (iii) recommend a proposed rate and fee schedule for each internal service fund to:

8976 (A) the Governor's Office of Planning and Budget; and

8977 (B) the legislative appropriations subcommittees that, in accordance with Section  
8978 [~~63J-1-306~~] 63J-1-410, approve the internal service fund agency's rates, fees, and budget; and

8979 (iv) review and approve, increase or decrease an interim rate, fee, or amount when an  
8980 internal service fund agency begins a new service or introduces a new product between annual  
8981 general sessions of the Legislature.

8982 (c) The committee may, in accordance with Subsection [~~63J-1-306~~] 63J-1-410(4),  
8983 decrease a rate, fee, or amount that has been approved by the Legislature.

8984 Section 211. Section **63A-2-103** is amended to read:

8985 **63A-2-103. General services provided -- Subscription by state departments, state**  
8986 **agencies, and certain local governmental entities -- Fee schedule.**

8987 (1) (a) The director of the Division of Purchasing and General Services shall operate,  
8988 manage, and maintain:

8989 (i) a central mailing service; and

8990 (ii) an electronic central store system for procuring goods and services.

8991 (b) The director may establish microfilming, duplicating, printing, addressograph, and  
8992 other central services.

8993 (2) (a) Each state department and agency shall subscribe to all of the services  
8994 described in Subsection (1), unless the director delegates the director's authority to a  
8995 department or agency under Section 63A-2-104.

8996 (b) An institution of higher education, school district, or political subdivision of the  
8997 state may subscribe to one or more of the services described in Subsection (1).

8998 (3) The director shall:

8999 (a) prescribe a schedule of fees to be charged for all services provided by the division  
9000 to any department or agency after the director:

9001 (i) submits the proposed rate, fees, or other amounts for services provided by the  
9002 division's internal service fund to the Rate Committee established in Section 63A-1-114; and

9003 (ii) obtains the approval of the Legislature, as required by Sections [~~63J-1-303~~]  
9004 63J-1-410 and [~~63J-1-306~~] 63J-1-504;

9005 (b) when practicable, ensure that the fees are approximately equal to the cost of  
9006 providing the services; and

9007 (c) conduct a market analysis by July 1, 2005, and periodically thereafter of fees,  
9008 which analysis shall include comparison of the division's rates with the fees of other public or  
9009 private sector providers where comparable services and rates are reasonably available.

9010 Section 212. Section **63A-4-102** is amended to read:

9011 **63A-4-102. Risk manager -- Powers.**

9012 (1) The risk manager may:

9013 (a) enter into contracts;

9014 (b) purchase insurance;

9015 (c) adjust, settle, and pay claims;

9016 (d) pay expenses and costs;

9017 (e) study the risks of all state agencies and properties;

- 9018 (f) issue certificates of coverage to state agencies for any risks covered by Risk  
9019 Management Fund;
- 9020 (g) make recommendations about risk management and risk reduction strategies to  
9021 state agencies;
- 9022 (h) in consultation with the attorney general, prescribe insurance and liability  
9023 provisions to be included in all state contracts;
- 9024 (i) review agency building construction, major remodeling plans, agency program  
9025 plans, and make recommendations to the agency about needed changes to address risk  
9026 considerations;
- 9027 (j) attend agency planning and management meetings when necessary;
- 9028 (k) review any proposed legislation and communicate with legislators and legislative  
9029 committees about the liability or risk management issues connected with any legislation; and
- 9030 (l) solicit any needed information about agency plans, agency programs, or agency  
9031 risks necessary to perform the risk manager's responsibilities under this part.
- 9032 (2) (a) The risk manager may expend monies from the Risk Management Fund to  
9033 procure and provide coverage to all state agencies and their indemnified employees, except  
9034 those agencies or employees specifically exempted by statute.
- 9035 (b) The risk manager shall apportion the costs of that coverage according to the  
9036 requirements of this part.
- 9037 (3) Before charging a rate, fee, or other amount to an executive branch agency, or to a  
9038 subscriber of services other than an executive branch agency, the director shall:
- 9039 (a) submit the proposed rates, fees, or other amount and cost analysis to the Rate  
9040 Committee established in Section 63A-1-114; and
- 9041 (b) obtain the approval of the Legislature as required by Section [~~63J-1-306~~  
9042 63J-1-410].
- 9043 (4) The director shall conduct a market analysis by July 1, 2005, and periodically  
9044 thereafter, of proposed rates and fees, which analysis shall include a comparison of the  
9045 division's rates and fees with the fees of other public or private sector providers where

9046 comparable services and rates are reasonably available.

9047 Section 213. Section **63A-5-104** is amended to read:

9048 **63A-5-104. Capital development and capital improvement process -- Approval**  
9049 **requirements -- Limitations on new projects -- Emergencies.**

9050 (1) As used in this section:

9051 (a) "Capital developments" means a:

9052 (i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

9053 (ii) new facility with a construction cost of \$500,000 or more; or

9054 (iii) purchase of real property where an appropriation is requested to fund the  
9055 purchase.

9056 (b) "Capital improvements" means a:

9057 (i) remodeling, alteration, replacement, or repair project with a total cost of less than  
9058 \$2,500,000;

9059 (ii) site and utility improvement with a total cost of less than \$2,500,000; or

9060 (iii) new facility with a total construction cost of less than \$500,000.

9061 (c) (i) "New facility" means the construction of a new building on state property  
9062 regardless of funding source.

9063 (ii) "New facility" includes:

9064 (A) an addition to an existing building; and

9065 (B) the enclosure of space that was not previously fully enclosed.

9066 (iii) "New facility" does not mean:

9067 (A) the replacement of state-owned space that is demolished or that is otherwise  
9068 removed from state use, if the total construction cost of the replacement space is less than  
9069 \$2,500,000; or

9070 (B) the construction of facilities that do not fully enclose a space.

9071 (d) "Replacement cost of existing state facilities" means the replacement cost, as  
9072 determined by the Division of Risk Management, of state facilities, excluding auxiliary  
9073 facilities as defined by the State Building Board.

- 9074 (e) "State funds" means public monies appropriated by the Legislature.
- 9075 (2) The State Building Board, on behalf of all state agencies, commissions,  
9076 departments, and institutions shall submit its capital development recommendations and  
9077 priorities to the Legislature for approval and prioritization.
- 9078 (3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development  
9079 project may not be constructed on state property without legislative approval.
- 9080 (b) Legislative approval is not required for a capital development project if the State  
9081 Building Board determines that:
- 9082 (i) the requesting higher education institution has provided adequate assurance that:  
9083 (A) state funds will not be used for the design or construction of the facility; and  
9084 (B) the higher education institution has a plan for funding in place that will not require  
9085 increased state funding to cover the cost of operations and maintenance to, or state funding  
9086 for, immediate or future capital improvements to the resulting facility; and
- 9087 (ii) the use of the state property is:  
9088 (A) appropriate and consistent with the master plan for the property; and  
9089 (B) will not create an adverse impact on the state.
- 9090 (c) (i) The Division of Facilities Construction and Management shall maintain a  
9091 record of facilities constructed under the exemption provided in Subsection (3)(b).
- 9092 (ii) For facilities constructed under the exemption provided in Subsection (3)(b), a  
9093 higher education institution may not request:
- 9094 (A) increased state funds for operations and maintenance; or  
9095 (B) state capital improvement funding.
- 9096 (d) Legislative approval is not required for:  
9097 (i) the renovation, remodeling, or retrofitting of an existing facility with nonstate  
9098 funds;  
9099 (ii) a facility to be built with nonstate funds and owned by nonstate entities within  
9100 research park areas at the University of Utah and Utah State University;  
9101 (iii) a facility to be built at This is the Place State Park by This is the Place Foundation

9102 with funds of the foundation, including grant monies from the state, or with donated services  
9103 or materials;

9104 (iv) a capital project that:

9105 (A) is funded by:

9106 (I) the Uintah Basin Revitalization Fund; or

9107 (II) the Navajo Revitalization Fund; and

9108 (B) does not provide a new facility for a state agency or higher education institution;

9109 or

9110 (v) a capital project on school and institutional trust lands that is funded by the School  
9111 and Institutional Trust Lands Administration from the Land Grant Management Fund and that  
9112 does not fund construction of a new facility for a state agency or higher education institution.

9113 (e) (i) Legislative approval is not required for capital development projects to be built  
9114 for the Department of Transportation as a result of an exchange of real property under Section  
9115 72-5-111.

9116 (ii) When the Department of Transportation approves those exchanges, it shall notify  
9117 the president of the Senate, the speaker of the House, and the cochairs of the Capital Facilities  
9118 and Administrative Services Subcommittee of the Legislature's Joint Appropriation Committee  
9119 about any new facilities to be built under this exemption.

9120 (4) (a) (i) The State Building Board, on behalf of all state agencies, commissions,  
9121 departments, and institutions shall by January 15 of each year, submit a list of anticipated  
9122 capital improvement requirements to the Legislature for review and approval.

9123 (ii) The list shall identify:

9124 (A) a single project that costs more than \$1,000,000;

9125 (B) multiple projects within a single building or facility that collectively cost more  
9126 than \$1,000,000;

9127 (C) a single project that will be constructed over multiple years with a yearly cost of  
9128 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

9129 (D) multiple projects within a single building or facility with a yearly cost of

9130 \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

9131 (E) a single project previously reported to the Legislature as a capital improvement  
9132 project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost  
9133 more than \$1,000,000; and

9134 (F) multiple projects within a single building or facility previously reported to the  
9135 Legislature as a capital improvement project under \$1,000,000 that, because of an increase in  
9136 costs or scope of work, will now cost more than \$1,000,000.

9137 (b) Unless otherwise directed by the Legislature, the State Building Board shall  
9138 prioritize capital improvements from the list submitted to the Legislature up to the level of  
9139 appropriation made by the Legislature.

9140 (c) In prioritizing capital improvements, the State Building Board shall consider the  
9141 results of facility evaluations completed by an architect/engineer as stipulated by the building  
9142 board's facilities maintenance standards.

9143 (d) The State Building Board may require an entity that benefits from a capital  
9144 improvement project to repay the capital improvement funds from savings that result from the  
9145 project.

9146 (e) The State Building Board may provide capital improvement funding to a single  
9147 project, or to multiple projects within a single building or facility, even if the total cost of the  
9148 project or multiple projects is \$2,500,000 or more, if:

9149 (i) the capital improvement project or multiple projects require more than one year to  
9150 complete; and

9151 (ii) the Legislature has affirmatively authorized the capital improvement project or  
9152 multiple projects to be funded in phases.

9153 (5) The Legislature may authorize:

9154 (a) the total square feet to be occupied by each state agency; and

9155 (b) the total square feet and total cost of lease space for each agency.

9156 (6) (a) Except as provided in Subsection (6)(b), the Legislature may not fund the  
9157 design or construction of any new capital development projects, except to complete the

9158 funding of projects for which partial funding has been previously provided, until the  
9159 Legislature has appropriated 1.1% of the replacement cost of existing state facilities to capital  
9160 improvements.

9161 (b) (i) As used in this Subsection (6)(b):

9162 (A) "Education Fund budget deficit" is as defined in [~~Subsection 63J-1-202(1)(a)~~]  
9163 Section 63J-1-312; and

9164 (B) "General Fund budget deficit" is as defined in [~~Subsection 63J-1-202(1)(c)~~]  
9165 Section 63J-1-312.

9166 (ii) If the Legislature determines that an Education Fund budget deficit or a General  
9167 Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount  
9168 appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

9169 (7) (a) If, after approval of capital development and capital improvement priorities by  
9170 the Legislature under this section, emergencies arise that create unforeseen critical capital  
9171 improvement projects, the State Building Board may, notwithstanding the requirements of  
9172 Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to  
9173 address those projects.

9174 (b) The State Building Board shall report any changes it makes in capital improvement  
9175 allocations approved by the Legislature to:

9176 (i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

9177 (ii) the Legislature at its next annual general session.

9178 (8) (a) The State Building Board may adopt a rule allocating to institutions and  
9179 agencies their proportionate share of capital improvement funding.

9180 (b) The State Building Board shall ensure that the rule:

9181 (i) reserves funds for the Division of Facilities Construction and Management for  
9182 emergency projects; and

9183 (ii) allows the delegation of projects to some institutions and agencies with the  
9184 requirement that a report of expenditures will be filed annually with the Division of Facilities  
9185 Construction and Management and appropriate governing bodies.

9186 (9) It is the intent of the Legislature that in funding capital improvement requirements  
9187 under this section the General Fund be considered as a funding source for at least half of those  
9188 costs.

9189 Section 214. Section **63A-5-204** is amended to read:

9190 **63A-5-204. Specific powers and duties of director.**

9191 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the  
9192 same meaning as provided in Section 63C-9-102.

9193 (2) (a) The director shall:

9194 (i) recommend rules to the executive director for the use and management of facilities  
9195 and grounds owned or occupied by the state for the use of its departments and agencies;

9196 (ii) supervise and control the allocation of space, in accordance with legislative  
9197 directive through annual appropriations acts or other specific legislation, to the various  
9198 departments, commissions, institutions, and agencies in all buildings or space owned, leased,  
9199 or rented by or to the state, except capitol hill facilities and capitol hill grounds and except as  
9200 otherwise provided by law;

9201 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,  
9202 Division of Facilities Construction and Management Leasing;

9203 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature  
9204 through the appropriations act or other specific legislation, and hold title to, in the name of the  
9205 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its  
9206 agencies;

9207 (v) adopt and use a common seal, of a form and design determined by the director, and  
9208 of which courts shall take judicial notice;

9209 (vi) file a description and impression of the seal with the Division of Archives;

9210 (vii) collect and maintain all deeds, abstracts of title, and all other documents  
9211 evidencing title to or interest in property belonging to the state or any of its departments,  
9212 except institutions of higher education and the School and Institutional Trust Lands  
9213 Administration;

9214 (viii) report all properties acquired by the state, except those acquired by institutions  
9215 of higher education, to the director of the Division of Finance for inclusion in the state's  
9216 financial records;

9217 (ix) before charging a rate, fee, or other amount for services provided by the division's  
9218 internal service fund to an executive branch agency, or to a subscriber of services other than  
9219 an executive branch agency:

9220 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee  
9221 established in Section 63A-1-114; and

9222 (B) obtain the approval of the Legislature as required by Section [~~63J-1-306~~]  
9223 63J-1-410;

9224 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed  
9225 rates and fees, which analysis shall include a comparison of the division's rates and fees with  
9226 the fees of other public or private sector providers where comparable services and rates are  
9227 reasonably available;

9228 (xi) implement the State Building Energy Efficiency Program under Section  
9229 63A-5-701; and

9230 (xii) take all other action necessary for carrying out the purposes of this chapter.

9231 (b) Legislative approval is not required for acquisitions by the division that cost less  
9232 than \$250,000.

9233 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
9234 maintenance, and facilities inspection programs and activities for any department,  
9235 commission, institution, or agency, except:

9236 (i) the State Capitol Preservation Board; and

9237 (ii) state institutions of higher education.

9238 (b) The director may choose to delegate responsibility for these functions only when  
9239 the director determines that:

9240 (i) the department or agency has requested the responsibility;

9241 (ii) the department or agency has the necessary resources and skills to comply with

- 9242 facility maintenance standards approved by the State Building Board; and
- 9243 (iii) the delegation would result in net cost savings to the state as a whole.
- 9244 (c) The State Capitol Preservation Board and state institutions of higher education are
- 9245 exempt from Division of Facilities Construction and Management oversight.
- 9246 (d) Each state institution of higher education shall comply with the facility
- 9247 maintenance standards approved by the State Building Board.
- 9248 (e) Except for the State Capitol Preservation Board, agencies and institutions that are
- 9249 exempt from division oversight shall annually report their compliance with the facility
- 9250 maintenance standards to the division in the format required by the division.
- 9251 (f) The division shall:
- 9252 (i) prescribe a standard format for reporting compliance with the facility maintenance
- 9253 standards;
- 9254 (ii) report agency and institution compliance or noncompliance with the standards to
- 9255 the Legislature; and
- 9256 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are
- 9257 complying with the standards.
- 9258 (4) (a) In making any allocations of space under Subsection (2), the director shall:
- 9259 (i) conduct studies to determine the actual needs of each department, commission,
- 9260 institution, or agency; and
- 9261 (ii) comply with the restrictions contained in this Subsection (4).
- 9262 (b) The supervision and control of the legislative area is reserved to the Legislature.
- 9263 (c) The supervision and control of the judicial area is reserved to the judiciary for trial
- 9264 courts only.
- 9265 (d) The director may not supervise or control the allocation of space for entities in the
- 9266 public and higher education systems.
- 9267 (e) The supervision and control of capitol hill facilities and capitol hill grounds is
- 9268 reserved to the State Capitol Preservation Board.
- 9269 (5) The director may:

9270 (a) hire or otherwise procure assistance and services, professional, skilled, or  
9271 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds  
9272 provided for that purpose either through annual operating budget appropriations or from  
9273 nonlapsing project funds;

9274 (b) sue and be sued in the name of the division; and

9275 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the  
9276 Legislature, whatever real or personal property that is necessary for the discharge of the  
9277 director's duties.

9278 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may  
9279 hold title to any real property, buildings, fixtures, and appurtenances held by them for  
9280 purposes other than administration that are under their control and management:

9281 (a) the Office of Trust Administrator;

9282 (b) the Department of Transportation;

9283 (c) the Division of Forestry, Fire and State Lands;

9284 (d) the Department of Natural Resources;

9285 (e) the Utah National Guard;

9286 (f) any area vocational center or other institution administered by the State Board of  
9287 Education;

9288 (g) any institution of higher education; and

9289 (h) the Utah Science Technology and Research Governing Authority.

9290 (7) The director shall ensure that any firm performing testing and inspection work  
9291 governed by the American Society for Testing Materials Standard E-329 on public buildings  
9292 under the director's supervision shall:

9293 (a) fully comply with the American Society for Testing Materials standard  
9294 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
9295 E-329; and

9296 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

9297 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust

9298 Lands Administration may hold title to any real property, buildings, fixtures, and  
9299 appurtenances held by it that are under its control.

9300 Section 215. Section **63A-8-201** is amended to read:

9301 **63A-8-201. Office of State Debt Collection created -- Duties.**

9302 (1) The state and each state agency shall comply with the requirements of this chapter  
9303 and any rules established by the Office of State Debt Collection.

9304 (2) There is created the Office of State Debt Collection in the Department of  
9305 Administrative Services.

9306 (3) The office shall:

9307 (a) have overall responsibility for collecting and managing state receivables;

9308 (b) develop consistent policies governing the collection and management of state  
9309 receivables;

9310 (c) oversee and monitor state receivables to ensure that state agencies are:

9311 (i) implementing all appropriate collection methods;

9312 (ii) following established receivables guidelines; and

9313 (iii) accounting for and reporting receivables in the appropriate manner;

9314 (d) develop policies, procedures, and guidelines for accounting, reporting, and  
9315 collecting monies owed to the state;

9316 (e) provide information, training, and technical assistance to all state agencies on  
9317 various collection-related topics;

9318 (f) write an inclusive receivables management and collection manual for use by all  
9319 state agencies;

9320 (g) prepare quarterly and annual reports of the state's receivables;

9321 (h) create or coordinate a state accounts receivable database;

9322 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an  
9323 effective accounts receivable program;

9324 (j) identify those state agencies that are not making satisfactory progress toward  
9325 implementing collection techniques and improving accounts receivable collections;

9326 (k) coordinate information, systems, and procedures between state agencies to  
9327 maximize the collection of past-due accounts receivable;

9328 (l) establish an automated cash receipt process between state agencies;

9329 (m) establish procedures for writing off accounts receivable for accounting and  
9330 collection purposes;

9331 (n) establish standard time limits after which an agency will delegate responsibility to  
9332 collect state receivables to the office or its designee;

9333 (o) be a real party in interest for an account receivable referred to the office by any  
9334 state agency; and

9335 (p) allocate monies collected for judgments registered under Section 77-18-6 in  
9336 accordance with Sections 51-9-402, 63A-8-302, and 78A-5-110.

9337 (4) The office may:

9338 (a) recommend to the Legislature new laws to enhance collection of past-due accounts  
9339 by state agencies;

9340 (b) collect accounts receivables for higher education entities, if the higher education  
9341 entity agrees;

9342 (c) prepare a request for proposal for consulting services to:

9343 (i) analyze the state's receivable management and collection efforts; and  
9344 (ii) identify improvements needed to further enhance the state's effectiveness in  
9345 collecting its receivables;

9346 (d) contract with private or state agencies to collect past-due accounts;

9347 (e) perform other appropriate and cost-effective coordinating work directly related to  
9348 collection of state receivables;

9349 (f) obtain access to records of any state agency that are necessary to the duties of the  
9350 office by following the procedures and requirements of Section 63G-2-206;

9351 (g) collect interest and fees related to the collection of receivables under this chapter,  
9352 and establish, by following the procedures and requirements of Section [~~63J-1-303~~]  
9353 63J-1-504:

- 9354 (i) a fee to cover the administrative costs of collection, on accounts administered by  
9355 the office;
- 9356 (ii) a late penalty fee that may not be more than 10% of the account receivable on  
9357 accounts administered by the office;
- 9358 (iii) an interest charge that is:
- 9359 (A) the postjudgment interest rate established by Section 15-1-4 in judgments  
9360 established by the courts; or
- 9361 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts  
9362 receivable for which no court judgment has been entered; and
- 9363 (iv) fees to collect accounts receivable for higher education;
- 9364 (h) collect reasonable attorney fees and reasonable costs of collection that are related  
9365 to the collection of receivables under this chapter;
- 9366 (i) make rules that allow accounts receivable to be collected over a reasonable period  
9367 of time and under certain conditions with credit cards;
- 9368 (j) file a satisfaction of judgment in the district court by following the procedures and  
9369 requirements of the Utah Rules of Civil Procedure;
- 9370 (k) ensure that judgments for which the office is the judgment creditor are renewed, as  
9371 necessary; and
- 9372 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)  
9373 with private sector vendors under contract with the state to assist state agencies in collecting  
9374 debts owed to the state agencies without changing the classification of any private, controlled,  
9375 or protected record into a public record.
- 9376 (5) The office shall ensure that:
- 9377 (a) a record obtained by the office or a private sector vendor as referred to in  
9378 Subsection (4)(l):
- 9379 (i) is used only for the limited purpose of collecting accounts receivable; and  
9380 (ii) is subject to federal, state, and local agency records restrictions; and
- 9381 (b) any person employed by, or formerly employed by, the office or a private sector

9382 vendor as referred to in Subsection (4)(1) is subject to:

9383 (i) the same duty of confidentiality with respect to the record imposed by law on  
9384 officers and employees of the state agency from which the record was obtained; and

9385 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a  
9386 private, controlled, or protected record.

9387 (6) (a) The office shall collect accounts receivable ordered by the district court as a  
9388 result of prosecution for a criminal offense that have been transferred to the office under  
9389 Subsection 76-3-201.1(5)(h) or (8).

9390 (b) The office may not assess the interest charge established by the office under  
9391 Subsection (4) on an account receivable subject to the postjudgment interest rate established  
9392 by Section 15-1-4.

9393 (7) The office shall require state agencies to:

9394 (a) transfer collection responsibilities to the office or its designee according to time  
9395 limits established by the office;

9396 (b) make annual progress towards implementing collection techniques and improved  
9397 accounts receivable collections;

9398 (c) use the state's accounts receivable system or develop systems that are adequate to  
9399 properly account for and report their receivables;

9400 (d) develop and implement internal policies and procedures that comply with the  
9401 collections policies and guidelines established by the office;

9402 (e) provide internal accounts receivable training to staff involved in their management  
9403 and collection of receivables as a supplement to statewide training;

9404 (f) bill for and make initial collection efforts of its receivables up to the time the  
9405 accounts must be transferred; and

9406 (g) submit quarterly receivable reports to the office that identify the age, collection  
9407 status, and funding source of each receivable.

9408 (8) The office shall use the information provided by the agencies and any additional  
9409 information from the office's records to compile a one-page summary report of each agency.

- 9410 (9) The summary shall include:
- 9411 (a) the type of revenue that is owed to the agency;
- 9412 (b) any attempted collection activity; and
- 9413 (c) any costs incurred in the collection process.
- 9414 (10) The office shall annually provide copies of each agency's summary to the
- 9415 governor and to the Legislature.

9416 Section 216. Section **63A-9-401** is amended to read:

9417 **63A-9-401. Division -- Duties.**

- 9418 (1) The division shall:
- 9419 (a) perform all administrative duties and functions related to management of state
- 9420 vehicles;
- 9421 (b) coordinate all purchases of state vehicles;
- 9422 (c) establish one or more fleet automation and information systems for state vehicles;
- 9423 (d) make rules establishing requirements for:
- 9424 (i) maintenance operations for state vehicles;
- 9425 (ii) use requirements for state vehicles;
- 9426 (iii) fleet safety and loss prevention programs;
- 9427 (iv) preventative maintenance programs;
- 9428 (v) procurement of state vehicles, including:
- 9429 (A) vehicle standards;
- 9430 (B) alternative fuel vehicle requirements;
- 9431 (C) short-term lease programs;
- 9432 (D) equipment installation; and
- 9433 (E) warranty recovery programs;
- 9434 (vi) fuel management programs;
- 9435 (vii) cost management programs;
- 9436 (viii) business and personal use practices, including commute standards;
- 9437 (ix) cost recovery and billing procedures;

- 9438 (x) disposal of state vehicles;
- 9439 (xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;
- 9440 (xii) standard use and rate structures for state vehicles; and
- 9441 (xiii) insurance and risk management requirements;
- 9442 (e) establish a parts inventory;
- 9443 (f) create and administer a fuel dispensing services program that meets the
- 9444 requirements of Subsection (2);
- 9445 (g) emphasize customer service when dealing with agencies and agency employees;
- 9446 (h) conduct an annual audit of all state vehicles for compliance with division
- 9447 requirements;
- 9448 (i) before charging a rate, fee, or other amount to an executive branch agency, or to a
- 9449 subscriber of services other than an executive branch agency:
- 9450 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee
- 9451 established in Section 63A-1-114; and
- 9452 (ii) obtain the approval of the Legislature as required by Section [~~63J-1-306~~
- 9453 63J-1-410]; and
- 9454 (j) conduct an annual market analysis of proposed rates and fees, which analysis shall
- 9455 include a comparison of the division's rates and fees with the fees of other public or private
- 9456 sector providers where comparable services and rates are reasonably available.
- 9457 (2) The division shall operate a fuel dispensing services program in a manner that:
- 9458 (a) reduces the risk of environmental damage and subsequent liability for leaks
- 9459 involving state-owned underground storage tanks;
- 9460 (b) eliminates fuel site duplication and reduces overall costs associated with fuel
- 9461 dispensing;
- 9462 (c) provides efficient fuel management and efficient and accurate accounting of
- 9463 fuel-related expenses;
- 9464 (d) where practicable, privatizes portions of the state's fuel dispensing system;
- 9465 (e) provides central planning for fuel contingencies;

9466 (f) establishes fuel dispensing sites that meet geographical distribution needs and that  
9467 reflect usage patterns;

9468 (g) where practicable, uses alternative sources of energy; and

9469 (h) provides safe, accessible fuel supplies in an emergency.

9470 (3) The division shall:

9471 (a) ensure that the state and each of its agencies comply with state and federal law and  
9472 state and federal rules and regulations governing underground storage tanks;

9473 (b) coordinate the installation of new state-owned underground storage tanks and the  
9474 upgrading or retrofitting of existing underground storage tanks; and

9475 (c) ensure that counties, municipalities, school districts, local districts, and special  
9476 service districts subscribing to services provided by the division sign a contract that:

9477 (i) establishes the duties and responsibilities of the parties;

9478 (ii) establishes the cost for the services; and

9479 (iii) defines the liability of the parties.

9480 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
9481 the director of the Division of Fleet Operations:

9482 (i) may make rules governing fuel dispensing; and

9483 (ii) shall make rules establishing standards and procedures for purchasing the most  
9484 economically appropriate size and type of vehicle for the purposes and driving conditions for  
9485 which the vehicle will be used, including procedures for granting exceptions to the standards  
9486 by the executive director of the Department of Administrative Services.

9487 (b) Rules made under Subsection (4)(a)(ii):

9488 (i) shall designate a standard vehicle size and type that shall be designated as the  
9489 statewide standard vehicle for fleet expansion and vehicle replacement;

9490 (ii) may designate different standard vehicle size and types based on defined  
9491 categories of vehicle use;

9492 (iii) may, when determining a standard vehicle size and type for a specific category of  
9493 vehicle use, consider the following factors affecting the vehicle class:

- 9494 (A) size requirements;
- 9495 (B) economic savings;
- 9496 (C) fuel efficiency;
- 9497 (D) driving and use requirements;
- 9498 (E) safety;
- 9499 (F) maintenance requirements; and
- 9500 (G) resale value; and
- 9501 (iv) shall require agencies that request a vehicle size and type that is different from the
- 9502 standard vehicle size and type to:
- 9503 (A) submit a written request for a nonstandard vehicle to the division that contains the
- 9504 following:
- 9505 (I) the make and model of the vehicle requested, including acceptable alternate vehicle
- 9506 makes and models as applicable;
- 9507 (II) the reasons justifying the need for a nonstandard vehicle size or type;
- 9508 (III) the date of the request; and
- 9509 (IV) the name and signature of the person making the request; and
- 9510 (B) obtain the division's written approval for the nonstandard vehicle.
- 9511 (5) (a) (i) Each state agency and each higher education institution shall subscribe to
- 9512 the fuel dispensing services provided by the division.
- 9513 (ii) A state agency may not provide or subscribe to any other fuel dispensing services,
- 9514 systems, or products other than those provided by the division.
- 9515 (b) Counties, municipalities, school districts, local districts, special service districts,
- 9516 and federal agencies may subscribe to the fuel dispensing services provided by the division if:
- 9517 (i) the county or municipal legislative body, the school district, or the local district or
- 9518 special service district board recommends that the county, municipality, school district, local
- 9519 district, or special service district subscribe to the fuel dispensing services of the division; and
- 9520 (ii) the division approves participation in the program by that government unit.
- 9521 (6) The director, with the approval of the executive director, may delegate functions to

9522 institutions of higher education, by contract or other means authorized by law, if:

9523           (a) the agency or institution of higher education has requested the authority;

9524           (b) in the judgment of the director, the state agency or institution has the necessary  
9525 resources and skills to perform the delegated responsibilities; and

9526           (c) the delegation of authority is in the best interest of the state and the function  
9527 delegated is accomplished according to provisions contained in law or rule.

9528           Section 217. Section **63C-11-308** is amended to read:

9529           **63C-11-308. Licensing.**

9530           (1) A license is required for a person to act as or to represent that the person is a:

9531           (a) promoter;

9532           (b) manager;

9533           (c) contestant;

9534           (d) second;

9535           (e) referee; or

9536           (f) judge.

9537           (2) The commission shall issue to a person who qualifies under this part a license in  
9538 the classifications of:

9539           (a) promoter;

9540           (b) manager;

9541           (c) contestant;

9542           (d) second;

9543           (e) referee; or

9544           (f) judge.

9545           (3) All moneys collected pursuant to this section and Sections 63C-11-312,  
9546 63C-11-315, 63C-11-318, and 63C-11-321 shall be deposited in the General Fund.

9547           (4) Each applicant for licensure as a promoter shall:

9548           (a) submit an application in a form prescribed by the commission;

9549           (b) pay the fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;

9550 (c) provide to the commission evidence of financial responsibility, which shall include  
9551 financial statements and other information that the commission may reasonably require to  
9552 determine that the applicant or licensee is able to competently perform as and meet the  
9553 obligations of a promoter in this state;

9554 (d) produce information, documentation, and assurances as may be required to  
9555 establish by a preponderance of the evidence the applicant's reputation for good character,  
9556 honesty, integrity, and responsibility, which shall include information, documentation, and  
9557 assurances that the applicant:

9558 (i) has not been convicted of a crime in any jurisdiction which the commission  
9559 determines by the nature of the crime and circumstances surrounding the crime should  
9560 disqualify the applicant from licensure in the public interest;

9561 (ii) is not engaging in illegal gambling with respect to sporting events or gambling  
9562 with respect to the promotions the applicant is promoting;

9563 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9564 attempted to engage in any fraud or misrepresentation in connection with a contest or any  
9565 other sporting event; and

9566 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9567 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order  
9568 relating to the regulation of contests in this state or any other jurisdiction;

9569 (e) acknowledge in writing to the commission receipt, understanding, and intent to  
9570 comply with this part and the rules made under this part; and

9571 (f) if requested by the commission or the secretary, meet with the commission or the  
9572 secretary to examine the applicant's qualifications for licensure.

9573 (5) Each applicant for licensure as a contestant shall:

9574 (a) be not less than 18 years of age at the time the application is submitted to the  
9575 commission;

9576 (b) submit an application in a form prescribed by the commission;

9577 (c) pay the fee established by the commission under Section [~~63J-1-303~~] 63J-1-504;

9578 (d) provide a certificate of physical examination, dated not more than 60 days prior to  
9579 the date of application for license, in a form provided by the commission, completed by a  
9580 licensed physician and surgeon certifying that the applicant is free from any physical or mental  
9581 condition that indicates the applicant should not engage in activity as a contestant;

9582 (e) provide the commission with an accurate history of all matches that the applicant  
9583 has engaged in since becoming a contestant, including information on whether the applicant  
9584 won or lost each contest, and the matches in which there was a knockout or technical  
9585 knockout;

9586 (f) produce information, documentation, and assurances as may be required to  
9587 establish by a preponderance of the evidence the applicant's reputation for good character,  
9588 honesty, integrity, and responsibility, which shall include information, documentation, and  
9589 assurances that the applicant:

9590 (i) has not been convicted of a crime in any jurisdiction which the commission  
9591 determines by the nature of the crime and circumstances surrounding that crime should  
9592 disqualify the applicant from licensure in the public interest;

9593 (ii) is not engaging in illegal gambling with respect to sporting events or gambling  
9594 with respect to a contest in which the applicant will participate;

9595 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
9596 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
9597 any other sporting event; and

9598 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
9599 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
9600 to the regulation of contests in this state or any other jurisdiction;

9601 (g) acknowledge in writing to the commission receipt, understanding, and intent to  
9602 comply with this part and the rules made under this part; and

9603 (h) if requested by the commission or the secretary, meet with the commission or the  
9604 secretary to examine the applicant's qualifications for licensure.

9605 (6) Each applicant for licensure as a manager or second shall:

- 9606 (a) submit an application in a form prescribed by the commission;
- 9607 (b) pay a fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;
- 9608 (c) produce information, documentation, and assurances as may be required to
- 9609 establish by a preponderance of the evidence the applicant's reputation for good character,
- 9610 honesty, integrity, and responsibility, which shall include information, documentation, and
- 9611 assurances that the applicant:
- 9612 (i) has not been convicted of a crime in any jurisdiction which the commission
- 9613 determines by the nature of the crime and circumstances surrounding that crime should
- 9614 disqualify the applicant from licensure in the public interest;
- 9615 (ii) is not engaging in illegal gambling with respect to sporting events or gambling
- 9616 with respect to a contest in which the applicant is participating;
- 9617 (iii) has not been found in a criminal or civil proceeding to have engaged in or
- 9618 attempted to have engaged in any fraud or misrepresentation in connection with a contest or
- 9619 any other sporting event; and
- 9620 (iv) has not been found in a criminal or civil proceeding to have violated or attempted
- 9621 to violate any law with respect to a contest in any jurisdiction or any law, rule, or order
- 9622 relating to the regulation of contests in this state or any other jurisdiction;
- 9623 (d) acknowledge in writing to the commission receipt, understanding, and intent to
- 9624 comply with this part and the rules made under this part; and
- 9625 (e) if requested by the commission or secretary, meet with the commission or the
- 9626 secretary to examine the applicant's qualifications for licensure.
- 9627 (7) Each applicant for licensure as a referee or judge shall:
- 9628 (a) submit an application in a form prescribed by the commission;
- 9629 (b) pay a fee determined by the commission under Section [~~63J-1-303~~] 63J-1-504;
- 9630 (c) produce information, documentation, and assurances as may be required to
- 9631 establish by a preponderance of the evidence the applicant's reputation for good character,
- 9632 honesty, integrity, and responsibility, which shall include information, documentation, and
- 9633 assurances that the applicant:

9634 (i) has not been convicted of a crime in any jurisdiction which the commission  
 9635 determines by the nature of the crime and circumstances surrounding the crime should  
 9636 disqualify the applicant from licensure in the public interest;

9637 (ii) is not engaging in illegal gambling with respect to sporting events or gambling  
 9638 with respect to a contest in which the applicant is participating;

9639 (iii) has not been found in a criminal or civil proceeding to have engaged in or  
 9640 attempted to have engaged in any fraud or misrepresentation in connection with a contest or  
 9641 any other sporting event; and

9642 (iv) has not been found in a criminal or civil proceeding to have violated or attempted  
 9643 to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating  
 9644 to the regulation of contests in this state or any other jurisdiction;

9645 (d) acknowledge in writing to the commission receipt, understanding, and intent to  
 9646 comply with this part and the rules made under this part;

9647 (e) provide evidence satisfactory to the commission that the applicant is qualified by  
 9648 training and experience to competently act as a referee or judge in a contest; and

9649 (f) if requested by the commission or the secretary, meet with the commission or the  
 9650 secretary to examine the applicant's qualifications for licensure.

9651 (8) (a) A licensee serves at the pleasure, and under the direction, of the commission  
 9652 while participating in any way at a contest.

9653 (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not  
 9654 follow the commission's direction at an event or contest.

9655 Section 218. Section **63C-11-315** is amended to read:

9656 **63C-11-315. Approval to hold contest or promotion -- Bond required.**

9657 (1) An application to hold a contest or multiple contests as part of a single promotion  
 9658 shall be made by a licensed promoter to the commission on forms provided by the  
 9659 commission.

9660 (2) The application shall be accompanied by a contest fee determined by the  
 9661 commission under Section [~~63J-1-303~~] 63J-1-504.

9662 (3) (a) The commission may approve or deny approval to hold a contest or promotion  
9663 permitted under this part.

9664 (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination  
9665 by the commission that:

9666 (i) the promoter of the contest or promotion is properly licensed;

9667 (ii) a bond meeting the requirements of Subsection (6) has been posted by the  
9668 promoter of the contest or promotion; and

9669 (iii) the contest or promotion will be held in accordance with this part and rules made  
9670 under this part.

9671 (4) (a) Final approval to hold a contest or promotion may not be granted unless the  
9672 commission receives not less than seven days before the day of the contest with ten or more  
9673 rounds:

9674 (i) proof of a negative HIV test performed not more than 180 days before the day of  
9675 the contest for each contestant;

9676 (ii) a copy of each contestant's federal identification card;

9677 (iii) a copy of a signed contract between each contestant and the promoter for the  
9678 contest;

9679 (iv) a statement specifying the maximum number of rounds of the contest;

9680 (v) a statement specifying the site, date, and time of weigh-in; and

9681 (vi) the name of the physician selected from among a list of registered and  
9682 commission-approved ringside physicians who shall act as ringside physician for the contest.

9683 (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or  
9684 promotion if the requirements under Subsection (4)(a) are not met because of unforeseen  
9685 circumstances beyond the promoter's control.

9686 (5) Final approval for a contest under ten rounds in duration may be granted as  
9687 determined by the commission after receiving the materials identified in Subsection (4) at a  
9688 time determined by the commission.

9689 (6) An applicant shall post a surety bond or cashier's check with the commission in the

9690 greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the  
9691 proceeds if the applicant fails to comply with:

- 9692 (a) the requirements of this part; or
- 9693 (b) rules made under this part relating to the promotion or conduct of the contest or  
9694 promotion.

9695 Section 219. Section **63C-11-318** is amended to read:

9696 **63C-11-318. Contests.**

9697 (1) Except as provided in Section 63C-11-325, a licensee may not participate in:

- 9698 (a) a boxing contest as a contestant if that person has participated in another boxing  
9699 contest as a contestant within 30 days before the proposed boxing contest; or
- 9700 (b) an ultimate fighting contest as a contestant if that person has participated in  
9701 another ultimate fighting contest as a contestant within six days before the proposed ultimate  
9702 fighting contest.

9703 (2) Subsection (1) applies regardless of where the previous boxing contest occurred.

9704 (3) During the period of time beginning 60 minutes before the beginning of a contest,  
9705 the promoter shall demonstrate the promoter's compliance with the commission's security  
9706 requirements to all commission members present at the contest.

9707 (4) The commission shall establish fees in accordance with Section [~~63J-1-303~~]  
9708 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of  
9709 multiple contests conducted under this part.

9710 Section 220. Section **63F-1-103** is amended to read:

9711 **63F-1-103. Department of Technology Services.**

9712 (1) There is created within state government the Department of Technology Services  
9713 which has all of the policymaking functions, regulatory and enforcement powers, rights,  
9714 duties, and responsibilities outlined in this title.

9715 (2) [~~In accordance with Subsection 63J-1-306(7), the~~] The department has authority to  
9716 operate as an internal service fund agency as provided in Section [~~63J-1-306~~] 63J-1-410.

9717 Section 221. Section **63F-1-301** is amended to read:

9718           **63F-1-301. Cost based services -- Fees -- Rate committee.**  
9719           (1) The chief information officer shall:  
9720           (a) at the lowest practical cost, manage the delivery of efficient and cost-effective  
9721 information technology and telecommunication services for:  
9722           (i) all executive branch agencies; and  
9723           (ii) entities that subscribe to the services in accordance with Section 63F-1-303; and  
9724           (b) provide priority service to public safety agencies.  
9725           (2) (a) In accordance with this Subsection (2), the chief information officer shall  
9726 prescribe a schedule of fees for all services rendered by the department to:  
9727           (i) an executive branch entity; or  
9728           (ii) an entity that subscribes to services rendered by the department in accordance with  
9729 Section 63F-1-303.  
9730           (b) Each fee included in the schedule of fees required by Subsection (2)(a):  
9731           (i) shall be equitable;  
9732           (ii) should be based upon a zero based, full cost accounting of activities necessary to  
9733 provide each service for which a fee is established; and  
9734           (iii) for each service multiplied by the projected consumption of the service recovers  
9735 no more or less than the full cost of each service.  
9736           (c) Before charging a fee for its services to an executive branch agency or to a  
9737 subscriber of services other than an executive branch agency, the chief information officer  
9738 shall:  
9739           (i) submit the proposed rates, fees, and cost analysis to the Rate Committee  
9740 established in Section 63F-1-302; and  
9741           (ii) obtain the approval of the Legislature as required by Section [~~63J-1-306~~]  
9742 63J-1-410.  
9743           (d) The chief information officer shall conduct a market analysis by July 1, 2006, and  
9744 periodically thereafter, of proposed rates and fees, which analysis shall include a comparison  
9745 of the department's rates with the fees of other public or private sector providers where

9746 comparable services and rates are reasonably available.

9747 Section 222. Section **63F-1-302** is amended to read:

9748 **63F-1-302. Information Technology Rate Committee -- Membership -- Duties.**

9749 (1) (a) There is created an Information Technology Rate Committee which shall  
9750 consist of:

- 9751 (i) the director of the Governor's Office of Planning and Budget, or a designee;
- 9752 (ii) the executive directors, or their designee, of three executive branch agencies that  
9753 use services and pay rates to one of the department internal service funds, appointed by the  
9754 governor for a two-year term;

9755 (iii) the director of the Division of Finance, or a designee; and

9756 (iv) the chief information officer.

9757 (b) (i) The director of the Division of Finance shall serve as chair of the committee.

9758 (ii) Members of the committee who are state government employees and who do not  
9759 receive salary, per diem, or expenses from their agency for their service on the committee shall  
9760 receive no compensation, benefits, per diem, or expenses for the member's service on the  
9761 committee.

9762 (c) The department shall provide staff services to the committee.

9763 (2) (a) Any internal service funds managed by the department shall submit to the  
9764 committee a proposed rate and fee schedule for services rendered by the department to an  
9765 executive branch agency or an entity that subscribes to services rendered by the department.

9766 (b) The committee shall:

9767 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public  
9768 Meetings Act;

9769 (ii) review the proposed rate and fee schedule and determine if the proposed fee is  
9770 based on cost recovery as required by Subsection 63F-1-301(2)(b);

9771 (iii) review the proposed rate and fee schedules and may approve, increase, or decrease  
9772 the rate and fee;

9773 (iv) recommend a proposed rate and fee schedule for each internal service fund to:

9774 (A) the Governor's Office of Planning and Budget; and  
9775 (B) the Office of Legislative Fiscal Analyst for review by the Legislature in  
9776 accordance with Section [~~63J-1-306~~] 63J-1-410, which requires the Legislature to approve the  
9777 internal service fund agency's rates, fees, and budget in an appropriations act; and

9778 (v) in accordance with Section [~~63J-1-306~~] 63J-1-410, review and approve, increase  
9779 or decrease an interim rate, fee, or amount when an internal service fund agency begins a new  
9780 service or introduces a new product between annual general sessions of the Legislature, which  
9781 rate, fee, or amount shall be submitted to the Legislature at the next annual general session.

9782 (c) The committee may, in accordance with Subsection [~~63J-1-306~~] 63J-1-410(4),  
9783 decrease a rate, fee, or amount that has been approved by the Legislature.

9784 Section 223. Section **63G-2-203** is amended to read:

9785 **63G-2-203. Fees.**

9786 (1) A governmental entity may charge a reasonable fee to cover the governmental  
9787 entity's actual cost of providing a record. This fee shall be approved by the governmental  
9788 entity's executive officer.

9789 (2) (a) When a governmental entity compiles a record in a form other than that  
9790 normally maintained by the governmental entity, the actual costs under this section may  
9791 include the following:

9792 (i) the cost of staff time for compiling, formatting, manipulating, packaging,  
9793 summarizing, or tailoring the record either into an organization or media to meet the person's  
9794 request;

9795 (ii) the cost of staff time for search, retrieval, and other direct administrative costs for  
9796 complying with a request; and

9797 (iii) in the case of fees for a record that is the result of computer output other than  
9798 word processing, the actual incremental cost of providing the electronic services and products  
9799 together with a reasonable portion of the costs associated with formatting or interfacing the  
9800 information for particular users, and the administrative costs as set forth in Subsections  
9801 (2)(a)(i) and (ii).

9802 (b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest  
9803 paid employee who, in the discretion of the custodian of records, has the necessary skill and  
9804 training to perform the request.

9805 (c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first  
9806 quarter hour of staff time.

9807 (3) (a) Fees shall be established as provided in this Subsection (3).

9808 (b) A governmental entity with fees established by the Legislature:

9809 (i) shall establish the fees defined in Subsection (2), or other actual costs associated  
9810 with this section through the budget process; and

9811 (ii) may use the procedures of Section [~~63J-1-303~~] 63J-1-504 to set fees until the  
9812 Legislature establishes fees through the budget process.

9813 (c) Political subdivisions shall establish fees by ordinance or written formal policy  
9814 adopted by the governing body.

9815 (d) The judiciary shall establish fees by rules of the judicial council.

9816 (4) A governmental entity may fulfill a record request without charge and is  
9817 encouraged to do so when it determines that:

9818 (a) releasing the record primarily benefits the public rather than a person;

9819 (b) the individual requesting the record is the subject of the record, or an individual  
9820 specified in Subsection 63G-2-202(1) or (2); or

9821 (c) the requester's legal rights are directly implicated by the information in the record,  
9822 and the requester is impecunious.

9823 (5) A governmental entity may not charge a fee for:

9824 (a) reviewing a record to determine whether it is subject to disclosure, except as  
9825 permitted by Subsection (2)(a)(ii); or

9826 (b) inspecting a record.

9827 (6) (a) A person who believes that there has been an unreasonable denial of a fee  
9828 waiver under Subsection (4) may appeal the denial in the same manner as a person appeals  
9829 when inspection of a public record is denied under Section 63G-2-205.

9830 (b) The adjudicative body hearing the appeal has the same authority when a fee waiver  
9831 or reduction is denied as it has when the inspection of a public record is denied.

9832 (7) (a) All fees received under this section by a governmental entity subject to  
9833 Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

9834 (b) Those funds shall be used to recover the actual cost and expenses incurred by the  
9835 governmental entity in providing the requested record or record series.

9836 (8) (a) A governmental entity may require payment of past fees and future estimated  
9837 fees before beginning to process a request if:

9838 (i) fees are expected to exceed \$50; or

9839 (ii) the requester has not paid fees from previous requests.

9840 (b) Any prepaid amount in excess of fees due shall be returned to the requester.

9841 (9) This section does not alter, repeal, or reduce fees established by other statutes or  
9842 legislative acts.

9843 (10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be  
9844 set as provided in this Subsection (10).

9845 (b) The lieutenant governor shall:

9846 (i) after consultation with county clerks, establish uniform fees for voter registration  
9847 and voter history records that meet the requirements of this section; and

9848 (ii) obtain legislative approval of those fees by following the procedures and  
9849 requirements of Section [~~63J-1-303~~] 63J-1-504.

9850 Section 224. Section **63G-9-301** is amended to read:

9851 **63G-9-301. Audit and approval of claims -- Overexpenditure by agencies.**

9852 (1) (a) The Board of Examiners shall audit any claim presented to it, if the settlement  
9853 of the claim is required by law.

9854 (b) If the claim is approved, the board shall transmit it to the Legislature with a  
9855 statement of the reasons for the approval.

9856 (2) When an agency's line item appropriation has been overexpended and a written  
9857 report is submitted to the board as required by Section [~~63J-1-405~~] 63J-1-217, the board shall

9858 review the report and either:

9859 (a) recommend and submit to the Legislature any supplemental appropriations or  
9860 corrective legislation that may be needed; or

9861 (b) recommend other internal procedures or policies that will make an overexpenditure  
9862 in the future unlikely.

9863 Section 225. Section **63J-1-102** is enacted to read:

9864 **CHAPTER 1. BUDGETARY PROCEDURES ACT**

9865 **Part 1. General Provisions**

9866 **63J-1-102. Definitions.**

9867 (1) "Dedicated credits" means collections by an agency that are deposited directly into  
9868 an account for expenditure on a separate line item and program.

9869 (2) "Federal revenues" means collections by an agency from a federal source that are  
9870 deposited directly into an account for expenditure on a separate line item and program.

9871 (3) "Fixed collections" means collections that are:

9872 (a) fixed at a specific amount by law or by an appropriation act; and

9873 (b) required to be deposited into a separate line item and program.

9874 (4) "Free revenue" includes:

9875 (a) collections that are required by law to be deposited in:

9876 (i) the General Fund;

9877 (ii) the Education Fund;

9878 (iii) the Uniform School Fund; or

9879 (iv) the Transportation Fund;

9880 (b) collections that are not otherwise designated by law;

9881 (c) collections that are not externally restricted; and

9882 (d) collections that are not included in an approved work program.

9883 (5) "Major revenue types" means:

9884 (a) free revenue;

9885 (b) restricted revenue;

- 9886 (c) dedicated credits; and
- 9887 (d) fixed collections.
- 9888 (6) "Restricted revenue" means collections that are:
- 9889 (a) deposited, by law, into a separate fund or subfund; and
- 9890 (b) designated for a specific program or purpose.

9891 Section 226. Section **63J-1-104**, which is renumbered from Section 63J-1-404 is  
 9892 renumbered and amended to read:

9893 ~~[63J-1-404].~~ **63J-1-104. Revenue types -- Disposition of funds collected or**  
 9894 **credited by a state agency.**

9895 ~~[(1) (a) The revenues enumerated in this section are established as major revenue~~  
 9896 ~~types.]~~

9897 ~~[(b)]~~ (1) (a) The Division of Finance shall:

9898 (i) account for revenues in accordance with generally accepted accounting principles;

9899 and

9900 (ii) use the major revenue types in internal accounting.

9901 ~~[(c)]~~ (b) Each agency shall:

9902 (i) use the major revenue types ~~[enumerated in this section]~~ to account for revenues;

9903 (ii) deposit revenues and other public funds received by them by following the  
 9904 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

9905 (iii) expend revenues and public funds as required by this chapter.

9906 ~~[(2) The major revenue types are:]~~

9907 ~~[(a) free revenue;]~~

9908 ~~[(b) restricted revenue;]~~

9909 ~~[(c) dedicated credits; and]~~

9910 ~~[(d) fixed collections.]~~

9911 ~~[(3) (a) Free revenue includes:]~~

9912 ~~[(i) collections that are required by law to be deposited in the General Fund, the~~  
 9913 ~~Education Fund, the Uniform School Fund, or the Transportation Fund;]~~

9914           ~~[(ii) collections that are not otherwise designated by law;]~~  
9915           ~~[(iii) collections that are not externally restricted; and]~~  
9916           ~~[(iv) collections that are not included in an approved work program.]~~  
9917           ~~[(b)]~~ (2) (a) Each agency shall deposit its free revenues into the appropriate fund.  
9918           ~~[(c)]~~ (b) An agency may expend free revenues up to the amount specifically  
9919 appropriated by the Legislature.  
9920           ~~[(d)]~~ (c) Any free revenue funds appropriated by the Legislature to an agency that  
9921 remain unexpended at the end of the fiscal year lapse to the source fund unless the Legislature  
9922 provides by law that those funds are nonlapsing.  
9923           ~~[(4) (a) Restricted revenues are collections deposited by law into a separate fund or~~  
9924 ~~subfund that are designated for a specific program or purpose.]~~  
9925           ~~[(b)]~~ (3) (a) Each agency shall deposit its restricted revenues into a restricted fund.  
9926           ~~[(c)]~~ (b) The Legislature may appropriate restricted revenues from a restricted fund for  
9927 the specific purpose or program designated by law.  
9928           ~~[(d)]~~ (c) If the fund equity of a restricted fund is insufficient to provide the funds  
9929 appropriated from it by the Legislature, the Division of Finance may reduce the appropriation  
9930 to a level that ensures that the fund equity is not less than zero.  
9931           ~~[(e)]~~ (d) Any restricted revenue funds appropriated by the Legislature to an agency  
9932 that remain unexpended at the end of the fiscal year lapse to the restricted fund unless the  
9933 Legislature provides by law that those funds, or the program or line item financed by those  
9934 funds, are nonlapsing.  
9935           ~~[(5) (a) Dedicated credits and federal revenues are collections by an agency that are~~  
9936 ~~deposited directly into an account for expenditure on a separate line item and program.]~~  
9937           ~~[(b)]~~ (4) (a) An agency may expend dedicated credits for any purpose within the  
9938 program or line item.  
9939           ~~[(c) (i) An agency may]~~  
9940           (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend  
9941 dedicated credits in excess of the amount appropriated as dedicated credits by the Legislature

9942 [~~by following the procedures contained in this Subsection (5)(c)~~].

9943 (ii) In order to expend dedicated credits in excess of the amount appropriated as  
9944 dedicated credits by the Legislature, the following procedure shall be followed:

9945 [(~~ii~~)] (A) The agency shall develop a new work program and the justification for the  
9946 work program and submit it to the Division of Finance and the director of the Governor's  
9947 Office of Planning and Budget. [~~Except for monies deposited as dedicated credits in the Drug~~  
9948 ~~Stamp Tax Fund under Section 59-19-105 or line items covering tuition and federal vocational~~  
9949 ~~funds at institutions of higher learning, any expenditure of dedicated credits in excess of~~  
9950 ~~amounts appropriated as dedicated credits by the Legislature may not be used to permanently~~  
9951 ~~increase personnel within the agency unless approved by the Legislature.~~]

9952 [(~~iii~~)] (B) The Division of Finance and the director of the Governor's Office of  
9953 Planning and Budget shall review the work program and submit their findings and  
9954 recommendations to the governor.

9955 [(~~iv~~)] (C) The governor may authorize the agency to expend its excess dedicated  
9956 credits by approving the submitted work program.

9957 [(~~v~~)] (D) The state's fiscal officer shall notify the Legislature of the governor's action  
9958 by providing notice of the governor's action to the Office of Legislative Fiscal Analyst.

9959 (iii) An expenditure of dedicated credits in excess of amounts appropriated as  
9960 dedicated credits by the Legislature may not be used to permanently increase personnel within  
9961 the agency unless:

9962 (A) the increase is approved by the Legislature; or

9963 (B) the monies are deposited as dedicated credits in:

9964 (I) the Drug Stamp Tax Fund under Section 59-19-105; or

9965 (II) a line item covering tuition or federal vocational funds at an institution of higher  
9966 education.

9967 [(~~d~~)] (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the  
9968 fiscal year unless the Legislature has designated the entire program or line item that is partially  
9969 or fully funded from dedicated credits as nonlapsing.

9970 (ii) The Division of Finance shall determine the appropriate fund into which the  
 9971 dedicated credits lapse.

9972 [~~(6)~~ (a) ~~Fixed collections are collections:~~]

9973 [~~(i) fixed by law or by the appropriation act at a specific amount, and]~~

9974 [~~(ii) required by law to be deposited into a separate line item and program.]~~

9975 [~~(b)~~ (5) (a) The Legislature may establish by law the maximum amount of fixed  
 9976 collections that an agency may expend.

9977 [~~(c)~~ (b) If an agency receives less than the maximum amount of expendable fixed  
 9978 collections established by law, the agency's authority to expend is limited to the amount of  
 9979 fixed collections that it receives.

9980 [~~(d)~~ (c) If an agency receives fixed collections greater than the maximum amount of  
 9981 expendable fixed collections established by law, those excess amounts lapse to the General  
 9982 Fund, the Education Fund, the Uniform School Fund, or the Transportation Fund as  
 9983 designated by the director of the Division of Finance at the end of the fiscal year.

9984 [~~(7)~~ (a) (6) Unless otherwise specifically provided by law, when an agency has a  
 9985 program or line item that is funded by more than one major revenue type[-];

9986 (a) the agency shall expend its dedicated credits and fixed collections first[-]; and

9987 (b) [~~Unless otherwise specifically provided by law, when programs or line items are~~  
 9988 ~~funded by more than one major revenue type and include] if the program or line item includes  
 9989 both free revenue and restricted revenue, an agency shall expend those [sources] revenues  
 9990 based upon a proration of the amounts appropriated from each of those major revenue types.~~

9991 Section 227. Section **63J-1-201** is amended to read:

**Part 2. Budget Process, Appropriations, and Expenditures**

**63J-1-201. Governor to submit budget to Legislature -- Contents -- Preparation  
 -- Appropriations based on current tax laws and not to exceed estimated revenues.**

9995 (1) The governor shall deliver, not later than 30 days before the date the Legislature  
 9996 convenes in the annual general session, a confidential draft copy of the governor's proposed  
 9997 budget recommendations to the Office of the Legislative Fiscal Analyst.

9998           ~~[(1)]~~ (2) (a) The governor shall, within three days after the convening of the  
9999 Legislature in the annual general session, submit a budget for the ensuing fiscal year by  
10000 delivering it to the presiding officer of each house of the Legislature together with a schedule  
10001 for all of the proposed appropriations of the budget, clearly itemized and classified.

10002           (b) The ~~[budget message]~~ proposed budget shall include:

10003           (i) a projection of estimated revenues and expenditures for the next fiscal year; ~~[and]~~

10004           (ii) the source of all direct, indirect, ~~[or]~~ and in-kind matching funds for all federal  
10005 grants or assistance programs included in the budget[-];

10006           ~~[(2) At least 34 days before the submission of any budget, the governor shall deliver a~~  
10007 ~~confidential draft copy of the governor's proposed budget recommendations to the Office of~~  
10008 ~~the Legislative Fiscal Analyst.]~~

10009           ~~[(3) (a) The budget shall contain]~~

10010           (iii) a complete plan of proposed expenditures and estimated revenues for the next  
10011 fiscal year based upon the current fiscal year state tax laws and rates[-];

10012           ~~[(b) The budget may be accompanied by a separate document showing proposed~~  
10013 ~~expenditures and estimated revenues based on changes in state tax laws or rates.]~~

10014           (iv) an itemized estimate of the proposed appropriations for:

10015           (A) the Legislative Department as certified to the governor by the president of the  
10016 Senate and the speaker of the House;

10017           (B) the Executive Department;

10018           (C) the Judicial Department as certified to the governor by the state court  
10019 administrator;

10020           (D) payment and discharge of the principal and interest of the indebtedness of the  
10021 state;

10022           (E) the salaries payable by the state under the Utah Constitution or under law for the  
10023 lease agreements planned for the next fiscal year;

10024           (F) other purposes that are set forth in the Utah Constitution or under law; and

10025           (G) all other appropriations;

10026 (v) for each line item, the average annual dollar amount of staff funding associated  
 10027 with all positions that were vacant during the last fiscal year; and  
 10028 (vi) deficits or anticipated deficits.  
 10029 ~~[(4)]~~ (c) The budget shall be accompanied by a statement showing:  
 10030 ~~[(a)]~~ (i) the revenues and expenditures for the last fiscal year;  
 10031 ~~[(b)]~~ (ii) the current assets, liabilities, and reserves, surplus or deficit, and the debts  
 10032 and funds of the state;  
 10033 ~~[(c)]~~ (iii) an estimate of the state's financial condition as of the beginning and the end  
 10034 of the period covered by the budget;  
 10035 ~~[(d)]~~ (iv) a complete analysis of lease with an option to purchase arrangements entered  
 10036 into by state agencies;  
 10037 ~~[(e)]~~ (v) the recommendations for each state agency for new full-time employees for  
 10038 the next fiscal year[;], which ~~[recommendation should be provided also to the State Building~~  
 10039 ~~Board under]~~ shall also be provided to the State Building Board as required by Subsection  
 10040 63A-5-103(2);  
 10041 ~~[(f)]~~ (vi) any explanation that the governor may desire to make as to the important  
 10042 features of the budget and any suggestion as to methods for the reduction of expenditures or  
 10043 increase of the state's revenue; and  
 10044 ~~[(g) the]~~ (vii) information detailing certain ~~[regulatory]~~ fee increases as required by  
 10045 Section ~~[63J-1-303]~~ 63J-1-504.  
 10046 ~~[(5) The budget shall include an itemized estimate of the appropriations for:]~~  
 10047 ~~[(a) the Legislative Department as certified to the governor by the president of the~~  
 10048 ~~Senate and the speaker of the House;]~~  
 10049 ~~[(b) the Executive Department;]~~  
 10050 ~~[(c) the Judicial Department as certified to the governor by the state court~~  
 10051 ~~administrator;]~~  
 10052 ~~[(d) payment and discharge of the principal and interest of the indebtedness of the~~  
 10053 ~~state;]~~

10054 ~~[(e) the salaries payable by the state under the Utah Constitution or under law for the~~  
10055 ~~lease agreements planned for the next fiscal year;]~~

10056 ~~[(f) other purposes that are set forth in the Utah Constitution or under law; and]~~

10057 ~~[(g) all other appropriations.]~~

10058 ~~[(6) Deficits or anticipated deficits shall be included in the budget.]~~

10059 ~~[(7)]~~ (3) (a) (i) For the purpose of preparing and reporting the budget, the governor  
10060 shall require from the proper state officials, including public and higher education officials, all  
10061 heads of executive and administrative departments and state institutions, bureaus, boards,  
10062 commissions, and agencies expending or supervising the expenditure of the state moneys , and  
10063 all institutions applying for state moneys and appropriations, itemized estimates of revenues  
10064 and expenditures.

10065 (ii) ~~[(A)]~~ The governor may also require other information under these guidelines and  
10066 at times as the governor may direct~~[-(B) These guidelines],~~ which may include a requirement  
10067 for program productivity and performance measures, where appropriate, with emphasis on  
10068 outcome indicators.

10069 ~~[(b) The estimate for the Legislative Department as certified by the presiding officers~~  
10070 ~~of both houses shall be included in the budget without revision by the governor.]~~

10071 ~~[(c) The estimate for the Judicial Department, as certified by the state court~~  
10072 ~~administrator, shall also be included in the budget without revision, but the governor may~~  
10073 ~~make separate recommendations on it.]~~

10074 ~~[(d)]~~ (b) The governor may require ~~[the attendance at budget meetings of]~~  
10075 representatives of public and higher education, state departments and institutions, and other  
10076 institutions or individuals applying for state appropriations~~[-]~~ to attend budget meetings.

10077 (c) (i) (A) In submitting the budgets for the Departments of Health and Human  
10078 Services and the Office of the Attorney General, the governor shall consider a separate  
10079 recommendation in the governor's budget for funds to be contracted to:

10080 (I) local mental health authorities under Section 62A-15-110;

10081 (II) local substance abuse authorities under Section 62A-15-110;

10082           (III) area agencies under Section 62A-3-104.2;  
10083           (IV) programs administered directly by and for operation of the Divisions of  
10084 Substance Abuse and Mental Health and Aging and Adult Services;  
10085           (V) local health departments under Title 26A, Chapter 1, Local Health Departments;  
10086 and  
10087           (VI) counties for the operation of Children's Justice Centers under Section 67-5b-102.  
10088           (B) In the governor's budget recommendations under Subsections (3)(c)(i)(A)(I), (II),  
10089 and (III), the governor shall consider an amount sufficient to grant local health departments,  
10090 local mental health authorities, local substance abuse authorities, and area agencies the same  
10091 percentage increase for wages and benefits that the governor includes in the governor's budget  
10092 for persons employed by the state.  
10093           (C) If the governor does not include in the governor's budget an amount sufficient to  
10094 grant the increase described in Subsection (3)(c)(i)(B), the governor shall include a message to  
10095 the Legislature regarding the governor's reason for not including that amount.  
10096           (ii) (A) In submitting the budget for the Department of Agriculture, the governor shall  
10097 consider an amount sufficient to grant local conservation districts and Utah Association of  
10098 Conservation District employees the same percentage increase for wages and benefits that the  
10099 governor includes in the governor's budget for persons employed by the state.  
10100           (B) If the governor does not include in the governor's budget an amount sufficient to  
10101 grant the increase described in Subsection (3)(c)(ii)(A), the governor shall include a message  
10102 to the Legislature regarding the governor's reason for not including that amount.  
10103           (iii) (A) In submitting the budget for the Utah State Office of Rehabilitation and the  
10104 Division of Services for People with Disabilities, the Division of Child and Family Services,  
10105 and the Division of Juvenile Justice Services within the Department of Human Services, the  
10106 governor shall consider an amount sufficient to grant employees of corporations that provide  
10107 direct services under contract with those divisions, the same percentage increase for  
10108 cost-of-living that the governor includes in the governor's budget for persons employed by the  
10109 state.

10110 (B) If the governor does not include in the governor's budget an amount sufficient to  
10111 grant the increase described in Subsection (3)(c)(iii)(A), the governor shall include a message  
10112 to the Legislature regarding the governor's reason for not including that amount.

10113 (iv) (A) The Families, Agencies, and Communities Together Council may propose a  
10114 budget recommendation to the governor for collaborative service delivery systems operated  
10115 under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

10116 (B) The Legislature may, through a specific program schedule, designate funds  
10117 appropriated for collaborative service delivery systems operated under Section 63M-9-402.

10118 (v) The governor shall include in the governor's budget the state's portion of the  
10119 budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,  
10120 Utah Communications Agency Network Act.

10121 (vi) (A) The governor shall include a separate recommendation in the governor's  
10122 budget for funds to maintain the operation and administration of the Utah Comprehensive  
10123 Health Insurance Pool.

10124 (B) In making the recommendation the governor may consider:

10125 (I) actuarial analysis of growth or decline in enrollment projected over a period of at  
10126 least three years;

10127 (II) actuarial analysis of the medical and pharmacy claims costs projected over a  
10128 period of at least three years;

10129 (III) the annual Medical Care Consumer Price Index;

10130 (IV) the annual base budget for the pool established by the Commerce and Revenue  
10131 Appropriations Subcommittee for each fiscal year;

10132 (V) the growth or decline in insurance premium taxes and fees collected by the State  
10133 Tax Commission and the Insurance Department; and

10134 (VI) the availability of surplus General Fund revenue under Section 63J-1-312 and  
10135 Subsection 59-14-204(5)(b).

10136 ~~(e)~~ (d) (i) The governor may revise all estimates, except those relating to the  
10137 Legislative Department, the Judicial Department, and those providing for the payment of

10138 principal and interest to the state debt and for the salaries and expenditures specified by the  
10139 Utah Constitution or under the laws of the state.

10140 (ii) The estimate for the Legislative Department, as certified by the presiding officers  
10141 of both houses, shall be included in the budget without revision by the governor.

10142 (iii) The estimate for the Judicial Department, as certified by the state court  
10143 administrator, shall also be included in the budget without revision, but the governor may  
10144 make separate recommendations on the estimate.

10145 ~~[(8)]~~ (e) The total appropriations requested for expenditures authorized by the budget  
10146 may not exceed the estimated revenues from taxes, fees, and all other sources for the next  
10147 ensuing fiscal year.

10148 ~~[(9) If any item of the budget as enacted is held invalid upon any ground, the~~  
10149 ~~invalidity does not affect the budget itself or any other item in it.]~~

10150 ~~[(10) (a) In submitting the budgets for the Departments of Health and Human Services~~  
10151 ~~and the Office of the Attorney General, the governor shall consider a separate recommendation~~  
10152 ~~in the governor's budget for funds to be contracted to:]~~

10153 ~~[(i) local mental health authorities under Section 62A-15-110;]~~

10154 ~~[(ii) local substance abuse authorities under Section 62A-15-110;]~~

10155 ~~[(iii) area agencies under Section 62A-3-104.2;]~~

10156 ~~[(iv) programs administered directly by and for operation of the Divisions of~~  
10157 ~~Substance Abuse and Mental Health and Aging and Adult Services;]~~

10158 ~~[(v) local health departments under Title 26A, Chapter 1, Local Health Departments;~~  
10159 ~~and]~~

10160 ~~[(vi) counties for the operation of Children's Justice Centers under Section~~  
10161 ~~67-5b-102.]~~

10162 ~~[(b) In the governor's budget recommendations under Subsections (10)(a)(i), (ii), and~~  
10163 ~~(iii), the governor shall consider an amount sufficient to grant local health departments, local~~  
10164 ~~mental health authorities, local substance abuse authorities, and area agencies the same~~  
10165 ~~percentage increase for wages and benefits that the governor includes in the governor's budget~~

10166 for persons employed by the state.]

10167       ~~[(c) If the governor does not include in the governor's budget an amount sufficient to~~  
10168 ~~grant the increase described in Subsection (10)(b), the governor shall include a message to the~~  
10169 ~~Legislature regarding the governor's reason for not including that amount.]~~

10170       ~~[(11) (a) In submitting the budget for the Department of Agriculture, the governor~~  
10171 ~~shall consider an amount sufficient to grant local conservation districts and Utah Association~~  
10172 ~~of Conservation District employees the same percentage increase for wages and benefits that~~  
10173 ~~the governor includes in the governor's budget for persons employed by the state.]~~

10174       ~~[(b) If the governor does not include in the governor's budget an amount sufficient to~~  
10175 ~~grant the increase described in Subsection (11)(a), the governor shall include a message to the~~  
10176 ~~Legislature regarding the governor's reason for not including that amount.]~~

10177       ~~[(12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the~~  
10178 ~~Division of Services for People with Disabilities, the Division of Child and Family Services,~~  
10179 ~~and the Division of Juvenile Justice Services within the Department of Human Services, the~~  
10180 ~~governor shall consider an amount sufficient to grant employees of corporations that provide~~  
10181 ~~direct services under contract with those divisions, the same percentage increase for~~  
10182 ~~cost-of-living that the governor includes in the governor's budget for persons employed by the~~  
10183 ~~state.]~~

10184       ~~[(b) If the governor does not include in the governor's budget an amount sufficient to~~  
10185 ~~grant the increase described in Subsection (12)(a), the governor shall include a message to the~~  
10186 ~~Legislature regarding the governor's reason for not including that amount.]~~

10187       ~~[(13) (a) The Families, Agencies, and Communities Together Council may propose to~~  
10188 ~~the governor under Subsection 63M-9-201(4)(e) a budget recommendation for collaborative~~  
10189 ~~service delivery systems operated under Section 63M-9-402.]~~

10190       ~~[(b) The Legislature may, through a specific program schedule, designate funds~~  
10191 ~~appropriated for collaborative service delivery systems operated under Section 63M-9-402.]~~

10192       ~~[(14) The governor shall include in the governor's budget the state's portion of the~~  
10193 ~~budget for the Utah Communications Agency Network established in Title 63C, Chapter 7,~~

10194 ~~Utah Communications Agency Network Act.]~~

10195  ~~[(15) (a) The governor shall include a separate recommendation in the governor's~~  
 10196  ~~budget for funds to maintain the operation and administration of the Utah Comprehensive~~  
 10197  ~~Health Insurance Pool.]~~

10198  ~~[(b) In making the recommendation the governor may consider:]~~

10199  ~~[(i) actuarial analysis of growth or decline in enrollment projected over a period of at~~  
 10200  ~~least three years;]~~

10201  ~~[(ii) actuarial analysis of the medical and pharmacy claims costs projected over a~~  
 10202  ~~period of at least three years;]~~

10203  ~~[(iii) the annual Medical Care Consumer Price Index;]~~

10204  ~~[(iv) the annual base budget for the pool established by the Commerce and Revenue~~  
 10205  ~~Appropriations Subcommittee for each fiscal year;]~~

10206  ~~[(v) the growth or decline in insurance premium taxes and fees collected by the tax~~  
 10207  ~~commission and the insurance department; and]~~

10208  ~~[(vi) the availability of surplus General Fund revenue under Section 63J-1-202 and~~  
 10209  ~~Subsection 59-14-204(5)(b).]~~

10210  (4) In considering the factors in Subsections (3)(c)(vi)(B)(I), (II), and (III) and  
 10211  Subsections (5)(b)(ii)(A), (B), and (C), the governor and the Legislature may consider the  
 10212  actuarial data and projections prepared for the board of the Utah Comprehensive Health  
 10213  Insurance Pool as it develops its financial statements and projections for each fiscal year.

10214  ~~[(16)]~~  (5) (a) In adopting a budget for each fiscal year, the Legislature shall consider  
 10215 an amount sufficient to grant local health departments, local mental health authorities, local  
 10216 substance abuse authorities, area agencies on aging, conservation districts, and Utah  
 10217 Association of Conservation District employees the same percentage increase for wages and  
 10218 benefits that is included in the budget for persons employed by the state.

10219  ~~[(17) (a)]~~  (b) (i) In adopting a budget each year for the Utah Comprehensive Health  
 10220 Insurance Pool, the Legislature shall determine an amount that is sufficient to fund the pool for  
 10221 each fiscal year.

10222           ~~[(b)]~~ (ii) When making a determination under Subsection ~~[(17)(a)]~~ (5)(b)(i), the  
10223 Legislature shall consider factors it determines are appropriate, which may include:

10224           ~~[(i)]~~ (A) actuarial analysis of growth or decline in enrollment projected over a period  
10225 of at least three years;

10226           ~~[(ii)]~~ (B) actuarial analysis of the medical and pharmacy claims costs projected over a  
10227 period of at least three years;

10228           ~~[(iii)]~~ (C) the annual Medical Care Consumer Price Index;

10229           ~~[(iv)]~~ (D) the annual base budget for the pool established by the Commerce and  
10230 Revenue Appropriations Subcommittee for each fiscal year;

10231           ~~[(v)]~~ (E) the growth or decline in insurance premium taxes and fees collected by the  
10232 tax commission and the insurance department from the previous fiscal year; and

10233           ~~[(vi)]~~ (F) the availability of surplus General Fund revenue under Section ~~[63J-1-202]~~  
10234 63J-1-312 and Subsection 59-14-204(5)(b).

10235           ~~[(c)]~~ (iii) The funds appropriated by the Legislature to fund the Utah Comprehensive  
10236 Health Insurance Pool as determined under Subsection ~~[(17)(a)]~~ (5)(b)(i):

10237           (i) shall be deposited into the enterprise fund established by Section 31A-29-120; and  
10238           (ii) are restricted and are to be used to maintain the operation, administration, and  
10239 management of the Utah Comprehensive Health Insurance Pool created by Section  
10240 31A-29-104.

10241           ~~[(18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections~~  
10242 ~~(17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and~~  
10243 ~~projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it~~  
10244 ~~develops its financial statements and projections for each fiscal year.]~~

10245           ~~[(19) The governor shall report, for each line item, the average annual dollar amount~~  
10246 ~~of staff funding associated with all positions that were vacant during the last fiscal year.]~~

10247           (6) If any item of the budget as enacted is held invalid upon any ground, the invalidity  
10248 does not affect the budget itself or any other item in it.

10249           Section 228. Section **63J-1-206**, which is renumbered from Section 63J-1-301 is

10250 renumbered and amended to read:

10251 ~~[63J-1-301].~~ **63J-1-206. Appropriations governed by chapter --**  
10252 **Exclusions -- Restrictions on expenditures -- Transfer of funds.**

10253 (1) (a) All ~~[moneys]~~ monies appropriated by the Legislature are appropriated upon the  
10254 terms and conditions set forth in this chapter, and any department, agency, or institution[;  
10255 ~~except the Legislature and its committees, or where specifically exempted by the appropriating~~  
10256 ~~act, which accepts moneys appropriated by the Legislature]~~ that accepts monies appropriated  
10257 by the Legislature, does so subject to the requirements of this chapter.

10258 ~~[(2) (a) In providing that certain appropriations are to be expended in accordance with~~  
10259 ~~a schedule or other restrictions, if any, set forth after each appropriations item, it is the intent~~  
10260 ~~of the Legislature to limit the amount of money to be expended from each appropriations item~~  
10261 ~~for certain specified purposes.]~~

10262 (b) This section does not apply to:

10263 (i) the Legislature and its committees; and

10264 (ii) the Investigation Account of the Water Resources Construction Fund, which is  
10265 governed by Section 73-10-8.

10266 (2) (a) Each appropriation item is to be expended subject to any schedule of programs  
10267 and any restriction attached to the appropriation item, as designated by the Legislature.

10268 (b) Each schedule of programs or restriction attached to an appropriation item:

10269 (i) is a restriction or limitation upon the expenditure of the respective appropriation  
10270 made;

10271 (ii) does not itself appropriate any money; and

10272 (iii) is not itself an item of appropriation.

10273 (c) An appropriation or any surplus of any appropriation may not be diverted from any  
10274 department, agency, institution, or division to any other department, agency, institution, or  
10275 division.

10276 (d) The money appropriated subject to a schedule of programs or restriction may be  
10277 used only for the purposes authorized.

10278 (e) (i) If any department, agency, or institution for which money is appropriated  
 10279 requests the transfer of [~~moneys~~] monies appropriated to it from one [~~purpose or function~~]  
 10280 program to another [~~purpose or function~~] program within an item of appropriation, the director  
 10281 of the Governor's Office of Planning and Budget shall require a new work program to be  
 10282 submitted for the fiscal year involved setting forth the purpose and necessity for [~~such~~] the  
 10283 transfer.

10284 (ii) The director and fiscal officer shall review the proposed change and submit their  
 10285 findings and recommendations to the governor, who may permit the transfer.

10286 (iii) The [~~state~~] state's fiscal officer shall notify the Legislature [~~through the~~] of the  
 10287 governor's action by providing notice of the governor's action to the Office of the Legislative  
 10288 Fiscal Analyst [~~of action taken by the governor~~].

10289 (f) Monies may not be transferred from one item of appropriation to any other item of  
 10290 appropriation.

10291 [~~(3) This section does not apply to the Investigation Account of the Water Resources~~  
 10292 ~~Construction Fund. The investigation account shall continue to be governed by Section~~  
 10293 ~~73-10-8.]~~

10294 Section 229. Section **63J-1-207**, which is renumbered from Section 63J-1-408 is  
 10295 renumbered and amended to read:

10296 [~~63J-1-408~~]. **63J-1-207. Uniform School Fund -- Appropriations.**

10297 (1) Appropriations made from the General Fund to the Uniform School Fund to assist  
 10298 in financing the state's portion of the minimum school program, as provided by law, shall be  
 10299 conditioned upon available revenue.

10300 (2) If revenues to the General Fund are not sufficient to permit transfers to the  
 10301 Uniform School Fund as provided by appropriation, the state fiscal officers[~~, with the approval~~  
 10302 ~~of the governor,~~] shall withhold [~~such~~] transfers from the General Fund to the Uniform School  
 10303 Fund during the fiscal period, as in their judgment the available revenues justify[~~, after~~] until:

10304 (a) all other appropriations made by law have been provided for[~~, and after~~];

10305 (b) any modifications [~~in~~] to department and agency work [~~program and allotments~~]

10306 programs have been made[; and provided further, that transfers]; and

10307 (c) the governor has approved the transfer.

10308 (3) Transfers from the General Fund to the Uniform School Fund shall be made at  
10309 such times as required to equalize the property levy for each fiscal year.

10310 Section 230. Section **63J-1-208**, which is renumbered from Section 63J-1-409 is  
10311 renumbered and amended to read:

10312 ~~[63J-1-409].~~ **63J-1-208. Conditions on appropriations binding.**

10313 ~~[Any and all conditions as may be]~~ A condition that is attached to ~~[items]~~ an item of  
10314 appropriation ~~[made by the appropriations act]~~ that is not inconsistent with law ~~[shall be]~~ is  
10315 binding upon the recipient of ~~[any such]~~ the appropriation.

10316 Section 231. Section **63J-1-209**, which is renumbered from Section 63J-1-406 is  
10317 renumbered and amended to read:

10318 ~~[63J-1-406].~~ **63J-1-209. Director of finance to exercise accounting**  
10319 **control -- Work programs -- Allotments and expenditures.**

10320 (1) The director of finance shall exercise accounting control over all state departments,  
10321 institutions, and agencies other than the Legislature and legislative committees.

10322 (2) (a) The director shall require the head of each department to submit, by May 15 of  
10323 each year, a work program for the next fiscal year.

10324 (b) The director may require any department to submit a work program for any other  
10325 period.

10326 (3) The work program shall include appropriations and all other funds from any source  
10327 made available to the department for its operation and maintenance for the period and program  
10328 authorized by the appropriation act.

10329 (4) The director of finance shall, upon request from the governor, revise, alter,  
10330 decrease, or change work programs.

10331 (5) Notwithstanding the requirements of Title 63J, Chapter 2, Revenue Procedures and  
10332 Control Act, the aggregate of the work program changes may not exceed the total  
10333 appropriations or other funds from any source that are available to the department line item for

10334 the fiscal year in question.

10335 (6) The director of finance shall transmit a copy of the changes, when approved by the  
10336 governor, to:

10337 (a) the head of the department concerned; and [~~also a copy to~~]

10338 (b) the legislative analyst.

10339 (7) Upon request, review, and approval by the governor, the director of finance shall  
10340 permit all expenditures to be made from the appropriations or other funds from any source on  
10341 the basis of those work programs.

10342 (8) (a) Except as provided by Subsection (8)(c), the director shall, through statistical  
10343 sampling methods or other means, examine and approve or disapprove all requisitions and  
10344 requests for proposed expenditures of the departments.

10345 (b) No requisitions of any of the departments shall be allowed nor shall any obligation  
10346 be created without the approval and the certification of the director.

10347 (c) Notwithstanding the requirements of Subsection (8)(a), the director need only  
10348 certify the availability of funds when the requisitions or proposed expenditures are for the  
10349 judicial branch or to pay the salaries or compensation of officers fixed by law.

10350 Section 232. Section **63J-1-210**, which is renumbered from Section 63J-1-302 is  
10351 renumbered and amended to read:

10352 [~~63J-1-302~~]. **63J-1-210. Restrictions on agency expenditures of monies --**  
10353 **Lobbyists.**

10354 (1) As used in this section:

10355 (a) (i) "Agency" means each department, commission, board, council, agency,  
10356 institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
10357 library, unit, bureau, panel, or other administrative unit of the state.

10358 (ii) "Agency" includes the legislative branch, the judicial branch, the Board of  
10359 Regents, the board of trustees of each higher education institution, each higher education  
10360 institution, or a public education entity.

10361 (b) "Executive action" means action undertaken by the governor, including signing or

10362 vetoing legislation, and action undertaken by any official in the executive branch of  
10363 government.

10364 (c) "Legislative action" means action undertaken by the Utah Legislature or any part of  
10365 it.

10366 (d) "Lobbyist" means a person who is not an employee of an agency who is hired as an  
10367 independent contractor by the agency to communicate with legislators or the governor for the  
10368 purpose of influencing the passage, defeat, amendment, or postponement of legislative or  
10369 executive action.

10370 (2) A state agency or entity to which monies are appropriated by the Legislature may  
10371 not expend any monies to pay a lobbyist.

10372 Section 233. Section **63J-1-211**, which is renumbered from Section 63J-1-307 is  
10373 renumbered and amended to read:

10374 ~~[63J-1-307].~~ **63J-1-211. Appropriating from restricted accounts.**

10375 (1) As used in this section, "operating deficit" means that estimated General Fund or  
10376 Uniform School Fund revenues are less than budgeted for the current or next fiscal year.

10377 (2) Notwithstanding any other statute that limits the Legislature's power to appropriate  
10378 from a restricted account, if the Legislature determines that an operating deficit exists, unless  
10379 prohibited by federal law or court order, the Legislature may, in eliminating the deficit,  
10380 appropriate monies from a restricted account into the General Fund.

10381 Section 234. Section **63J-1-212**, which is renumbered from Section 63J-1-308 is  
10382 renumbered and amended to read:

10383 ~~[63J-1-308].~~ **63J-1-212. Duplicate payment of claims prohibited.**

10384 No claim against the state, the payment of which is provided for, shall be duplicated,  
10385 and the amount of any appropriation for the payment of any such claim shall be withheld if it  
10386 is covered by any other appropriation.

10387 Section 235. Section **63J-1-213**, which is renumbered from Section 63J-1-309 is  
10388 renumbered and amended to read:

10389 ~~[63J-1-309].~~ **63J-1-213. Appropriations from special funds or accounts --**

10390 **Transfer by proper official only.**

10391 Whenever appropriations are made from special funds, or a fund account, the transfer  
10392 of [~~moneys~~] monies from [~~such~~] those funds, or accounts, to the General Fund or any other  
10393 fund for budgetary purposes shall be made by the proper state fiscal officer.

10394 Section 236. Section **63J-1-214**, which is renumbered from Section 63J-1-310 is  
10395 renumbered and amended to read:

10396 ~~[63J-1-310].~~ **63J-1-214. Warrants -- Not to be drawn until claim**  
10397 **processed -- Redemption.**

10398 (1) No warrant to cover any claim against any appropriation or fund shall be drawn  
10399 until such claim has been processed as provided by law.

10400 (2) The state treasurer shall return all redeemed warrants to the state fiscal officer for  
10401 purposes of reconciliation, post-audit and verification of the state treasurer's fund balances.

10402 Section 237. Section **63J-1-215**, which is renumbered from Section 63J-1-311 is  
10403 renumbered and amended to read:

10404 ~~[63J-1-311].~~ **63J-1-215. Cash funds -- Petty cash, application for --**  
10405 **Revolving fund established by law excepted.**

10406 (1) Before any new petty cash funds may be established, the commission, department,  
10407 or agency requesting the fund or funds shall apply in writing to the state fiscal officer, setting  
10408 out the reasons for which it is needed and the amount requested.

10409 (2) The state fiscal officer shall review the application and submit it to the governor  
10410 with the state fiscal officer's recommendations, and the governor may establish the fund or  
10411 funds from [~~moneys~~] monies in the state treasury.

10412 ~~[(3) The state fiscal officer may, in lieu of establishing petty cash, imprest cash, or~~  
10413 ~~revolving funds for state institutions of higher education, permit advances to be made from~~  
10414 ~~allotments to the institutions in sufficient amounts to provide necessary working bank~~  
10415 ~~balances to facilitate an orderly management of institutional affairs. The institutions shall~~  
10416 ~~make reports as required by the state fiscal officer for the expenditure of funds included in any~~  
10417 ~~advances.]~~

10418            [~~(4)~~] (3) Revolving funds established by law are not subject to the provisions of this  
10419 section.

10420            Section 238. Section **63J-1-216** is enacted to read:

10421            **63J-1-216. Allotment of funds to higher education.**

10422            (1) The state fiscal officer may permit advances to be made from allotments to state  
10423 institutions of higher education in sufficient amounts to provide necessary working bank  
10424 balances to facilitate an orderly management of institutional affairs.

10425            (2) State institutions of higher education shall make reports, as required by the state  
10426 fiscal officer, for the expenditure of funds included in any advances.

10427            Section 239. Section **63J-1-217**, which is renumbered from Section 63J-1-405 is  
10428 renumbered and amended to read:

10429            [~~63J-1-405~~].            **63J-1-217. Overexpenditure of budget by agency --**  
10430 **Prorating budget income shortfall.**

10431            (1) In providing for appropriations, the Legislature intends that expenditures of  
10432 departments, agencies, and institutions of state government be kept within revenues available  
10433 for such expenditures.

10434            (2) (a) The Legislature also intends that line items of appropriation not be  
10435 overexpended.

10436            (b) If an agency's line item is overexpended at the close of a fiscal year:

10437            (i) the director of the Division of Finance may make payments from the line item to  
10438 vendors for goods or services that were received on or before June 30; and

10439            (ii) the director of the Division of Finance shall immediately reduce the agency's line  
10440 item budget in the current year by the amount of the overexpenditure.

10441            (c) Each agency with an overexpended line item shall [~~produce~~]:

10442            (i) prepare a written report explaining the reasons for the overexpenditure; and [~~shall~~]

10443            (ii) present the report to the Board of Examiners as required by Section 63G-9-301.

10444            (3) If the total of all revenues accruing in any given fiscal year to the General Fund, or  
10445 any other major fund type, collections, or dedicated credits, from which appropriations are

10446 made, are not sufficient to cover the appropriations made for that period, the governor shall  
10447 reduce the budgetary allotments and transfer of funds by the amount of the deficiency.

10448 (4) (a) ~~[No]~~ A department may not receive ~~[any]~~ an advance ~~[allotment, or allotments~~  
10449 ~~in excess of regular monthly allotments,]~~ of funds that cannot be covered by anticipated  
10450 revenue within the work program of the fiscal year, unless the governor allocates ~~[moneys]~~  
10451 monies from the governor's emergency appropriations.

10452 (b) All allocations made from the governor's emergency appropriations shall be  
10453 reported to the budget subcommittee of the Legislative Management Committee by notifying  
10454 the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the  
10455 allocation.

10456 (c) Emergency appropriations shall be allocated only to support activities having  
10457 existing legislative approval and appropriation, and may not be allocated to any activity or  
10458 function rejected directly or indirectly by the Legislature.

10459 Section 240. Section **63J-1-218**, which is renumbered from Section 63J-1-407 is  
10460 renumbered and amended to read:

10461 ~~[63J-1-407].~~ **63J-1-218. Reduction in federal funds -- Agencies to reduce**  
10462 **budgets.**

10463 (1) In any fiscal year in which federal grants to be received by state agencies,  
10464 departments, divisions, or institutions are reduced below the level estimated in the  
10465 appropriations acts for that year, the programs supported by those grants must be reduced  
10466 commensurate with the amount of the federal reduction unless the Legislature appropriates  
10467 state funds to offset the loss in federal funding.

10468 (2) This program modification shall be reported to the Legislature through the  
10469 Executive Appropriations Committee and the Office of the Legislative Fiscal Analyst.

10470 Section 241. Section **63J-1-312**, which is renumbered from Section 63J-1-202 is  
10471 renumbered and amended to read:

10472 **Part 3. Budget-Related Restricted Accounts**

10473 ~~[63J-1-202].~~ **63J-1-312. Establishing a General Fund Budget Reserve**

10474 **Account -- Providing for deposits and expenditures from the account -- Providing for**  
10475 **interest generated by the account.**

10476 (1) As used in this section:

10477 (a) "Education Fund budget deficit" means a situation where appropriations made by  
10478 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
10479 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
10480 in that fiscal year.

10481 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal  
10482 year that is:

10483 (i) granted by the Legislature in all appropriation acts and bills; and

10484 (ii) identified as coming from the General Fund.

10485 (c) "General Fund budget deficit" means a situation where General Fund  
10486 appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted  
10487 by the Executive Appropriations Committee of the Legislature for the General Fund in that  
10488 fiscal year.

10489 (d) "General Fund revenue surplus" means a situation where actual General Fund  
10490 revenues collected in a completed fiscal year exceed the estimated revenues for the General  
10491 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the  
10492 Legislature.

10493 (e) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
10494 undesignated fund balance in the General Fund is less than zero.

10495 (2) There is created within the General Fund a restricted account to be known as the  
10496 General Fund Budget Reserve Account, which is designated to receive the legislative  
10497 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
10498 account by this section.

10499 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
10500 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
10501 conjunction with the completion of the annual audit by the state auditor, determines that there

10502 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General  
10503 Fund revenue surplus to the General Fund Budget Reserve Account.

10504 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund  
10505 Budget Reserve Account would cause the balance in the account to exceed 6% of General  
10506 Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of  
10507 Finance shall transfer only those funds necessary to ensure that the balance in the account  
10508 equals 6% of General Fund appropriations for the fiscal year in which the General Fund  
10509 revenue surplus occurred.

10510 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10511 Subsection (3)(a):

10512 (A) before transferring from the General Fund revenue surplus any other year-end  
10513 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
10514 and

10515 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10516 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal  
10517 year.

10518 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i),  
10519 if a General Fund revenue surplus exists and if, within the last ten years, the Legislature has  
10520 appropriated any money from the General Fund Budget Reserve Account that has not been  
10521 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance  
10522 shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget  
10523 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if  
10524 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have  
10525 replaced the appropriations from the account.

10526 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
10527 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus  
10528 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the  
10529 balance in the account equals 6% of General Fund appropriations for the fiscal year in which

10530 the revenue surplus occurred.

10531 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10532 Subsection (3)(b):

10533 (A) before transferring from the General Fund revenue surplus any other year-end  
10534 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
10535 and

10536 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10537 legislative appropriation made to the General Fund Budget Reserve Account for the fiscal  
10538 year.

10539 (c) For appropriations made by the Legislature to the General Fund Budget Reserve  
10540 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in  
10541 the appropriation, as replacement funds for appropriations made from the account if funds  
10542 were appropriated from the General Fund Budget Reserve Account within the past ten years  
10543 and have not yet been replaced.

10544 (4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay  
10545 additional debt service for any bonded debt authorized by the Legislature, the Division of  
10546 Finance may hold back from any General Fund revenue surplus monies sufficient to pay the  
10547 additional debt service requirements resulting from issuance of bonded debt that was  
10548 authorized by the Legislature.

10549 (b) The Division of Finance may not spend the hold back amount for debt service  
10550 under Subsection (4)(a) unless and until it is appropriated by the Legislature.

10551 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve  
10552 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for  
10553 debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to  
10554 the General Fund Budget Reserve Account by the amount necessary to cover the debt service  
10555 hold back.

10556 (d) Notwithstanding Subsection (3), the Division of Finance shall hold back the  
10557 General Fund balance for debt service authorized by this Subsection (4) before making any

10558 transfers to the General Fund Budget Reserve Account or any other designation or allocation  
10559 of General Fund revenue surplus.

10560 (5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
10561 Finance determines that an operating deficit exists and that holding back the transfers to the  
10562 State Disaster Recovery Restricted Account under Section [~~63J-1-204~~] 63J-1-314 does not  
10563 eliminate the operating deficit, the Division of Finance may reduce the transfer to the General  
10564 Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

10565 (6) The Legislature may appropriate monies from the General Fund Budget Reserve  
10566 Account only to:

10567 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund  
10568 budget deficit occurs;

10569 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter  
10570 10, State Settlement Agreements Act;

10571 (c) pay retroactive tax refunds; or

10572 (d) resolve an Education Fund budget deficit.

10573 (7) Interest generated from investments of money in the General Fund Budget Reserve  
10574 Account shall be deposited into the General Fund.

10575 Section 242. Section **63J-1-313**, which is renumbered from Section 63J-1-203 is  
10576 renumbered and amended to read:

10577 ~~[63J-1-203]~~. **63J-1-313. Establishing an Education Budget Reserve**  
10578 **Account -- Providing for deposits and expenditures from the account -- Providing for**  
10579 **interest generated by the account.**

10580 (1) As used in this section:

10581 (a) "Education Fund appropriations" means the sum of the spending authority for a  
10582 fiscal year that is:

10583 (i) granted by the Legislature in all appropriation acts and bills; and

10584 (ii) identified as coming from the Education Fund.

10585 (b) "Education Fund budget deficit" means a situation where appropriations made by

10586 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues  
10587 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund  
10588 in that fiscal year.

10589 (c) "Education Fund revenue surplus" means a situation where actual Education Fund  
10590 revenues collected in a completed fiscal year exceed the estimated revenues for the Education  
10591 Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the  
10592 Legislature.

10593 (d) "Operating deficit" means that, at the end of the fiscal year, the unreserved and  
10594 undesignated fund balance in the Education Fund is less than zero.

10595 (2) There is created within the Education Fund a restricted account to be known as the  
10596 Education Fund Budget Reserve Account, which is designated to receive the legislative  
10597 appropriations, investment earnings, and the surplus revenue required to be deposited into the  
10598 account by this section.

10599 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in  
10600 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in  
10601 conjunction with the completion of the annual audit by the state auditor, determines that there  
10602 is an Education Fund revenue surplus, the Division of Finance shall transfer 25% of the  
10603 Education Fund revenue surplus to the Education Fund Budget Reserve Account.

10604 (ii) If the transfer of 25% of the Education Fund revenue surplus to the Education  
10605 Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the  
10606 account to exceed 7% of Education Fund appropriations for the fiscal year in which the  
10607 Education Fund revenue surplus occurred, the Division of Finance shall transfer only those  
10608 funds necessary to ensure that the balance in the account equals 7% of the Education Fund  
10609 appropriations for the fiscal year in which the Education Fund revenue surplus occurred.

10610 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10611 Subsection (3)(a):

10612 (A) before transferring from the Education Fund revenue surplus any other year-end  
10613 contingency appropriations, year-end set-asides, or other year-end transfers required by law;

10614 and

10615 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10616 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
10617 year.

10618 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if  
10619 an Education Fund revenue surplus exists and if, within the last ten years, the Legislature has  
10620 appropriated any money from the Education Fund Budget Reserve Account that has not been  
10621 replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance  
10622 shall transfer up to 25% more of the Education Fund revenue surplus to the Education Fund  
10623 Budget Reserve Account to replace the amounts appropriated, until direct legislative  
10624 appropriations, if any, and transfers from the Education Fund revenue surplus under this  
10625 Subsection (3)(b) have replaced the appropriations from the account.

10626 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to  
10627 exceed 7% of Education Fund appropriations for the fiscal year in which the Education Fund  
10628 revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to  
10629 ensure that the balance in the account equals 7% of Education Fund appropriations for the  
10630 fiscal year in which the revenue surplus occurred.

10631 (iii) The Division of Finance shall calculate the amount to be transferred under this  
10632 Subsection (3)(b):

10633 (A) before transferring from the Education Fund revenue surplus any other year-end  
10634 contingency appropriations, year-end set-asides, or other year-end transfers required by law;  
10635 and

10636 (B) excluding the investment earnings for the fiscal year and excluding any direct  
10637 legislative appropriation made to the Education Fund Budget Reserve Account for the fiscal  
10638 year.

10639 (c) For appropriations made by the Legislature to the Education Fund Budget Reserve  
10640 Account, the Division of Finance shall treat those appropriations, unless specified otherwise in  
10641 the appropriation, as replacement funds for appropriations made from the account if funds

10642 were appropriated from the account within the past ten years and have not yet been replaced.

10643 (4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of  
10644 Finance determines that an operating deficit exists, the Division of Finance may reduce the  
10645 transfer to the Education Fund Budget Reserve Account by the amount necessary to eliminate  
10646 the operating deficit.

10647 (5) The Legislature may appropriate monies from the Education Fund Budget Reserve  
10648 Account only to resolve an Education Fund budget deficit.

10649 (6) Interest generated from investments of money in the Education Fund Budget  
10650 Reserve Account shall be deposited into the Education Fund.

10651 Section 243. Section **63J-1-314**, which is renumbered from Section 63J-1-204 is  
10652 renumbered and amended to read:

10653 ~~[63J-1-204]~~. **63J-1-314. Deposits related to the Disaster Recovery**  
10654 **Funding Act.**

10655 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,  
10656 the unreserved and undesignated fund balance in the General Fund is less than zero.

10657 (2) Beginning with the fiscal year ending June 30, 2007, at the end of each fiscal year  
10658 and after the transfer of surplus General Fund revenues has been made to the General Fund  
10659 Budget Reserve Account as provided in Section ~~[63J-1-202]~~ 63J-1-312, the Division of  
10660 Finance shall deposit an amount into the State Disaster Recovery Restricted Account, created  
10661 in Section 53-2-403, calculated by:

10662 (a) determining the amount of surplus General Fund revenues after the transfer to the  
10663 General Fund Budget Reserve Account under Section ~~[63J-1-202]~~ 63J-1-312 that is  
10664 unrestricted and undesignated;

10665 (b) calculating an amount equal to the lesser of:

10666 (i) 25% of the amount determined under Subsection (2)(a); or

10667 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in  
10668 which the surplus occurs; and

10669 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the

10670 lesser of:

10671 (i) 25% more of the amount described in Subsection (2)(a); or

10672 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any  
10673 amount appropriated from the State Disaster Recovery Restricted Account within ten fiscal  
10674 years before the fiscal year in which the surplus occurs if:

10675 (A) a surplus exists; and

10676 (B) the Legislature appropriates money from the State Disaster Recovery Restricted  
10677 Account that is not replaced by appropriation or as provided in this Subsection (2)(c).

10678 (3) Notwithstanding Subsection (2), if, at the end of a fiscal year, the Division of  
10679 Finance determines that an operating deficit exists, the Division of Finance shall reduce the  
10680 transfer to the State Disaster Recovery Restricted Account by the amount necessary to  
10681 eliminate the operating deficit.

10682 Section 244. Section **63J-1-410**, which is renumbered from Section 63J-1-306 is  
10683 renumbered and amended to read:

10684 **Part 4. Internal Service Funds**

10685 **~~63J-1-306~~. 63J-1-410. Internal service funds -- Governance and review.**

10686 (1) For purposes of this section:

10687 (a) "Agency" means a department, division, office, bureau, or other unit of state  
10688 government, and includes any subdivision of an agency.

10689 (b) "Do not replace vehicles" means a vehicle accounted for in the Division of Fleet  
10690 Operations for which charges to an agency for its use do not include amounts to cover  
10691 depreciation or to accumulate assets to replace the vehicle at the end of its useful life.

10692 (c) "Internal service fund agency" means an agency that provides goods or services to  
10693 other agencies of state government or to other governmental units on a capital maintenance  
10694 and cost reimbursement basis, and which recovers costs through interagency billings.

10695 (d) "Revolving loan fund" means each of the revolving loan funds defined in Section  
10696 63A-3-205.

10697 (2) An internal service fund agency is not subject to this section with respect to its

10698 administration of a revolving loan fund.

10699 (3) An internal service fund agency may not bill another agency for services that it  
10700 provides, unless the Legislature has:

10701 (a) reviewed and approved the internal service fund agency's budget request;

10702 (b) reviewed and approved the internal service fund agency's rates, fees, and other  
10703 amounts that it charges those who use its services and included those rates, fees, and amounts  
10704 in an appropriation act;

10705 (c) approved the number of full-time, permanent positions of the internal service fund  
10706 agency as part of the annual appropriation process; and

10707 (d) appropriated to the internal service fund agency the internal service fund's  
10708 estimated revenue based upon the rates and fee structure that are the basis for the estimate.

10709 (4) (a) Except as provided in Subsection (4)(b), an internal service fund agency may  
10710 not charge rates, fees, and other amounts that exceed the rates, fees, and amounts established  
10711 by the Legislature in the appropriations act.

10712 (b) (i) An internal service fund agency that begins a new service or introduces a new  
10713 product between annual general sessions of the Legislature may establish and charge an  
10714 interim rate or amount for that service or product.

10715 (ii) The internal service fund agency shall submit that interim rate or amount to the  
10716 Legislature for approval at the next annual general session.

10717 (5) The internal service fund agency budget request shall separately identify the capital  
10718 needs and the related capital budget.

10719 (6) In the fiscal year that the accounting change referred to in Subsection 51-5-6(2) is  
10720 implemented by the Division of Finance, the Division of Finance shall transfer equity created  
10721 by that accounting change to any internal service fund agency up to the amount needed to  
10722 eliminate any long-term debt and deficit working capital in the fund.

10723 (7) No new internal service fund agency may be established unless reviewed and  
10724 approved by the Legislature.

10725 (8) (a) Except as provided in Subsection (8)(f), an internal service fund agency may

10726 not acquire capital assets unless legislative approval for acquisition of the assets has been  
10727 included in an appropriations act for the internal service fund agency.

10728 (b) An internal service fund agency may not acquire capital assets after the transfer  
10729 mandated by Subsection (6) has occurred unless the internal service fund agency has adequate  
10730 working capital.

10731 (c) The internal service fund agency shall provide working capital from the following  
10732 sources in the following order:

10733 (i) first, from operating revenues to the extent allowed by state rules and federal  
10734 regulations;

10735 (ii) second, from long-term debt, subject to the restrictions of this section; and

10736 (iii) last, from an appropriation.

10737 (d) (i) To eliminate negative working capital, an internal service fund agency may  
10738 incur long-term debt from the General Fund or Special Revenue Funds to acquire capital  
10739 assets.

10740 (ii) The internal service fund agency shall repay all long-term debt borrowed from the  
10741 General Fund or Special Revenue Funds by making regular payments over the useful life of  
10742 the asset according to the asset's depreciation schedule.

10743 (e) (i) The Division of Finance may not allow an internal service fund agency's  
10744 borrowing to exceed 90% of the net book value of the agency's capital assets as of the end of  
10745 the fiscal year.

10746 (ii) If an internal service fund agency wishes to purchase authorized assets or enter  
10747 into equipment leases that would increase its borrowing beyond 90% of the net book value of  
10748 the agency's capital assets, the agency may purchase those assets only with monies  
10749 appropriated from another fund, such as the General Fund or a special revenue fund.

10750 (f) (i) Except as provided in Subsection (8)(f)(ii), capital assets acquired through  
10751 agency appropriation may not be transferred to any internal service fund agency without  
10752 legislative approval.

10753 (ii) Vehicles acquired by agencies from appropriated funds or monies appropriated to

10754 agencies to be used for vehicle purchases may be transferred to the Division of Fleet  
10755 Operations and, when transferred, become part of the Fleet Operations Internal Service Fund.

10756 (iii) Vehicles acquired with funding from sources other than state appropriations or  
10757 acquired through the federal surplus property donation program may be transferred to the  
10758 Division of Fleet Operations and, when transferred, become part of the Fleet Operations  
10759 Internal Service Fund.

10760 (iv) Unless otherwise approved by the Legislature, vehicles acquired under Subsection  
10761 (8)(f)(iii) shall be accounted for as "do not replace" vehicles.

10762 (9) The Division of Finance shall adopt policies and procedures related to the  
10763 accounting for assets, liabilities, equity, revenues, expenditures, and transfers of internal  
10764 service funds agencies.

10765 Section 245. Section **63J-1-411**, which is renumbered from Section 63J-1-403 is  
10766 renumbered and amended to read:

10767 **~~[63J-1-403].~~ 63J-1-411. Internal service funds -- End of fiscal year --**  
10768 **Unused authority for capital acquisition.**

10769 (1) An internal service fund agency's authority to acquire capital assets under  
10770 Subsection ~~[63J-1-306]~~ 63J-1-410(8)(a) shall lapse if the acquisition of the capital asset does  
10771 not occur in the fiscal year in which the authorization is included in the appropriations act,  
10772 unless the Legislature identifies the authority to acquire the capital asset as nonlapsing  
10773 authority:

10774 (a) for a specific one-time project and a limited period of time in the Legislature's  
10775 initial appropriation to the agency; or

10776 (b) in a supplemental appropriation in accordance with Subsection (2).

10777 (2) (a) An internal service fund agency's authority to acquire capital assets may be  
10778 retained as nonlapsing authorization if the internal service fund agency includes a one-time  
10779 project's list as part of the budget request that it submits to the governor and the Legislature at  
10780 the annual general session of the Legislature immediately before the end of the fiscal year in  
10781 which the agency may have unused capital acquisition authority.

- 10782 (b) The governor:
- 10783 (i) may approve some or all of the items from an agency's one-time project's list; and
- 10784 (ii) shall identify and prioritize any approved one-time projects in the budget that the
- 10785 governor submits to the Legislature.
- 10786 (c) The Legislature:
- 10787 (i) may approve some or all of the specific items from an agency's one-time project's
- 10788 list as an approved capital acquisition for an agency's appropriation balance;
- 10789 (ii) shall identify any authorized one-time projects in the appropriate line item
- 10790 appropriation; and
- 10791 (iii) may prioritize one-time projects in intent language.
- 10792 (3) An internal service fund agency shall submit a status report of outstanding
- 10793 nonlapsing authority to acquire capital assets and associated one-time projects to the
- 10794 Governor's Office of Planning and Budget and the Legislative Fiscal Analyst's Office with the
- 10795 proposed budget required by Section 63J-1-201.

10796 Section 246. Section **63J-1-504**, which is renumbered from Section 63J-1-303 is

10797 renumbered and amended to read:

10798 **Part 5. Fees**

10799 **~~[63J-1-303]~~. 63J-1-504. Fees -- Adoption, procedure, and approval --**

10800 **Establishing and assessing fees without legislative approval.**

- 10801 (1) As used in this section:
- 10802 (a) (i) "Agency" means each department, commission, board, council, agency,
- 10803 institution, officer, corporation, fund, division, office, committee, authority, laboratory,
- 10804 library, unit, bureau, panel, or other administrative unit of the state.
- 10805 (ii) "Agency" does not mean the Legislature or its committees.
- 10806 (b) "Fee agency" means any agency that is authorized to establish regulatory fees.
- 10807 (c) "Fee schedule" means the complete list of regulatory fees charged by a fee agency
- 10808 and the amount of those fees.
- 10809 (d) "Regulatory fees" means fees established for licensure, registration, or

10810 certification.

10811 (2) Each fee agency shall:

10812 (a) adopt a schedule of fees assessed for services provided by the fee agency that are:

10813 (i) reasonable, fair, and reflect the cost of services provided; and

10814 (ii) established according to a cost formula determined by the director of the

10815 Governor's Office of Planning and Budget and the director of the Division of Finance in

10816 conjunction with the agency seeking to establish the regulatory fee;

10817 (b) conduct a public hearing on any proposed regulatory fee and increase or decrease

10818 the proposed regulatory fee based upon the results of the public hearing;

10819 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as

10820 part of the agency's annual appropriations request;

10821 (d) where necessary, modify the fee schedule to implement the Legislature's actions;

10822 and

10823 (e) deposit all regulatory fees collected under the fee schedule into the General Fund.

10824 (3) A fee agency may not:

10825 (a) set regulatory fees by rule; or

10826 (b) charge or collect any regulatory fee without approval by the Legislature unless the

10827 fee agency has complied with the procedures and requirements of Subsection (5).

10828 (4) The Legislature may approve, increase or decrease and approve, or reject any

10829 regulatory fee submitted to it by a fee agency.

10830 (5) (a) After the public hearing required by this section, a fee agency may establish

10831 and assess regulatory fees without legislative approval if:

10832 (i) the Legislature creates a new program that is to be funded by regulatory fees to be

10833 set by the Legislature; and

10834 (ii) the new program's effective date is before the Legislature's next annual general

10835 session; or

10836 (iii) the Division of Occupational and Professional licensing makes a special

10837 assessment against qualified beneficiaries under the Residence Lien Restriction and Lien

10838 Recovery Fund Act as provided in Subsection 38-11-206(1).

10839 (b) Each fee agency shall submit its fee schedule or special assessment amount to the  
10840 Legislature for its approval at a special session, if allowed in the governor's call, or at the next  
10841 annual general session of the Legislature, whichever is sooner.

10842 (c) Unless the fee schedule is approved by the Legislature, the fee agency may not  
10843 collect a regulatory fee set according to this subsection after the adjournment of the annual  
10844 general session following the session that established the new program.

10845 (6) (a) Each fee agency that wishes to increase any regulatory fee by 5% or more shall  
10846 obtain legislative approval for the fee increase as provided in this subsection before assessing  
10847 the new regulatory fee.

10848 (b) Each fee agency that wishes to increase any regulatory fee by 5% or more shall  
10849 submit to the governor as part of the agency's annual appropriation request a list that  
10850 identifies:

10851 (i) the title or purpose of the regulatory fee;

10852 (ii) the present amount of the regulatory fee;

10853 (iii) the proposed new amount of the regulatory fee;

10854 (iv) the percent that the regulatory fee will have increased if the Legislature approves  
10855 the higher fee; and

10856 (v) the reason for the increase in the regulatory fee.

10857 (c) (i) The governor may review and approve, modify and approve, or reject the  
10858 regulatory fee increases.

10859 (ii) The governor shall transmit the list required by Subsection (6)(b), with any  
10860 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

10861 (d) Bills approving any regulatory fee increases of 5% or more shall be filed before the  
10862 beginning of the Legislature's annual general session, if possible.

10863 Section 247. Section **63J-1-505**, which is renumbered from Section 63J-1-304 is  
10864 renumbered and amended to read:

10865 **[63J-1-304]. 63J-1-505. Payment of fees prerequisite to service --**

10866 **Exception.**

10867 (1) (a) State and county officers required by law to charge fees may not perform any  
10868 official service unless the fees prescribed for that service are paid in advance.

10869 (b) When the fee is paid, the officer shall perform the services required.

10870 (c) An officer is liable upon the officer's official bond for every failure or refusal to  
10871 perform an official duty when the fees are tendered.

10872 (2) (a) Except as provided in Subsection (2)(b), no fees may be charged:

10873 (i) to the officer's state, or any county or subdivision of the state;

10874 (ii) to any public officer acting for the state, county, or subdivision;

10875 (iii) in cases of habeas corpus;

10876 (iv) in criminal causes before final judgment;

10877 (v) for administering and certifying the oath of office;

10878 (vi) for swearing pensioners and their witnesses; or

10879 (vii) for filing and recording bonds of public officers.

10880 (b) Fees may be charged for payment:

10881 (i) of recording fees for assessment area recordings in compliance with Section  
10882 11-42-205;

10883 (ii) of recording fees for judgments recorded in compliance with Sections 57-3-106  
10884 and 78A-7-117; and

10885 (iii) to the state engineer under Section 73-2-14.

10886 Section 248. Section **63J-1-506**, which is renumbered from Section 63J-1-305 is  
10887 renumbered and amended to read:

10888 **[63J-1-305].            63J-1-506. Parking fees at court buildings.**

10889 (1) State-owned or leased court facilities may not charge or collect fees for parking  
10890 without prior approval by the Legislature.

10891 (2) The Legislature may approve, increase, decrease and approve, or reject any parking  
10892 fee submitted to it by the courts.

10893 Section 249. Section **63J-1-601**, which is renumbered from Section 63J-1-401 is

10894 renumbered and amended to read:

10895 **Part 6. Unused Balances**

10896 ~~[63J-1-401].~~ **63J-1-601. End of fiscal year -- Unexpended balances --**

10897 **Funds not to be closed out -- Pending claims -- Transfer of amounts from item of**  
10898 **appropriation.**

10899 (1) As used in this section, "transaction control number" means the unique numerical  
10900 identifier established by the Department of Health to track each medical claim, which  
10901 indicates the date upon which the claim is entered.

10902 (2) On or before August 31 of each fiscal year, the director of the Division of Finance  
10903 shall close out to the proper fund or account all remaining unexpended and unencumbered  
10904 balances of appropriations made by the Legislature, except:

10905 (a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act as:

10906 (i) enterprise funds;

10907 (ii) internal service funds;

10908 (iii) trust and agency funds;

10909 (iv) capital projects funds;

10910 (v) college and university funds;

10911 (vi) debt service funds; and

10912 (vii) permanent funds;

10913 (b) appropriations made to the Legislature and its committees;

10914 (c) restricted special revenue funds, unless specifically directed to close out the fund in  
10915 the fund's enabling legislation;

10916 (d) acquisition and development funds appropriated to the Division of Parks and  
10917 Recreation;

10918 (e) funds encumbered to pay purchase orders issued prior to May 1 for capital  
10919 equipment if delivery is expected before June 30;

10920 (f) unexpended and unencumbered balances of appropriations that meet the  
10921 requirements of Section ~~[63J-1-402]~~ 63J-1-603; and

10922 (g) any other appropriations excepted by statute or by an annual appropriations act.

10923 (3) (a) Liabilities and related expenses for goods and services received on or before  
10924 June 30 shall be recognized as expenses due and payable from appropriations made prior to  
10925 June 30.

10926 (b) The liability and related expense shall be recognized within time periods  
10927 established by the Division of Finance but shall be recognized not later than August 31.

10928 (c) Liabilities and expenses not so recognized may be paid from regular departmental  
10929 appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and  
10930 unencumbered balances of appropriations for the years in which the obligation was incurred.

10931 (d) No amounts may be transferred from an item of appropriation of any department,  
10932 institution, or agency into the Capital Projects Fund or any other fund without the prior  
10933 express approval of the Legislature.

10934 (4) (a) For purposes of this chapter, claims processed under the authority of Title 26,  
10935 Chapter 18, Medical Assistance Act:

10936 (i) may not be considered a liability or expense to the state for budgetary purposes  
10937 unless they are received by the Division of Health Care Financing within the time periods  
10938 established by the Division of Finance under Subsection (3)(b); and

10939 (ii) are not subject to the requirements of Subsection (3)(c).

10940 (b) The transaction control number recorded on each claim invoice by the division is  
10941 considered the date of receipt.

10942 Section 250. Section **63J-1-603**, which is renumbered from Section 63J-1-402 is  
10943 renumbered and amended to read:

10944 ~~**[63J-1-402].**~~ **63J-1-603. Nonlapsing authority.**

10945 (1) As used in this section:

10946 (a) (i) "Agency" means each department, commission, board, council, agency,  
10947 institution, officer, corporation, fund, division, office, committee, authority, laboratory,  
10948 library, unit, bureau, panel, or other administrative unit of the state.

10949 (ii) "Agency" does not include those entities whose unappropriated and unencumbered

10950 balances are made nonlapsing by the operation of Subsection [~~63J-1-401~~] 63J-1-601(2).

10951 (b) "Appropriation balance" means the unexpended and unencumbered balance of a  
10952 line item appropriation made by the Legislature to an agency that exists at the end of a fiscal  
10953 year.

10954 (c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the  
10955 appropriate fund at the end of a fiscal year as required by Section [~~63J-1-401~~] 63J-1-601.

10956 (d) "One-time project" means a project or program that can be completed with the  
10957 appropriation balance and includes such items as employee incentive awards and bonuses,  
10958 purchase of equipment, and one-time training.

10959 (e) "One-time projects list" means:

10960 (i) a prioritized list of one-time projects, upon which an agency would like to spend  
10961 any appropriation balance; and

10962 (ii) for each project, the maximum amount the agency is estimating for the project.

10963 (f) "Program" means a service provided by an agency to members of the public, other  
10964 agencies, or to employees of the agency.

10965 (2) Notwithstanding the requirements of Section [~~63J-1-401~~] 63J-1-601, an agency  
10966 may, by following the procedures and requirements of this section, retain and expend any  
10967 appropriation balance.

10968 (3) (a) Each agency that wishes to preserve any part or all of its appropriation balance  
10969 as nonlapsing shall include a one-time projects list as part of the budget request that it submits  
10970 to the governor and the Legislature at the annual general session of the Legislature  
10971 immediately before the end of the fiscal year in which the agency may have an appropriation  
10972 balance.

10973 (b) An agency may not include a proposed expenditure on its one-time projects list if:

10974 (i) the expenditure creates a new program;

10975 (ii) the expenditure enhances the level of an existing program; or

10976 (iii) the expenditure will require a legislative appropriation in the next fiscal year.

10977 (c) The governor:

10978 (i) may approve some or all of the items from an agency's one-time projects list; and  
10979 (ii) shall identify and prioritize any approved one-time projects in the budget that the  
10980 governor submits to the Legislature.

10981 (4) The Legislature:

10982 (a) may approve some or all of the specific items from an agency's one-time projects  
10983 list as authorized expenditures of an agency's appropriation balance;

10984 (b) shall identify any authorized one-time projects in the appropriate line item  
10985 appropriation; and

10986 (c) may prioritize one-time projects in intent language.

10987 Section 251. Section **63J-1-701**, which is renumbered from Section 63J-1-501 is  
10988 renumbered and amended to read:

10989 **Part 7. In-Depth Budget Review**

10990 **~~[63J-1-501].~~ 63J-1-701. Request for in-depth budget review of agency or  
10991 program -- Form of budget submitted.**

10992 The Legislative Management Committee, upon recommendation of an appropriations  
10993 subcommittee of the Legislature, may request of the governor for any designated fiscal year, an  
10994 in-depth budget review of any state department, agency, institution, or program. When  
10995 responding to a request for an in-depth budget review, the governor shall submit for the  
10996 department, agency, institution, or program for the fiscal year indicated a budget prepared in  
10997 accordance with Section ~~[63J-1-502]~~ 63J-1-702 and using the format and procedures  
10998 developed by the director of the Governor's Office of Planning and Budget in cooperation with  
10999 the legislative fiscal analyst. This format shall be constructed to assist the analyst and the  
11000 Legislature in reviewing the justification for selected departments, agencies, and institutions or  
11001 any of their programs and activities.

11002 Section 252. Section **63J-1-702**, which is renumbered from Section 63J-1-502 is  
11003 renumbered and amended to read:

11004 **~~[63J-1-502].~~ 63J-1-702. Purpose of review -- Information submitted.**

11005 The purpose of an in-depth budget review is to determine whether each department,

11006 agency, institution, or program warrants continuation of its current level of expenditure or at a  
11007 different level, or if it should be terminated. The budget for a state department, agency,  
11008 institution, or program subject to an in-depth budget review shall be a detailed plan in which  
11009 programs and activities within programs are organized and budgeted after analysis and  
11010 evaluation are made of all proposed expenditures. In the presentation of the budget of a  
11011 department, agency, institution, or program subject to in-depth budget review, the governor  
11012 shall include the following:

- 11013 (1) a statement of agency and program objectives, effectiveness measures, and  
11014 program size indicators;
- 11015 (2) alternative funding levels for each program with effectiveness measures and  
11016 program size indicators detailed for each alternative funding level. Alternative funding levels  
11017 shall be determined as percentages of the appropriations level authorized by the Legislature for  
11018 the current fiscal year. The percentages shall be determined for each in-depth budget review  
11019 by the director of the Governor's Office of Planning and Budget in consultation with the  
11020 legislative fiscal analyst;
- 11021 (3) a priority ranking of all programs and activities in successively increasing levels of  
11022 performance and funding;
- 11023 (4) other budgetary information requested by the legislative fiscal analyst; and  
11024 (5) a statement containing further recommendations of the governor as appropriate.

11025 Section 253. Section **63J-1-703**, which is renumbered from Section 63J-1-503 is  
11026 renumbered and amended to read:

11027 **[63J-1-503].            63J-1-703. Selection of activities for review -- Coordination**  
11028 **with audits.**

11029 The legislative auditor general shall consult with the Legislative Management  
11030 Committee to determine the programs or activities to audit which will best assist the executive  
11031 branch in preparing the in-depth budget and the Legislature in reviewing the in-depth budget  
11032 for funding. The scope of the audits shall be determined by the legislative auditor general  
11033 based upon need, manpower considerations, and other audit priorities. It is the intent of the

11034 Legislature that the legislative fiscal analyst and the legislative auditor general coordinate the  
11035 in-depth budget reviews insofar as possible with the audits performed by the legislative auditor  
11036 general.

11037 Section 254. Section **63J-2-202** is amended to read:

11038 **63J-2-202. Disposition of revenues.**

11039 (1) (a) Each agency shall include in its annual budget request estimates of dedicated  
11040 credits revenues and fixed collections revenues that are identified by, collected for, or set by  
11041 the agency.

11042 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,  
11043 the agency shall include that new revenue type in its budget request for the next fiscal year.

11044 (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the  
11045 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit  
11046 the monies collected in that revenue type into the General Fund or other appropriate fund as  
11047 free or restricted revenue.

11048 (ii) The Division of Finance may not deposit the monies collected from a revenue type  
11049 not included in an agency's annual budget request into the General Fund or other appropriate  
11050 fund if the agency did not include the estimates of the revenue type in its annual budget  
11051 request because the Legislature had not yet established or authorized the new revenue type by  
11052 law.

11053 (2) (a) (i) Except as provided in Subsection (2)(b), each agency that receives dedicated  
11054 credits and fixed collections revenues greater than the amount appropriated to them by the  
11055 Legislature in the annual appropriations act may expend the excess up to 25% of the amount  
11056 appropriated if the expenditure is authorized by an amended work program approved as  
11057 provided in Section [~~63J-1-406~~] 63J-1-209. However, except for monies deposited as  
11058 dedicated credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or line items  
11059 covering tuition and federal vocational funds at institutions of higher learning, any  
11060 expenditure of dedicated credits in excess of amounts appropriated by the Legislature may not  
11061 be used to permanently increase personnel within the agency unless approved by the

11062 Legislature.

11063           (ii) The Division of Finance shall deposit the balance of that excess into the General  
11064 Fund or other appropriate fund as free or restricted revenue.

11065           (b) Notwithstanding the requirements of Subsection (2)(a), when an agency's  
11066 dedicated credits and fixed collections revenues represent over 90% of the budget of the  
11067 program for which they are collected, the agency may expend 100% of the excess of the  
11068 amount appropriated if the expenditure is authorized by an amended work program approved  
11069 as provided in Section [~~63J-1-406~~] 63J-1-209.

11070           Section 255. Section **63J-3-103** is amended to read:

11071           **63J-3-103. Definitions.**

11072           As used in this chapter:

11073           (1) (a) "Appropriations" means actual unrestricted capital and operating  
11074 appropriations from unrestricted General Fund sources and from non-Uniform School Fund  
11075 income tax revenues as presented in the governor's executive budgets.

11076           (b) "Appropriations" includes appropriations that are contingent upon available  
11077 surpluses in the General Fund.

11078           (c) "Appropriations" does not mean:

11079           (i) debt service expenditures;

11080           (ii) emergency expenditures;

11081           (iii) expenditures from all other fund or subfund sources presented in the executive  
11082 budgets;

11083           (iv) transfers or appropriations from the Education Fund to the Uniform School Fund;

11084           (v) transfers into, or appropriations made to, the General Fund Budget Reserve

11085 Account established in Section [~~63J-1-202~~] 63J-1-312;

11086           (vi) transfers into, or appropriations made to, the Education Budget Reserve Account  
11087 established in Section [~~63J-1-203~~] 63J-1-313;

11088           (vii) transfers in accordance with Section [~~63J-1-204~~] 63J-1-314 into, or

11089 appropriations made to the State Disaster Recovery Restricted Account created in Section

- 11090 53-2-403;
- 11091 (viii) monies appropriated to fund the total one-time project costs for the construction  
11092 of capital developments as defined in Section 63A-5-104;
- 11093 (ix) transfers or deposits into or appropriations made to the Centennial Highway Fund  
11094 Restricted Account created by Section 72-2-118;
- 11095 (x) transfers or deposits into or appropriations made to the Transportation Investment  
11096 Fund of 2005 created by Section 72-2-124;
- 11097 (xi) transfers or deposits into or appropriations made to:
- 11098 (A) the Department of Transportation from any source; or  
11099 (B) any transportation-related account or fund from any source; or
- 11100 (xii) supplemental appropriations from the General Fund to the Division of Forestry,  
11101 Fire, and State Lands to provide monies for wildland fire control expenses incurred during the  
11102 current or previous fire years.
- 11103 (2) "Base year real per capita appropriations" means the result obtained for the state by  
11104 dividing the fiscal year 1985 actual appropriations of the state less debt monies by:
- 11105 (a) the state's July 1, 1983 population; and  
11106 (b) the fiscal year 1983 inflation index divided by 100.
- 11107 (3) "Calendar year" means the time period beginning on January 1 of any given year  
11108 and ending on December 31 of the same year.
- 11109 (4) "Fiscal emergency" means an extraordinary occurrence requiring immediate  
11110 expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session,  
11111 Chapter 4.
- 11112 (5) "Fiscal year" means the time period beginning on July 1 of any given year and  
11113 ending on June 30 of the subsequent year.
- 11114 (6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual  
11115 capital and operations appropriations from General Fund and non-Uniform School Fund  
11116 income tax revenue sources, less debt monies.
- 11117 (7) "Inflation index" means the change in the general price level of goods and services

11118 as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic  
11119 Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

11120 (8) (a) "Maximum allowable appropriations limit" means the appropriations that could  
11121 be, or could have been, spent in any given year under the limitations of this chapter.

11122 (b) "Maximum allowable appropriations limit" does not mean actual appropriations  
11123 spent or actual expenditures.

11124 (9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two  
11125 fiscal years previous to the fiscal year for which the maximum allowable inflation and  
11126 population appropriations limit is being computed under this chapter.

11127 (10) "Most recent fiscal year's population" means the fiscal year population two fiscal  
11128 years previous to the fiscal year for which the maximum allowable inflation and population  
11129 appropriations limit is being computed under this chapter.

11130 (11) "Population" means the number of residents of the state as of July 1 of each year  
11131 as calculated by the Governor's Office of Planning and Budget according to the procedures  
11132 and requirements of Section 63J-3-202.

11133 (12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and  
11134 other monetary exaction and interest connected with it that are recorded as unrestricted  
11135 revenue of the General Fund and from non-Uniform School Fund income tax revenues, except  
11136 as specifically exempted by this chapter.

11137 (13) "Security" means any bond, note, warrant, or other evidence of indebtedness,  
11138 whether or not the bond, note, warrant, or other evidence of indebtedness is or constitutes an  
11139 "indebtedness" within the meaning of any provision of the constitution or laws of this state.

11140 Section 256. Section **63J-4-301** is amended to read:

11141 **63J-4-301. Budget duties of the director and office.**

11142 (1) The director and the office shall:

11143 (a) comply with the procedures and requirements of Title 63J, Chapter 1, Budgetary  
11144 Procedures Act;

11145 (b) under the direct supervision of the governor, assist the governor in the preparation

11146 of the governor's budget recommendations;

11147 (c) advise the governor with regard to approval or revision of agency work programs  
11148 as specified in Section [~~63J-1-406~~] 63J-1-209; and

11149 (d) perform other duties and responsibilities as assigned by the governor.

11150 (2) (a) The director of the Governor's Office of Planning and Budget or the director's  
11151 designee is the Federal Assistance Management Officer.

11152 (b) In acting as the Federal Assistance Management Officer, the director or designee  
11153 shall:

11154 (i) study the administration and effect of federal assistance programs in the state and  
11155 advise the governor and the Legislature, through the Office of Legislative Fiscal Analyst and  
11156 the Executive Appropriations Committee, of alternative recommended methods and  
11157 procedures for the administration of these programs;

11158 (ii) assist in the coordination of federal assistance programs that involve or are  
11159 administered by more than one state agency; and

11160 (iii) analyze and advise on applications for new federal assistance programs submitted  
11161 to the governor for approval as required by Chapter 5, Federal Funds Procedures.

11162 Section 257. Section **63M-1-905** is amended to read:

11163 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

11164 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,  
11165 or other financial assistance from the fund for expenses related to establishment, relocation, or  
11166 development of industry in Utah.

11167 (b) A company creating an economic impediment that qualifies under Section  
11168 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance  
11169 from the fund for the expenses of the company creating an economic impediment related to:

11170 (i) relocation to a rural area in Utah of the company creating an economic  
11171 impediment; and

11172 (ii) the siting of a replacement company.

11173 (c) An entity offering an economic opportunity that qualifies under Section

11174 63M-1-909 may:

11175 (i) receive loans, grants, or other financial assistance from the fund for expenses  
11176 related to the establishment, relocation, retention, or development of industry in the state; and

11177 (ii) include infrastructure or other economic development precursor activities that act  
11178 as a catalyst and stimulus for economic activity likely to lead to the maintenance or  
11179 enlargement of the state's tax base.

11180 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the  
11181 structure, amount, and nature of any loan, grant, or other financial assistance from the fund.

11182 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment  
11183 or return to the state, including cash or credit, equals at least the amount of the assistance  
11184 together with an annual interest charge as negotiated by the administrator.

11185 (c) Payments resulting from grants awarded from the fund shall be made only after the  
11186 administrator has determined that the company has satisfied the conditions upon which the  
11187 payment or earned credit was based.

11188 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a  
11189 system of earned credits that may be used to support grant payments or in lieu of cash  
11190 repayment of a fund loan obligation.

11191 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors  
11192 determined by the administrator, including:

11193 (A) the number of Utah jobs created;

11194 (B) the increased economic activity in Utah; or

11195 (C) other events and activities that occur as a result of the fund assistance.

11196 (b) (i) The administrator shall provide for a system of credits to be used to support  
11197 grant payments or in lieu of cash repayment of a fund loan when loans are made to a company  
11198 creating an economic impediment.

11199 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors  
11200 determined by the administrator, including:

11201 (A) the number of Utah jobs created;

11202 (B) the increased economic activity in Utah; or  
11203 (C) other events and activities that occur as a result of the fund assistance.  
11204 (4) (a) A cash loan repayment or other cash recovery from a company receiving  
11205 assistance under this section, including interest, shall be deposited into the fund.  
11206 (b) The administrator and the Division of Finance shall determine the manner of  
11207 recognizing and accounting for the earned credits used in lieu of loan repayments or to support  
11208 grant payments as provided in Subsection (3).  
11209 (5) (a) At the end of each fiscal year, the unrestricted, undesignated General Fund  
11210 balance after the transfers of surplus of General Fund revenues described in this Subsection  
11211 (5)(a) shall be earmarked to the Industrial Assistance Fund in an amount equal to any credit  
11212 that has accrued under this part. The earmark required by this Subsection (5)(a) shall be made  
11213 after the transfer of surplus General Fund revenues is made:  
11214 (i) to the General Fund Budget Reserve Account as provided in Section [~~63J-1-202~~]  
11215 63J-1-312; and  
11216 (ii) beginning with the fiscal year ending June 30, 2007, as provided in Section  
11217 [~~63J-1-204~~] 63J-1-314.  
11218 (b) These credit amounts may not be used for purposes of the fund as provided in this  
11219 part until appropriated by the Legislature.  
11220 Section 258. Section **63M-1-1104** is amended to read:  
11221 **63M-1-1104. Criteria for recycling market development zone -- Application**  
11222 **process and fees.**  
11223 (1) An area may be designated as a recycling market development zone only if:  
11224 (a) the county or municipality agrees to make a qualifying local contribution under  
11225 Section 63M-1-1105; and  
11226 (b) the county or municipality provides for postconsumer waste collection for  
11227 recycling within the county or municipality.  
11228 (2) The executive authority of any municipality or county desiring to be designated as  
11229 a recycling market development zone shall:

- 11230 (a) obtain the written approval of the municipality or county's legislative body; and
- 11231 (b) file an application with the office demonstrating the county or municipality meets
- 11232 the requirements of this part.
- 11233 (3) The application shall be in a form prescribed by the office, and shall include:
- 11234 (a) a plan developed by the county or municipality that identifies local contributions
- 11235 meeting the requirements of Section 63M-1-1105;
- 11236 (b) a county or municipality development plan that outlines:
- 11237 (i) the specific investment or development reasonably expected to take place;
- 11238 (ii) any commitments obtained from businesses to participate, and in what capacities
- 11239 regarding recycling markets;
- 11240 (iii) the county's or municipality's economic development plan and demonstration of
- 11241 coordination between the zone and the county or municipality in overall development goals;
- 11242 (iv) zoning requirements demonstrating that sufficient portions of the proposed zone
- 11243 area are zoned as appropriate for the development of commercial, industrial, or manufacturing
- 11244 businesses;
- 11245 (v) the county's or municipality's long-term waste management plan and evidence that
- 11246 the zone will be adequately served by the plan; and
- 11247 (vi) the county or municipality postconsumer waste collection infrastructure;
- 11248 (c) the county's or municipality's proposed means of assessing the effectiveness of the
- 11249 development plan or other programs implemented within the zone;
- 11250 (d) state whether within the zone either of the following will be established:
- 11251 (i) commercial manufacturing or industrial processes that will produce end products
- 11252 that consist of not less than 50% recovered materials, of which not less than 25% is
- 11253 postconsumer waste material; or
- 11254 (ii) commercial composting;
- 11255 (e) any additional information required by the office; and
- 11256 (f) any additional information the county or municipality considers relevant to its
- 11257 designation as a recycling market development zone.

11258 (4) A county or municipality applying for designation as a recycling market  
11259 development zone shall pay to the office an application fee determined under Section  
11260 [~~63J-1-303~~] 63J-1-504.

11261 Section 259. Section **63M-1-2408** is amended to read:

11262 **63M-1-2408. Transition clause -- Renegotiation of agreements -- Payment of**  
11263 **partial rebates.**

11264 (1) As used in this section, "partial rebate" means an agreement between the office and  
11265 a business entity under which the state agrees to pay back to the business entity a portion of  
11266 new state revenues generated by a business entity's new commercial project.

11267 (2) (a) Unless modified or renegotiated as provided in Subsection (2)(b), the Division  
11268 of Finance shall make partial rebate payments due under agreements entered into by the office  
11269 before May 5, 2008 as provided in this section.

11270 (b) By January 1, 2009, the office shall:

11271 (i) contact each business entity with whom the office entered into an agreement under  
11272 former Section 63M-1-1304 or 63M-1-1704; and

11273 (ii) subject to the limits established in Subsection 63M-1-2404(3)(b), seek to modify  
11274 those agreements for the sole purpose of providing the incentives in the form of tax credits  
11275 under this part rather than partial rebates.

11276 (c) The office shall:

11277 (i) for each modified agreement granting tax credits, follow the procedures and  
11278 requirements of Section 63M-1-2405;

11279 (ii) for each agreement that still requires the state to pay partial rebates to the business  
11280 entity, follow the procedures and requirements of this section; and

11281 (iii) provide a report to the Executive Appropriations Committee and the Legislative  
11282 Fiscal Analyst by December 1, 2008, about the progress of its efforts to modify agreements  
11283 reached before May 5, 2008.

11284 (3) (a) There is created a restricted account in the General Fund known as the  
11285 Economic Incentive Restricted Account.

11286 (b) The account shall consist of monies transferred into the account by the Division of  
11287 Finance from the General Fund as provided in this section.

11288 (c) The Division of Finance shall make payments from the account as required by this  
11289 section.

11290 (4) (a) Each business entity seeking a partial rebate shall follow the procedures and  
11291 requirements of this Subsection (4) to obtain a partial rebate.

11292 (b) Within 90 days of the end of each calendar year, a business entity seeking a partial  
11293 rebate shall:

11294 (i) provide the office with documentation of the new state revenues that the business  
11295 entity generated during the preceding calendar year; and

11296 (ii) ensure that the documentation includes:

11297 (A) the types of taxes and corresponding amounts of taxes paid directly to the State  
11298 Tax Commission; and

11299 (B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the  
11300 State Tax Commission.

11301 (c) The office shall:

11302 (i) audit or review the documentation for accuracy;

11303 (ii) based upon its analysis of the documentation, determine the amount of partial  
11304 rebates that the business entity earned under the agreement; and

11305 (iii) submit to the Division of Finance:

11306 (A) a request for payment of partial rebates to the business entity;

11307 (B) the name and address of the payee; and

11308 (C) any other information requested by the Division of Finance.

11309 (5) Upon receipt of a request for payment of partial rebates from the office, the  
11310 Division of Finance shall:

11311 (a) transfer from the General Fund to the restricted account the amount contained in  
11312 the request for payment of partial rebates after reducing the amount transferred by any  
11313 unencumbered balances in the restricted account; and

11314 (b) notwithstanding Subsections 51-5-3(23)(b) and [~~63J-1-404(4)(c)~~] 63J-1-104(3)(b),  
11315 after receiving a request for payment of partial rebates and making the transfer required by  
11316 Subsection (5)(a), the Division of Finance shall pay the partial rebates from the account.

11317 Section 260. Section **63M-1-2612** is amended to read:

11318 **63M-1-2612. Private Proposal Restricted Special Revenue Fund -- Fees.**

11319 (1) There is created a restricted special revenue fund within the office called the  
11320 Private Proposal Restricted Special Revenue Fund.

11321 (2) Monies collected from the payment of a fee required by this part shall be deposited  
11322 in the Private Proposal Restricted Special Revenue Fund.

11323 (3) The board or the committee may use the monies in the Private Proposal Restricted  
11324 Special Revenue Fund to offset:

11325 (a) the expense of hiring staff and engaging any outside consultant to review a  
11326 proposal under this part; and

11327 (b) any expense incurred by the Governor's Office of Planning and Budget or the  
11328 affected department in the fulfillment of its duties under this part.

11329 (4) The board shall establish a fee in accordance with Section [~~63J-1-303~~] 63J-1-504  
11330 for:

11331 (a) reviewing an initial proposal;

11332 (b) reviewing any detailed proposal; and

11333 (c) preparing any project agreement.

11334 (5) The board may waive the fee established under Subsection (4) if the board  
11335 determines that it is:

11336 (a) reasonable; and

11337 (b) in the best interest of the state.

11338 Section 261. Section **67-1a-2.5** is amended to read:

11339 **67-1a-2.5. Fees of lieutenant governor.**

11340 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit  
11341 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the

11342 lieutenant governor shall receive and determine fees pursuant to Section [63J-1-303]

11343 63J-1-504 for the following:

11344 (1) for a copy of any law, resolution, record, or other document or paper on file in the  
11345 lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a,  
11346 Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business  
11347 Corporation Act;

11348 (2) for affixing certificate and the Great Seal of the state, except on documents filed  
11349 under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter  
11350 10a, Utah Revised Business Corporation Act;

11351 (3) for each commission signed by the governor, except that no charge may be made  
11352 for commissions to public officers serving without compensation;

11353 (4) for each warrant of arrest issued by the governor and attested by the lieutenant  
11354 governor upon the requisition of any other state or territory;

11355 (5) for recording miscellaneous papers or documents;

11356 (6) for filing any paper or document not otherwise provided for; and

11357 (7) for searching records and archives of the state, except that no member of the  
11358 Legislature or other state or county officer may be charged for any search relative to matters  
11359 appertaining to the duties of the member or officer's office or for a certified copy of any law or  
11360 resolution relative to the member or officer's official duties passed by the Legislature.

11361 Section 262. Section **67-19-5** is amended to read:

11362 **67-19-5. Department of Human Resource Management created -- Executive**  
11363 **director -- Compensation -- Staff.**

11364 (1) There is created the Department of Human Resource Management.

11365 (2) (a) The department shall be administered by an executive director appointed by the  
11366 governor with the consent of the Senate.

11367 (b) The executive director shall be a person with experience in human resource  
11368 management and shall be accountable to the governor for the executive director's performance  
11369 in office.

- 11370 (3) The executive director may:
- 11371 (a) appoint a personal secretary and a deputy director, both of whom shall be exempt
- 11372 from career service; and
- 11373 (b) appoint division directors and program managers who may be career service
- 11374 exempt.
- 11375 (4) (a) The executive director shall have full responsibility and accountability for the
- 11376 administration of the statewide human resource management system.
- 11377 (b) Except as provided in Section 67-19-6.1, an agency may not perform human
- 11378 resource functions without the consent of the executive director.
- 11379 (5) Statewide human resource management rules adopted by the Department of
- 11380 Human Resource Management in accordance with Title 63G, Chapter 3, Utah Administrative
- 11381 Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or
- 11382 practices.
- 11383 (6) The department may operate as an internal service fund agency in accordance with
- 11384 Section [~~63J-1-306~~] 63J-1-410 for the human resource functions the department provides.
- 11385 Section 263. Section **67-19-11** is amended to read:
- 11386 **67-19-11. Use of department facilities -- Field office facilities cost allocation --**
- 11387 **Funding for department.**
- 11388 (1) (a) All officers and employees of the state and its political subdivisions shall allow
- 11389 the department to use public buildings under their control, and furnish heat, light, and
- 11390 furniture, for any examination, hearing, or investigation authorized by this chapter.
- 11391 (b) The cost of the department's use of facilities shall be paid by the agency housing a
- 11392 field office staff.
- 11393 (2) The executive director shall:
- 11394 (a) prepare an annual budget request for the department;
- 11395 (b) submit the budget request to the governor and the Legislature; and
- 11396 (c) except for fiscal year 2007, before charging a fee for services provided by the
- 11397 department's internal service fund to an executive branch agency, the executive director shall:

- 11398 (i) submit the proposed rates, fees, and cost analysis to the Rate Committee  
11399 established under Subsection (3); and
- 11400 (ii) obtain the approval of the Legislature as required under Section [~~63J-1-306~~  
11401 63J-1-410.
- 11402 (3) (a) There is created a Rate Committee which shall consist of:
- 11403 (i) the director of the Governor's Office of Planning and Budget, or a designee;  
11404 (ii) the executive directors of three state agencies that use services and pay rates to one  
11405 of the department internal service funds, or their designee, appointed by the governor for a  
11406 two-year term;
- 11407 (iii) the director of the Division of Finance, or a designee; and  
11408 (iv) the executive director of the Department of Human Resource Management, or a  
11409 designee.
- 11410 (b) (i) The committee shall elect a chair from its members.  
11411 (ii) Members of the committee who are state government employees and who do not  
11412 receive salary, per diem, or expenses from their agency for their service on the committee shall  
11413 receive no compensation, benefits, per diem, or expenses for the members' service on the  
11414 committee.
- 11415 (c) The Department of Human Resource Management shall provide staff services to  
11416 the committee.
- 11417 (4) (a) The department shall submit to the committee a proposed rate and fee schedule  
11418 for services rendered.
- 11419 (b) The committee shall:
- 11420 (i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public  
11421 Meetings Act;
- 11422 (ii) review the proposed rate and fee schedules and may approve, increase, or decrease  
11423 the rate and fee;
- 11424 (iii) recommend a proposed rate and fee schedule for the internal service fund to:  
11425 (A) the Governor's Office of Planning and Budget; and

11426 (B) the legislative appropriations subcommittees that, in accordance with Section  
11427 [~~63J-1-306~~] 63J-1-410, approve the internal service fund rates, fees, and budget; and

11428 (iv) review and approve, increase or decrease an interim rate, fee, or amount when the  
11429 department begins a new service or introduces a new product between annual general sessions  
11430 of the Legislature.

11431 (c) The committee may in accordance with Subsection [~~63J-1-306~~] 63J-1-410(4)  
11432 decrease a rate, fee, or amount that has been approved by the Legislature.

11433 Section 264. Section **70-3a-203** is amended to read:

11434 **70-3a-203. Fees.**

11435 (1) (a) A regulatory fee, as defined in Section [~~63J-1-303~~] 63J-1-504, shall be  
11436 determined by the division in accordance with Section [~~63J-1-303~~] 63J-1-504, but may not  
11437 exceed \$250 annually for electronic registration of a mark in a single class.

11438 (b) A person who pays the annual regulatory fee for the electronic registration of a  
11439 mark may register additional classes for the same mark for an additional fee not to exceed \$25  
11440 annually.

11441 (2) (a) For a fee authorized by this chapter that is not a regulatory fee, the division  
11442 may adopt a schedule of fees if each fee in the schedule of fees is:

11443 (i) reasonable and fair; and

11444 (ii) submitted to the Legislature as part of the Department of Commerce's annual  
11445 appropriations request.

11446 (b) When a fee schedule described in Subsection (2)(a) is submitted as part of the  
11447 annual appropriations request, the Legislature, in a manner substantially similar to Section  
11448 [~~63J-1-303~~] 63J-1-504, may for any fee in the fee schedule:

11449 (i) approve the fee;

11450 (ii) (A) increase or decrease the fee; and

11451 (B) approve the fee as changed by the Legislature; or

11452 (iii) reject the fee.

11453 (c) A fee approved by the Legislature pursuant to this section shall be deposited in a

11454 restricted account within the General Fund known as the Commerce Service Fund.

11455 Section 265. Section **72-6-205** is amended to read:

11456 **72-6-205. Solicited and unsolicited tollway development agreement proposals.**

11457 (1) In accordance with this section, the department may:

11458 (a) accept unsolicited tollway development agreement proposals; or

11459 (b) solicit tollway development agreement proposals for a proposed project.

11460 (2) The department shall solicit tollway development agreement proposals in  
11461 accordance with Section 63G-6-503.

11462 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
11463 the department and the commission shall establish rules and procedures for accepting  
11464 unsolicited proposals that require the:

11465 (a) private entity that submits the unsolicited proposal to comply with the minimum  
11466 requirements for tollway development agreement proposals under Section 72-6-204;

11467 (b) department to issue a request for competing proposals and qualifications that  
11468 includes:

11469 (i) a description of the proposed tollway development facility and the terms and  
11470 conditions of a tollway development agreement;

11471 (ii) submittal requirements;

11472 (iii) the criteria to be used to evaluate the proposals;

11473 (iv) the relative weight given to the criteria; and

11474 (v) the deadline by which competing proposals must be received; and

11475 (c) department to publish a notice advertising the request for competing proposals and  
11476 providing information regarding how to obtain a copy of the request.

11477 (4) (a) The department may establish a fee in accordance with Section [~~63J-1-303~~]  
11478 63J-1-504 for reviewing unsolicited proposals and competing proposals submitted under this  
11479 section.

11480 (b) The department may waive the fee under Subsection (4)(a) if it determines that it is  
11481 reasonable and in the best interest of the state.

11482 Section 266. Section **72-7-507** is amended to read:

11483 **72-7-507. Advertising -- Permits -- Application requirements -- Duration -- Fees.**

11484 (1) (a) Outdoor advertising may not be maintained without a current permit.

11485 (b) Applications for permits shall be made to the department on forms furnished by it.

11486 (c) A permit must be obtained prior to installing each outdoor sign.

11487 (d) The application for a permit shall be accompanied by an initial fee established

11488 under Section [~~63J-1-303~~] 63J-1-504.

11489 (2) (a) Each permit issued by the department is valid for a period of up to five years

11490 and shall expire on June 30 of the fifth year of the permit, or upon the expiration or

11491 termination of the right to use the property, whichever is sooner.

11492 (b) Upon renewal, each permit may be renewed for periods of up to five years upon the

11493 filing of a renewal application and payment of a renewal fee established under Section

11494 [~~63J-1-303~~] 63J-1-504.

11495 (3) Sign owners residing outside the state shall provide the department with a

11496 continuous performance bond in the amount of \$2,500.

11497 (4) Fees may not be prorated for fractions of the permit period. Advertising copy may

11498 be changed at any time without payment of an additional fee.

11499 (5) (a) Each sign shall have its permit continuously affixed to the sign in a position

11500 visible from the nearest traveled portion of the highway.

11501 (b) The permit shall be affixed to the sign structure within 30 days after delivery by

11502 the department to the permit holder, or within 30 days of the installation date of the sign

11503 structure.

11504 (c) Construction of the sign structure shall begin within 180 days after delivery of the

11505 permit by the department to the permit holder and construction shall be completed within 365

11506 days after delivery of the permit.

11507 (6) The department may not accept any applications for a permit or issue any permit to

11508 erect or maintain outdoor advertising within 500 feet of a permitted sign location except to the

11509 permit holder or the permit holder's assigns until the permit has expired or has been

11510 terminated pursuant to the procedures under Section 72-7-508.

11511 (7) Permits are transferrable if the ownership of the permitted sign is transferred.

11512 (8) Conforming, permitted sign structures may be altered, changed, remodeled, and  
11513 relocated subject to the provisions of Subsection (6).

11514 Section 267. Section **72-9-602** is amended to read:

11515 **72-9-602. Towing inspections, investigations, and certification -- Equipment**  
11516 **requirements -- Consumer information.**

11517 (1) (a) The department shall inspect, investigate, and certify tow truck motor carriers,  
11518 tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with  
11519 Sections 41-6a-1406 and 41-6a-1407.

11520 (b) The inspection, investigation, and certification shall be conducted prior to any tow  
11521 truck operation and at least every two years thereafter.

11522 (c) (i) The department shall issue an authorized towing certificate for each tow truck  
11523 motor carrier, tow truck, and driver that complies with this part.

11524 (ii) The certificate shall expire two years from the month of issuance.

11525 (d) The department may charge a biennial fee established under Section [~~63J-1-303~~]  
11526 63J-1-504 to cover the cost of the inspection, investigation, and certification required under  
11527 this part.

11528 (2) The department shall make consumer protection information available to the  
11529 public that may use a tow truck motor carrier.

11530 Section 268. Section **72-10-116** is amended to read:

11531 **72-10-116. Airport license required -- Issuance by division -- Restrictions on use**  
11532 **of lands or waters of another -- Annual fee.**

11533 (1) For purposes of this section, aircraft based at the owner's airport means an aircraft  
11534 which is hangared, tied down, or parked at an owner's airport for a plurality of the year.

11535 (2) (a) An airport open to public use may not be used or operated unless it is duly  
11536 licensed by the division.

11537 (b) A person who owns or operates an airport open to public use shall file an

11538 application with the division for a license for the facility.

11539 (c) Semi-annually, an owner or operator described in Subsection (2)(b) shall provide a  
11540 list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.

11541 (3) (a) A license shall be granted whenever it is reasonably necessary for the  
11542 accommodation and convenience of the public and may be granted in other cases in the  
11543 discretion of the division.

11544 (b) The division may not issue a license if the division finds that the facility is not  
11545 constructed, equipped, and operated in accordance with the standards set by the department.

11546 (4) (a) The landing or taking off of aircraft on or from the lands or waters of another  
11547 without consent is unlawful, except in the case of a forced landing.

11548 (b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft,  
11549 operator, or any of them is liable.

11550 (5) (a) A student pilot may not land on any area without the knowledge of the  
11551 operator, instructor, or school from which the student is flying.

11552 (b) The use of private landing fields must not impose a hazard upon the person or  
11553 property of others.

11554 (6) A certificate of registration is not required of, and the rules made under this title do  
11555 not apply to an airport owned or operated by the government of the United States.

11556 (7) The division, with the approval of the commission, may charge a fee determined  
11557 by the division pursuant to Section [~~63J-1-303~~] 63J-1-504 for the issuance of an annual airport  
11558 license.

11559 Section 269. Section **72-11-208** is amended to read:

11560 **72-11-208. Passenger ropeways -- Registration fee.**

11561 The application for registration, or supplemental application, shall be accompanied by  
11562 an annual fee adopted by the committee in accordance with Section [~~63J-1-303~~] 63J-1-504.

11563 Section 270. Section **73-2-14** is amended to read:

11564 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**

11565 (1) The state engineer shall charge fees pursuant to Section [~~63J-1-303~~] 63J-1-504 for

- 11566 the following:
- 11567 (a) applications to appropriate water;
  - 11568 (b) applications to temporarily appropriate water;
  - 11569 (c) applications for permanent or temporary change;
  - 11570 (d) applications for exchange;
  - 11571 (e) applications for an extension of time in which to resume use of water;
  - 11572 (f) applications to appropriate water, or make a permanent or temporary change, for
  - 11573 use outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;
  - 11574 (g) groundwater recovery permits;
  - 11575 (h) diligence claims for surface or underground water filed pursuant to Section
  - 11576 73-5-13;
  - 11577 (i) republication of notice to water users after amendment of application where
  - 11578 required by this title;
  - 11579 (j) applications to segregate;
  - 11580 (k) requests for an extension of time in which to submit proof of appropriation not to
  - 11581 exceed 14 years after the date of approval of the application;
  - 11582 (l) requests for an extension of time in which to submit proof of appropriation 14 years
  - 11583 or more after the date of approval of the application;
  - 11584 (m) groundwater recharge permits;
  - 11585 (n) applications for a well driller's license, annual renewal of a well driller's license,
  - 11586 and late annual renewal of a well driller's license;
  - 11587 (o) certification of copies;
  - 11588 (p) preparing copies of documents;
  - 11589 (q) reports of water right conveyance; and
  - 11590 (r) requests for a livestock water use certificate under Section 73-3-31.
- 11591 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon
- 11592 the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and
- 11593 storage, the fee shall be based upon either the rate of flow or annual volume of water stored,

11594 whichever fee is greater.

11595 (3) Fees collected under this section:

11596 (a) shall be deposited in the General Fund as a dedicated credit to be used by the  
11597 Division of Water Rights; and

11598 (b) may only be used by the Division of Water Rights to:

11599 (i) meet the publication of notice requirements under this title;

11600 (ii) process reports of water right conveyance;

11601 (iii) process a request for a livestock water use certificate; and

11602 (iv) hire an employee to assist with processing an application.

11603 Section 271. Section **73-3b-201** is amended to read:

11604 **73-3b-201. Application for a recharge permit -- Required information -- Filing**  
11605 **fee.**

11606 (1) The application for obtaining a groundwater recharge permit shall include the  
11607 following information:

11608 (a) the name and mailing address of the applicant;

11609 (b) the name of the groundwater basin or groundwater sub-basin in which the  
11610 applicant proposes to operate the project;

11611 (c) the name and mailing address of the owner of the land on which the applicant  
11612 proposes to operate the project;

11613 (d) a legal description of the location of the proposed project;

11614 (e) the source and annual quantity of water proposed to be stored underground;

11615 (f) evidence of a water right or an agreement to use the water proposed to be stored  
11616 underground;

11617 (g) the quality of the water proposed to be stored underground and the water quality of  
11618 the receiving groundwater aquifer;

11619 (h) evidence that the applicant has applied for all applicable water quality permits;

11620 (i) a plan of operation for the proposed recharge and recovery project which shall  
11621 include:

- 11622 (i) a description of the proposed project;
- 11623 (ii) its design capacity;
- 11624 (iii) a detailed monitoring program; and
- 11625 (iv) the proposed duration of the project;
- 11626 (j) a copy of a study demonstrating:
  - 11627 (i) the area of hydrologic impact of the project;
  - 11628 (ii) that the project is hydrologically feasible;
  - 11629 (iii) that the project will not:
    - 11630 (A) cause unreasonable harm to land; or
    - 11631 (B) impair any existing water right within the area of hydrologic impact; and
  - 11632 (iv) the percentage of anticipated recoverable water;
  - 11633 (k) evidence of financial and technical capability; and
  - 11634 (l) any other information that the state engineer requires.
- 11635 (2) (a) A filing fee must be submitted with the application.
- 11636 (b) The state engineer shall establish the filing fee in accordance with Section
- 11637 ~~[63J-1-303]~~ 63J-1-504.
- 11638 Section 272. Section **73-3b-204** is amended to read:
- 11639 **73-3b-204. Application for a recovery permit -- Required information.**
- 11640 (1) If a person intends to recharge and recover water, the recovery application and
- 11641 permit may be filed and processed with the groundwater recharge application and permit.
- 11642 (2) The application for obtaining a recovery permit shall include the following
- 11643 information:
  - 11644 (a) the name and mailing address of the applicant;
  - 11645 (b) a legal description of the location of the existing well or proposed new well from
  - 11646 which the applicant intends to recover stored water;
  - 11647 (c) a written consent from the owner of the recharge permit;
  - 11648 (d) the name and mailing address of the owner of the land from which the applicant
  - 11649 proposes to recover stored water;

- 11650 (e) the name or description of the artificially recharged groundwater aquifer which is
- 11651 the source of supply;
- 11652 (f) the purpose for which the stored water will be recovered;
- 11653 (g) the depth and diameter of the existing well or proposed new well;
- 11654 (h) a legal description of the area where the stored water is proposed to be used;
- 11655 (i) the design pumping capacity of the existing well or proposed new well; and
- 11656 (j) any other information including maps, drawings, and data that the state engineer
- 11657 requires.

11658 (3) (a) A filing fee must be submitted with the application.

11659 (b) The state engineer shall establish the filing fee in accordance with Section

11660 ~~[63J-1-303]~~ 63J-1-504.

11661 Section 273. Section **73-3b-302** is amended to read:

11662 **73-3b-302. Fee.**

11663 (1) The state engineer shall assess an annual fee, in accordance with Section

11664 ~~[63J-1-303]~~ 63J-1-504, on each person who holds a groundwater recharge or recovery permit.

11665 (2) The fee shall reflect the division's costs to administer and monitor groundwater

11666 recharge and recovery projects.

11667 Section 274. Section **73-10c-10** is amended to read:

11668 **73-10c-10. Origination fee.**

11669 (1) The Drinking Water Board and the Water Quality Board may establish an

11670 origination fee for a loan to fund the administration of the programs created by this chapter by

11671 following the procedures and requirements of Section ~~[63J-1-303]~~ 63J-1-504.

11672 (2) The origination fee shall be part of the department fee schedule established under

11673 Section 19-1-201.

11674 (3) Notwithstanding ~~[Subsection 63J-1-303(2)(c)]~~ the requirements of Section

11675 63J-1-504, the board shall deposit the fee in the origination fee subaccount created in Section

11676 73-10c-5 and use the fee to administer this chapter.

11677 (4) The loan recipient may pay the origination fee from the loan proceeds.

11678 Section 275. Section **73-18-4** is amended to read:

11679 **73-18-4. Board may promulgate rules and set fees.**

11680 (1) The board may promulgate rules:

11681 (a) creating a uniform waterway marking system which shall be obeyed by all vessel  
11682 operators;

11683 (b) regulating the placement of waterway markers and other permanent or anchored  
11684 objects on the waters of this state;

11685 (c) zoning certain waters of this state for the purpose of prohibiting the operation of  
11686 vessels or motors for safety and health purposes only; and

11687 (d) regulating vessel operators who carry passengers for hire, boat liveries, and  
11688 outfitting companies.

11689 (2) (a) The board may set fees in accordance with Section [~~63J-1-303~~] 63J-1-504 for:

11690 (i) licensing vessel operators who carry passengers for hire; and

11691 (ii) registering:

11692 (A) outfitting companies; and

11693 (B) boat liveries.

11694 (b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be  
11695 deposited into the Boating Account created in Section 73-18-22.

11696 Section 276. Section **73-18-7** is amended to read:

11697 **73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records --**  
11698 **Period of registration and renewal -- Expiration -- Notice of transfer of interest or**  
11699 **change of address -- Duplicate registration card -- Invalid registration -- Powers of**  
11700 **board.**

11701 (1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and  
11702 sailboat on the waters of this state shall register it with the division as provided in this chapter.

11703 (b) A person may not place, give permission for the placement of, operate, or give  
11704 permission for the operation of a motorboat or sailboat on the waters of this state, unless the  
11705 motorboat or sailboat is registered as provided in this chapter.

11706 (2) (a) The owner of a motorboat or sailboat required to be registered shall file an  
11707 application for registration with the division on forms approved by the division.

11708 (b) The owner of the motorboat or sailboat shall sign the application and pay the fee  
11709 set by the board in accordance with Section [~~63J-1-303~~] 63J-1-504.

11710 (c) Before receiving a registration card and registration decals, the applicant shall  
11711 provide the division with a certificate from the county assessor of the county in which the  
11712 motorboat or sailboat has situs for taxation, stating that:

11713 (i) the property tax on the motorboat or sailboat for the current year has been paid;

11714 (ii) in the county assessor's opinion, the property tax is a lien on real property  
11715 sufficient to secure the payment of the property tax; or

11716 (iii) the motorboat or sailboat is exempt by law from payment of property tax for the  
11717 current year.

11718 (d) If the board modifies the fee under Subsection (2)(b), the modification shall take  
11719 effect on the first day of the calendar quarter after 90 days from the day on which the board  
11720 provides the State Tax Commission:

11721 (i) notice from the board stating that the board will modify the fee; and

11722 (ii) a copy of the fee modification.

11723 (3) (a) Upon receipt of the application in the approved form, the division shall record  
11724 the receipt and issue to the applicant registration decals and a registration card that state the  
11725 number assigned to the motorboat or sailboat and the name and address of the owner.

11726 (b) The registration card shall be available for inspection on the motorboat or sailboat  
11727 for which it was issued, whenever that motorboat or sailboat is in operation.

11728 (4) The assigned number shall:

11729 (a) be painted or permanently attached to each side of the forward half of the  
11730 motorboat or sailboat;

11731 (b) consist of plain vertical block characters not less than three inches in height;

11732 (c) contrast with the color of the background and be distinctly visible and legible;

11733 (d) have spaces or hyphens equal to the width of a letter between the letter and

11734 numeral groupings; and

11735 (e) read from left to right.

11736 (5) A motorboat or sailboat with a valid marine document issued by the United States  
11737 Coast Guard is exempt from the number display requirements of Subsection (4).

11738 (6) The nonresident owner of any motorboat or sailboat already covered by a valid  
11739 number that has been assigned to it according to federal law or a federally approved  
11740 numbering system of the owner's resident state is exempt from registration while operating the  
11741 motorboat or sailboat on the waters of this state unless the owner is operating in excess of the  
11742 reciprocity period provided for in Subsection 73-18-9(1).

11743 (7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a  
11744 new application form and fee with the division, and the division shall issue a new registration  
11745 card and registration decals in the same manner as provided for in Subsections (2) and (3).

11746 (b) The division shall reassign the current number assigned to the motorboat or  
11747 sailboat to the new owner to display on the motorboat or sailboat.

11748 (8) If the United States Coast Guard has in force an overall system of identification  
11749 numbering for motorboats or sailboats within the United States, the numbering system  
11750 employed under this chapter by the board shall conform with that system.

11751 (9) (a) The division may authorize any person to act as its agent for the registration of  
11752 motorboats and sailboats.

11753 (b) A number assigned, a registration card, and registration decals issued by an agent  
11754 of the division in conformity with this chapter and rules of the board are valid.

11755 (10) (a) The Motor Vehicle Division shall classify all records of the division made or  
11756 kept according to this section in the same manner that motor vehicle records are classified  
11757 under Section 41-1a-116.

11758 (b) Division records are available for inspection in the same manner as motor vehicle  
11759 records pursuant to Section 41-1a-116.

11760 (11) (a) (i) Each registration, registration card, and decal issued under this chapter  
11761 shall continue in effect for 12 months, beginning with the first day of the calendar month of

11762 registration.

11763 (ii) A registration may be renewed by the owner in the same manner provided for in  
11764 the initial application.

11765 (iii) The division shall reassign the current number assigned to the motorboat or  
11766 sailboat when the registration is renewed.

11767 (b) Each registration, registration card, and registration decal expires the last day of  
11768 the month in the year following the calendar month of registration.

11769 (c) If the last day of the registration period falls on a day in which the appropriate state  
11770 or county offices are not open for business, the registration of the motorboat or sailboat is  
11771 extended to 12 midnight of the next business day.

11772 (d) The division may receive applications for registration renewal and issue new  
11773 registration cards at any time before the expiration of the registration, subject to the  
11774 availability of renewal materials.

11775 (e) The new registration shall retain the same expiration month as recorded on the  
11776 original registration even if the registration has expired.

11777 (f) The year of registration shall be changed to reflect the renewed registration period.

11778 (g) If the registration renewal application is an application generated by the division  
11779 through its automated system, the owner is not required to surrender the last registration card  
11780 or duplicate.

11781 (12) (a) An owner shall notify the division of:

11782 (i) the transfer of all or any part of the owner's interest, other than creation of a  
11783 security interest, in a motorboat or sailboat registered in this state under Subsections (2) and  
11784 (3); and

11785 (ii) the destruction or abandonment of the owner's motorboat or sailboat.

11786 (b) Notification must take place within 15 days of the transfer, destruction, or  
11787 abandonment.

11788 (c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates  
11789 its registration.

11790 (ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not  
11791 affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

11792 (13) (a) A registered owner shall notify the division within 15 days if the owner's  
11793 address changes from the address appearing on the registration card and shall, as a part of this  
11794 notification, furnish the division with the owner's new address.

11795 (b) The board may provide in its rules for:

11796 (i) the surrender of the registration card bearing the former address; and

11797 (ii) (A) the replacement of the card with a new registration card bearing the new  
11798 address; or

11799 (B) the alteration of an existing registration card to show the owner's new address.

11800 (14) (a) If a registration card is lost or stolen, the division may collect a fee of \$4 for  
11801 the issuance of a duplicate card.

11802 (b) If a registration decal is lost or stolen, the division may collect a fee of \$3 for the  
11803 issuance of a duplicate decal.

11804 (15) A number other than the number assigned to a motorboat or sailboat or a number  
11805 for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached,  
11806 or otherwise displayed on either side of the bow of a motorboat or sailboat.

11807 (16) A motorboat or sailboat registration and number are invalid if obtained by  
11808 knowingly falsifying an application for registration.

11809 (17) The board may designate the suffix to assigned numbers, and by following the  
11810 procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
11811 make rules for:

11812 (a) the display of registration decals;

11813 (b) the issuance and display of dealer numbers and registrations; and

11814 (c) the issuance and display of temporary registrations.

11815 Section 277. Section **73-18-15.2** is amended to read:

11816 **73-18-15.2. Minimum age of operators -- Boating safety course for youth to**  
11817 **operate personal watercraft.**

11818 (1) (a) A person under 16 years of age may not operate a motorboat on the waters of  
11819 this state unless the person is under the on-board and direct supervision of a person who is at  
11820 least 18 years of age.

11821 (b) A person under 16 years of age may operate a sailboat, if the person is under the  
11822 direct supervision of a person who is at least 18 years of age.

11823 (2) A person who is at least 12 years of age or older but under 16 years of age may  
11824 operate a personal watercraft provided he:

11825 (a) is under the direct supervision of a person who is at least 18 years of age;

11826 (b) completes a boating safety course approved by the division; and

11827 (c) has in his possession a boating safety certificate issued by the boating safety course  
11828 provider.

11829 (3) A person who is at least 16 years of age but under 18 years of age may operate a  
11830 personal watercraft, if the person:

11831 (a) completes a boating safety course approved by the division; and

11832 (b) has in his possession a boating safety certificate issued by the boating safety  
11833 course provider.

11834 (4) A person required to attend a boating safety course under Subsection (3)(a) need  
11835 not be accompanied by a parent or legal guardian while completing a boating safety course.

11836 (5) A person may not give permission to another person to operate a vessel in violation  
11837 of this section.

11838 (6) As used in this section, "direct supervision" means oversight at a distance within  
11839 which visual contact is maintained.

11840 (7) (a) The division may collect fees set by the board in accordance with Section  
11841 [~~63J-1-303~~] 63J-1-504 from each person who takes the division's boating safety course to help  
11842 defray the cost of the boating safety course.

11843 (b) Money collected from the fees collected under Subsection (7)(a) shall be deposited  
11844 in the Boating Account.

11845 Section 278. Section **73-18-25** is amended to read:

- 11846           **73-18-25. Fees to cover the costs of electronic payments.**
- 11847           (1) As used in this section:
- 11848           (a) "Electronic payment" has the same meaning as defined in Section 41-1a-1221.
- 11849           (b) "Electronic payment fee" has the same meaning as defined in Section 41-1a-1221.
- 11850           (2) (a) The Motor Vehicle Division may collect an electronic payment fee on all
- 11851 registrations and renewals of registration under Section 73-18-7.
- 11852           (b) The fee described under Subsection (2)(a) shall be imposed regardless of the
- 11853 method of payment for a particular transaction.
- 11854           (3) The Motor Vehicle Division shall establish the fee according to the procedures and
- 11855 requirements of Section [~~63J-1-303~~] 63J-1-504.
- 11856           (4) A fee imposed under this section:
- 11857           (a) shall be used by the Motor Vehicle Division as a dedicated credit to cover the costs
- 11858 of electronic payments;
- 11859           (b) is nonlapsing;
- 11860           (c) is not subject to Subsection 63J-2-202(2); and
- 11861           (d) need not be separately identified from the fees imposed on registrations and
- 11862 renewals of registration under Section 73-18-7.
- 11863           Section 279. Section **73-28-404** is amended to read:
- 11864           **73-28-404. Repayments returned to Water Resources Conservation and**
- 11865 **Development Fund -- Establishment of an enterprise fund.**
- 11866           (1) The board shall deposit, in accordance with Section 51-4-1, into the Water
- 11867 Resources Conservation and Development Fund:
- 11868           (a) repayments of preconstruction and construction costs; and
- 11869           (b) the interest charged.
- 11870           (2) (a) There is created an enterprise fund, as defined in Subsection 51-5-4(8), entitled
- 11871 the "Lake Powell Pipeline Project Operation and Maintenance Fund."
- 11872           (b) The fund consists of:
- 11873           (i) revenues received from the sale of developed water that is designated for project

11874 operation, maintenance, repair, and replacement costs;

11875 (ii) revenues received from the sale of electricity that are deposited in the fund in  
11876 accordance with Subsection 73-28-203(3); and

11877 (iii) all interest earned by the fund.

11878 (3) (a) Any unexpended monies remaining in the fund at the end of the fiscal year are  
11879 nonlapsing.

11880 (b) Notwithstanding Section [~~63J-1-307~~] 63J-1-211, the Legislature may not  
11881 appropriate any monies from the Lake Powell Pipeline Project Operation and Maintenance  
11882 Fund.

11883 (4) The state treasurer shall:

11884 (a) invest the monies in the enterprise fund by following the procedures and  
11885 requirements of Title 51, Chapter 7, State Money Management Act; and

11886 (b) deposit all interest or other earnings derived from those investments into the Lake  
11887 Powell Pipeline Operation and Maintenance Fund.

11888 (5) The committee shall approve the expenditure of fund monies to cover the project  
11889 operation, maintenance, repair, and replacement costs, subject to:

11890 (a) monies available in the fund; and

11891 (b) rules established by the board under Subsection 73-28-104(2).

11892 (6) If title to the project is transferred under Section 73-28-405, the agreement shall  
11893 direct the disposition of the monies remaining in the fund.

11894 Section 280. Section **76-10-526** is amended to read:

11895 **76-10-526. Criminal background check prior to purchase of a firearm -- Fee --**  
11896 **Exemption for concealed firearm permit holders.**

11897 (1) For purposes of this section, "valid permit to carry a concealed firearm" does not  
11898 include a temporary permit issued pursuant to Section 53-5-705.

11899 (2) (a) To establish personal identification and residence in this state for purposes of  
11900 this part, a dealer shall require an individual receiving a firearm to present one photo  
11901 identification on a form issued by a governmental agency of the state.

11902 (b) A dealer may not accept a driving privilege card issued in accordance with Section  
11903 53-3-207 as proof of identification for the purpose of establishing personal identification and  
11904 residence in this state as required under this Subsection (2).

11905 (3) A criminal history background check is required for the sale of a firearm by a  
11906 licensed firearm dealer in the state.

11907 (4) (a) An individual, except a dealer, purchasing a firearm from a dealer shall consent  
11908 in writing to a criminal background check, on a form provided by the division.

11909 (b) The form shall contain the following information:

11910 (i) the dealer identification number;

11911 (ii) the name and address of the individual receiving the firearm;

11912 (iii) the date of birth, height, weight, eye color, and hair color of the individual  
11913 receiving the firearm; and

11914 (iv) the Social Security number or any other identification number of the individual  
11915 receiving the firearm.

11916 (5) (a) The dealer shall send the form required by Subsection (4) to the division  
11917 immediately upon its completion.

11918 (b) No dealer shall sell or transfer any firearm to an individual until the dealer has  
11919 provided the division with the information in Subsection (4) and has received approval from  
11920 the division under Subsection (7).

11921 (6) The dealer shall make a request for criminal history background information by  
11922 telephone or other electronic means to the division and shall receive approval or denial of the  
11923 inquiry by telephone or other electronic means.

11924 (7) When the dealer calls for or requests a criminal history background check, the  
11925 division shall:

11926 (a) review the criminal history files, including juvenile court records, to determine if  
11927 the individual is prohibited from purchasing, possessing, or transferring a firearm by state or  
11928 federal law;

11929 (b) inform the dealer that:

11930 (i) the records indicate the individual is so prohibited; or  
11931 (ii) the individual is approved for purchasing, possessing, or transferring a firearm;  
11932 (c) provide the dealer with a unique transaction number for that inquiry; and  
11933 (d) provide a response to the requesting dealer during the call for a criminal  
11934 background, or by return call, or other electronic means, without delay, except in case of  
11935 electronic failure or other circumstances beyond the control of the division, the division shall  
11936 advise the dealer of the reason for the delay and give the dealer an estimate of the length of the  
11937 delay.

11938 (8) (a) The division shall not maintain any records of the criminal history background  
11939 check longer than 20 days from the date of the dealer's request if the division determines that  
11940 the individual receiving the gun is not prohibited from purchasing, possessing, or transferring  
11941 the firearm under state or federal law.

11942 (b) However, the division shall maintain a log of requests containing the dealer's  
11943 federal firearms number, the transaction number, and the transaction date for a period of 12  
11944 months.

11945 (9) If the criminal history background check discloses information indicating that the  
11946 individual attempting to purchase the firearm is prohibited from purchasing, possessing, or  
11947 transferring a firearm, the division shall inform the law enforcement agency in the jurisdiction  
11948 where the person resides.

11949 (10) If an individual is denied the right to purchase a firearm under this section, the  
11950 individual may review the individual's criminal history information and may challenge or  
11951 amend the information as provided in Section 53-10-108.

11952 (11) The division shall make rules as provided in Title 63G, Chapter 3, Utah  
11953 Administrative Rulemaking Act, to ensure the identity, confidentiality, and security of all  
11954 records provided by the division pursuant to this part are in conformance with the  
11955 requirements of the Brady Handgun Violence Prevention Act, Pub. L. No. 103-159, 107 Stat.  
11956 1536 (1993).

11957 (12) (a) (i) All dealers shall collect a criminal history background check fee which is

11958 \$7.50.

11959 (ii) This fee remains in effect until changed by the division through the process under  
11960 Section [~~63J-1-303~~] 63J-1-504.

11961 (b) (i) The dealer shall forward at one time all fees collected for criminal history  
11962 background checks performed during the month to the division by the last day of the month  
11963 following the sale of a firearm.

11964 (ii) The division shall deposit the fees in the General Fund as dedicated credits to  
11965 cover the cost of administering and conducting the criminal history background check  
11966 program.

11967 (13) An individual with a concealed firearm permit issued pursuant to Title 53,  
11968 Chapter 5, Part 7, Concealed Weapon Act, shall be exempt from the background check and  
11969 corresponding fee required in this section for the purchase of a firearm if:

11970 (a) the individual presents the individual's concealed firearm permit to the dealer prior  
11971 to purchase of the firearm; and

11972 (b) the dealer verifies with the division that the individual's concealed firearm permit  
11973 is valid.

11974 Section 281. Section **76-10-1209** is amended to read:

11975 **76-10-1209. Injunctive relief -- Jurisdiction -- Consent to be sued -- Service of**  
11976 **process.**

11977 (1) The district courts of this state shall have full power, authority, and jurisdiction,  
11978 upon application by any county attorney or city attorney within their respective jurisdictions or  
11979 the attorney general, to issue any and all proper restraining orders, preliminary and permanent  
11980 injunctions, and any other writs and processes appropriate to carry out and enforce the  
11981 provisions of this part. No restraining order or injunction, however, shall issue except upon  
11982 notice to the person sought to be enjoined. That person shall be entitled to a trial of the issues  
11983 commencing within three days after filing of an answer to the complaint and a decision shall  
11984 be rendered by the court within two days after the conclusion of the trial. If a final order or  
11985 judgment of injunction is entered against the person sought to be enjoined, this final order or

11986 judgment shall contain a provision directing the person to surrender to the sheriff of the county  
 11987 in which the action was brought any pornographic material in the person's possession which is  
 11988 subject to the injunction; and the sheriff shall be directed to seize and destroy this material.

11989 (2) Any person not qualified to do business in the state who sends or brings any  
 11990 pornographic material into the state with the intent to distribute or exhibit it to others in this  
 11991 state thereby consents that the person may be sued in any proceedings commenced under this  
 11992 section and therefor appoints the director of the Division of Corporations and Commercial  
 11993 Code to be the agent upon whom may be served all legal process against that person. Service  
 11994 of process shall be made by serving a copy of same upon the director of the Division of  
 11995 Corporations and Commercial Code or by filing the copy in that office, together with payment  
 11996 of a fee determined by the division pursuant to Section [~~63J-1-303~~] 63J-1-504. This service  
 11997 shall be sufficient service upon the defendant if:

11998 (a) notice of the service and a copy of the process are within ten days thereafter sent  
 11999 by mail by the prosecuting attorney to the defendant at the address of the defendant that  
 12000 appears on any material exhibited or distributed, and if no address appears, then the last  
 12001 known address of the defendant; and

12002 (b) the prosecuting attorney's affidavit of compliance with the provisions of this  
 12003 Subsection (2) are attached to the summons. The Division of Corporations and Commercial  
 12004 Code shall keep a record of all the process served upon it under this section, showing the day  
 12005 and hour of the service. Nothing in this Subsection (2) shall be construed to limit the  
 12006 operation of Rule 17(e) of the Utah Rules of Civil Procedure.

12007 (3) This section shall not be construed in any way to limit the district courts in the  
 12008 exercise of their jurisdiction under any other provision of law.

12009 Section 282. Section **77-18-11** is amended to read:

12010 **77-18-11. Petition -- Expungement of conviction -- Certificate of eligibility -- Fee**  
 12011 **-- Notice -- Written evaluation -- Objections -- Hearing.**

12012 (1) (a) A person convicted of a crime may petition the convicting court for an  
 12013 expungement of the record of conviction as provided in this section.

12014 (b) If a person has received a pardon from the Utah Board of Pardons and Parole, the  
12015 person is entitled to an expungement of all pardoned crimes, subject to the exceptions under  
12016 Subsection 77-18-12(1)(a).

12017 (2) (a) The court shall require receipt of a certificate of eligibility issued by the  
12018 division under Section 77-18-12.

12019 (b) The fee for each certificate of eligibility is \$25. This fee remains in effect until  
12020 changed by the division through the process under Section [~~63J-1-303~~] 63J-1-504.

12021 (c) Funds generated under Subsection (2)(b) shall be deposited in the General Fund as  
12022 a dedicated credit by the department to cover the costs incurred in providing the information.

12023 (3) The petition and certificate of eligibility shall be filed with the court and served  
12024 upon the prosecuting attorney and the Department of Corrections.

12025 (4) A victim shall receive notice of a petition for expungement if, prior to the entry of  
12026 an expungement order, the victim or, in the case of a minor or a person who is incapacitated or  
12027 deceased, the victim's next of kin or authorized representative, submits a written and signed  
12028 request for notice to the office of the Department of Corrections in the judicial district in  
12029 which the crime occurred or judgment was entered.

12030 (5) The Department of Corrections shall serve notice of the expungement request by  
12031 first-class mail to the victim at the most recent address of record on file with the department.  
12032 The notice shall include a copy of the petition, certificate of eligibility, and statutes and rules  
12033 applicable to the petition.

12034 (6) The court in its discretion may request a written evaluation by Adult Parole and  
12035 Probation of the Department of Corrections.

12036 (a) The evaluation shall include a recommendation concerning the petition for  
12037 expungement.

12038 (b) If expungement is recommended, the evaluation shall include certification that the  
12039 petitioner has completed all requirements of sentencing and probation or parole and state any  
12040 rationale that would support or refute consideration for expungement.

12041 (c) The conclusions and recommendations contained in the evaluation shall be

12042 provided to the petitioner and the prosecuting attorney.

12043 (7) If the prosecuting attorney or a victim submits a written objection to the court  
12044 concerning the petition within 30 days after service of the notice, or if the petitioner objects to  
12045 the conclusions and recommendations in the evaluation within 15 days after receipt of the  
12046 conclusions and recommendations, the court shall set a date for a hearing and notify the  
12047 prosecuting attorney for the jurisdiction, the petitioner, and the victim of the date set for the  
12048 hearing.

12049 (8) Any person who has relevant information about the petitioner may testify at the  
12050 hearing.

12051 (9) The prosecuting attorney may respond to the court with a recommendation or  
12052 objection within 30 days.

12053 (10) If an objection is not received under Subsection (7), the expungement may be  
12054 granted without a hearing.

12055 (11) A court may not expunge a conviction of:

12056 (a) a capital felony;

12057 (b) a first degree felony;

12058 (c) a second degree forcible felony;

12059 (d) any sexual act against a minor; or

12060 (e) an offense for which a certificate of eligibility may not be issued under Section  
12061 77-18-12.

12062 **Section 283. Effective date.**

12063 This bill takes effect on May 12, 2009, except that the amendments to Section  
12064 31A-3-304 (Effective 07/01/10) take effect on July 1, 2010.

12065 **Section 284. Revisor instructions.**

12066 It is the intent of the Legislature that the Office of Legislative Research and General  
12067 Counsel in preparing the Utah Code database for publication, change all internal references in  
12068 the Utah Code to their correctly renumbered cite in Title 63J, Chapter 1, Budgetary Procedures  
12069 Act.

12070