

WORKERS' COMPENSATION FUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill repeals the statute creating the Workers' Compensation Fund and makes conforming amendments.

Highlighted Provisions:

This bill:

- ▶ repeals the statute creating the Workers' Compensation Fund;
- ▶ removes statutory references to the Workers' Compensation Fund;
- ▶ addresses the obligation to write workers' compensation insurance and residual market mechanisms;
- ▶ provides for the Workers' Compensation Fund's transition to a mutual corporation;
- ▶ modifies membership on the workers' compensation advisory council;
- ▶ addresses methods to obtain workers' compensation insurance;
- ▶ amends the provision addressing penalty for failure to obtain workers' compensation;
- ▶ modifies the provision addressing exemptions for employees temporarily in state;
- ▶ addresses continuing education requirements for contractor licensees; and
- ▶ makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 11-8-3**, as last amended by Laws of Utah 2000, Chapter 222
- 31A-1-105**, as last amended by Laws of Utah 2000, Chapter 222
- 31A-15-103**, as last amended by Laws of Utah 2015, Chapter 238
- 31A-19a-401**, as last amended by Laws of Utah 2000, Chapter 222

- 33 **31A-21-101**, as last amended by Laws of Utah 2011, Chapter 297
34 **31A-22-309**, as last amended by Laws of Utah 2008, Chapter 162
35 **31A-22-1001**, as last amended by Laws of Utah 2000, Chapter 222
36 **31A-26-103**, as last amended by Laws of Utah 2000, Chapter 222
37 **31A-35-103**, as last amended by Laws of Utah 2016, Chapter 234
38 **31A-40-209**, as last amended by Laws of Utah 2014, Chapters 290 and 300
39 **34A-2-102**, as last amended by Laws of Utah 2008, Chapter 90
40 **34A-2-103**, as last amended by Laws of Utah 2016, Chapter 370
41 **34A-2-107**, as last amended by Laws of Utah 2016, Chapter 242
42 **34A-2-201**, as last amended by Laws of Utah 2000, Chapter 222
43 **34A-2-203**, as last amended by Laws of Utah 2012, Chapter 347
44 **34A-2-210**, as enacted by Laws of Utah 1997, Chapter 375
45 **34A-2-211**, as last amended by Laws of Utah 2009, Chapter 288
46 **34A-2-406**, as last amended by Laws of Utah 2000, Chapter 222
47 **51-7-2**, as last amended by Laws of Utah 2015, Chapter 319
48 **51-7-4**, as last amended by Laws of Utah 2013, Chapter 388
49 **53-2a-802**, as last amended by Laws of Utah 2015, Chapter 352
50 **58-55-302.5**, as last amended by Laws of Utah 2016, Chapter 260
51 **59-9-101**, as last amended by Laws of Utah 2016, Chapter 135
52 **63A-3-401**, as last amended by Laws of Utah 2016, Chapters 233 and 382
53 **63E-1-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
54 **63E-1-203**, as last amended by Laws of Utah 2016, Chapter 348
55 **63I-4a-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
56 **63J-2-102**, as last amended by Laws of Utah 2016, Chapter 120
57 **63J-7-102**, as last amended by Laws of Utah 2015, Chapters 223, 226, 283, and 411
58 **67-4-2**, as last amended by Laws of Utah 2000, Chapter 222

59 ENACTS:

- 60
- 31A-22-1014**
- , Utah Code Annotated 1953

61 REPEALS:

- 62
- 31A-33-101**
- , as last amended by Laws of Utah 2015, Chapter 427
-
- 63
- 31A-33-102**
- , as last amended by Laws of Utah 2000, Chapter 222

64 **31A-33-103**, as last amended by Laws of Utah 2000, Chapter 222
 65 **31A-33-103.5**, as last amended by Laws of Utah 2015, Chapter 427
 66 **31A-33-104**, as last amended by Laws of Utah 2012, Chapter 347
 67 **31A-33-105**, as last amended by Laws of Utah 1998, Chapter 107
 68 **31A-33-106**, as last amended by Laws of Utah 2016, Chapters 110 and 348
 69 **31A-33-107**, as last amended by Laws of Utah 2016, Chapter 110
 70 **31A-33-108**, as last amended by Laws of Utah 2003, Chapter 252
 71 **31A-33-109**, as renumbered and amended by Laws of Utah 1996, Chapter 240
 72 **31A-33-110**, as last amended by Laws of Utah 1997, Chapter 204
 73 **31A-33-111**, as last amended by Laws of Utah 1999, Chapter 130
 74 **31A-33-112**, as renumbered and amended by Laws of Utah 1996, Chapter 240
 75 **31A-33-113**, as last amended by Laws of Utah 2001, Chapter 116
 76 **31A-33-114**, as renumbered and amended by Laws of Utah 1996, Chapter 240
 77 **31A-33-115**, as renumbered and amended by Laws of Utah 1996, Chapter 240
 78 **31A-33-116**, as renumbered and amended by Laws of Utah 1996, Chapter 240
 79 **31A-33-117**, as last amended by Laws of Utah 1997, Chapter 375
 80 **31A-33-118**, as last amended by Laws of Utah 1998, Chapter 107

81

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

83 Section 1. Section **11-8-3** is amended to read:

84 **11-8-3. Department of Environmental Quality to negotiate loans for sewage**
 85 **facilities.**

86 (1) The Department of Environmental Quality may negotiate loans from the Retirement
 87 Systems Fund, State Land Principal Fund, [~~Workers' Compensation Fund,~~] or any state trust
 88 and agency fund which has sums available for loaning, as these funds are defined in Title 51,
 89 Chapter 5, Funds Consolidation Act, not to exceed \$1,000,000 in any fiscal year for the
 90 purposes of providing the funding for the loans provided for in Section 11-8-2.

91 (2) The terms of any borrowing and repayment shall be negotiated between the
 92 borrower and the lender consistent with the legal duties of the lender.

93 Section 2. Section **31A-1-105** is amended to read:

94 **31A-1-105. Presumption of jurisdiction.**

95 (1) Any insurer~~[, including the Workers' Compensation Fund created under Chapter 33,~~
96 ~~Workers' Compensation Fund,]~~ that provides coverage of a resident of this state, property
97 located in this state, or a business activity conducted in this state, or that engages in any activity
98 described in Subsections 31A-15-102(2)(a) through (h), is:

99 (a) doing an insurance business in this state; and

100 (b) subject to the jurisdiction of the insurance commissioner and the courts of this state
101 under Sections 31A-2-309 and 31A-2-310 to the extent of that coverage or activity.

102 (2) Any person doing or purporting to do an insurance business in this state as defined
103 in Section 31A-1-301 is subject to the jurisdiction of the insurance commissioner and this title,
104 unless the insurer can establish that the exemptions of Section 31A-1-103 apply.

105 (3) This section does not limit the jurisdiction of the courts of this state under other
106 applicable law.

107 Section 3. Section **31A-15-103** is amended to read:

108 **31A-15-103. Surplus lines insurance -- Unauthorized insurers.**

109 (1) Notwithstanding Section 31A-15-102, a foreign insurer that has not obtained a
110 certificate of authority to do business in this state under Section 31A-14-202 may negotiate for
111 and make an insurance contract with a person in this state and on a risk located in this state,
112 subject to the limitations and requirements of this section.

113 (2) (a) For a contract made under this section, the insurer may, in this state:

114 (i) inspect the risks to be insured;

115 (ii) collect premiums;

116 (iii) adjust losses; and

117 (iv) do another act reasonably incidental to the contract.

118 (b) An act described in Subsection (2)(a) may be done through:

119 (i) an employee; or

120 (ii) an independent contractor.

121 (3) (a) Subsections (1) and (2) do not permit a person to solicit business in this state on
122 behalf of an insurer that has no certificate of authority.

123 (b) Insurance placed with a nonadmitted insurer shall be placed with a surplus lines
124 producer licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants,

125 and Reinsurance Intermediaries.

126 (c) The commissioner may by rule prescribe how a surplus lines producer may:

127 (i) pay or permit the payment, commission, or other remuneration on insurance placed
128 by the surplus lines producer under authority of the surplus lines producer's license to one
129 holding a license to act as an insurance producer; and

130 (ii) advertise the availability of the surplus lines producer's services in procuring, on
131 behalf of a person seeking insurance, a contract with a nonadmitted insurer.

132 (4) For a contract made under this section, a nonadmitted insurer is subject to Sections
133 31A-23a-402, 31A-23a-402.5, and 31A-23a-403 and the rules adopted under those sections.

134 (5) A nonadmitted insurer may not issue workers' compensation insurance coverage to
135 an employer located in this state, except for stop loss coverage issued to an employer securing
136 workers' compensation under Subsection 34A-2-201[(3)](2).

137 (6) (a) The commissioner may by rule prohibit making a contract under Subsection (1)
138 for a specified class of insurance if authorized insurers provide an established market for the
139 class in this state that is adequate and reasonably competitive.

140 (b) The commissioner may by rule place a restriction or a limitation on and create
141 special procedures for making a contract under Subsection (1) for a specified class of insurance
142 if:

143 (i) there have been abuses of placements in the class; or

144 (ii) the policyholders in the class, because of limited financial resources, business
145 experience, or knowledge, cannot protect their own interests adequately.

146 (c) The commissioner may prohibit an individual insurer from making a contract under
147 Subsection (1) and all insurance producers from dealing with the insurer if:

148 (i) the insurer willfully violates:

149 (A) this section;

150 (B) Section 31A-4-102, 31A-23a-402, 31A-23a-402.5, or 31A-26-303; or

151 (C) a rule adopted under a section listed in Subsection (6)(c)(i)(A) or (B);

152 (ii) the insurer fails to pay the fees and taxes specified under Section 31A-3-301; or

153 (iii) the commissioner has reason to believe that the insurer is:

154 (A) in an unsound condition;

155 (B) operated in a fraudulent, dishonest, or incompetent manner; or

156 (C) in violation of the law of its domicile.

157 (d) (i) The commissioner may issue one or more lists of unauthorized foreign insurers
158 whose:

159 (A) solidity the commissioner doubts; or

160 (B) practices the commissioner considers objectionable.

161 (ii) The commissioner shall issue one or more lists of unauthorized foreign insurers the
162 commissioner considers to be reliable and solid.

163 (iii) In addition to the lists described in Subsections (6)(d)(i) and (ii), the commissioner
164 may issue other relevant evaluations of unauthorized insurers.

165 (iv) An action may not lie against the commissioner or an employee of the department
166 for a written or oral communication made in, or in connection with the issuance of, a list or
167 evaluation described in this Subsection (6)(d).

168 (e) A foreign unauthorized insurer shall be listed on the commissioner's "reliable" list
169 only if the unauthorized insurer:

170 (i) delivers a request to the commissioner to be on the list;

171 (ii) establishes satisfactory evidence of good reputation and financial integrity;

172 (iii) (A) delivers to the commissioner a copy of the unauthorized insurer's current
173 annual statement certified by the insurer; and

174 (B) continues each subsequent year to file its annual statements with the commissioner
175 within 60 days of the day on which it is filed with the insurance regulatory authority where the
176 insurer is domiciled;

177 (iv) (A) (I) is in substantial compliance with the solvency standards in Chapter 17, Part
178 6, Risk-Based Capital, or maintains capital and surplus of at least \$15,000,000, whichever is
179 greater; and

180 (II) maintains in the United States an irrevocable trust fund in either a national bank or
181 a member of the Federal Reserve System, or maintains a deposit meeting the statutory deposit
182 requirements for insurers in the state where it is made, which trust fund or deposit:

183 (Aa) shall be in an amount not less than \$2,500,000 for the protection of all of the
184 insurer's policyholders in the United States;

185 (Bb) may consist of cash, securities, or investments of substantially the same character
186 and quality as those which are "qualified assets" under Section 31A-17-201; and

187 (Cc) may include as part of the trust arrangement a letter of credit that qualifies as
188 acceptable security under Section 31A-17-404.1; or

189 (B) in the case of any "Lloyd's" or other similar incorporated or unincorporated group
190 of alien individual insurers, maintains a trust fund that:

191 (I) shall be in an amount not less than \$50,000,000 as security to its full amount for all
192 policyholders and creditors in the United States of each member of the group;

193 (II) may consist of cash, securities, or investments of substantially the same character
194 and quality as those which are "qualified assets" under Section 31A-17-201; and

195 (III) may include as part of this trust arrangement a letter of credit that qualifies as
196 acceptable security under Section 31A-17-404.1; and

197 (v) for an alien insurer not domiciled in the United States or a territory of the United
198 States, is listed on the Quarterly Listing of Alien Insurers maintained by the National
199 Association of Insurance Commissioners International Insurers Department.

200 (7) (a) Subject to Subsection (7)(b), a surplus lines producer may not, either knowingly
201 or without reasonable investigation of the financial condition and general reputation of the
202 insurer, place insurance under this section with:

203 (i) a financially unsound insurer;

204 (ii) an insurer engaging in unfair practices; or

205 (iii) an otherwise substandard insurer.

206 (b) A surplus line producer may place insurance under this section with an insurer
207 described in Subsection (7)(a) if the surplus line producer:

208 (i) gives the applicant notice in writing of the known deficiencies of the insurer or the
209 limitations on the surplus line producer's investigation; and

210 (ii) explains the need to place the business with that insurer.

211 (c) A copy of the notice described in Subsection (7)(b) shall be kept in the office of the
212 surplus line producer for at least five years.

213 (d) To be financially sound, an insurer shall satisfy standards that are comparable to
214 those applied under the laws of this state to an authorized insurer.

215 (e) An insurer on the "doubtful or objectionable" list under Subsection (6)(d) or an
216 insurer not on the commissioner's "reliable" list under Subsection (6)(e) is presumed
217 substandard.

- 218 (8) (a) A policy issued under this section shall:
- 219 (i) include a description of the subject of the insurance; and
- 220 (ii) indicate:
- 221 (A) the coverage, conditions, and term of the insurance;
- 222 (B) the premium charged the policyholder;
- 223 (C) the premium taxes to be collected from the policyholder; and
- 224 (D) the name and address of the policyholder and insurer.
- 225 (b) If the direct risk is assumed by more than one insurer, the policy shall state:
- 226 (i) the names and addresses of all insurers; and
- 227 (ii) the portion of the entire direct risk each assumes.
- 228 (c) A policy issued under this section shall have attached or affixed to the policy the
- 229 following statement: "The insurer issuing this policy does not hold a certificate of authority to
- 230 do business in this state and thus is not fully subject to regulation by the Utah insurance
- 231 commissioner. This policy receives no protection from any of the guaranty associations created
- 232 under Title 31A, Chapter 28, Guaranty Associations."
- 233 (9) Upon placing a new or renewal coverage under this section, a surplus lines
- 234 producer shall promptly deliver to the policyholder or the policyholder's agent evidence of the
- 235 insurance consisting either of:
- 236 (a) the policy as issued by the insurer; or
- 237 (b) if the policy is not available upon placing the coverage, a certificate, cover note, or
- 238 other confirmation of insurance complying with Subsection (8).
- 239 (10) If the commissioner finds it necessary to protect the interests of insureds and the
- 240 public in this state, the commissioner may by rule subject a policy issued under this section to
- 241 as much of the regulation provided by this title as is required for a comparable policy written
- 242 by an authorized foreign insurer.
- 243 (11) (a) A surplus lines transaction in this state shall be examined to determine whether
- 244 it complies with:
- 245 (i) the surplus lines tax levied under Chapter 3, Department Funding, Fees, and Taxes;
- 246 (ii) the solicitation limitations of Subsection (3);
- 247 (iii) the requirement of Subsection (3) that placement be through a surplus lines
- 248 producer;

249 (iv) placement limitations imposed under Subsections (6)(a), (b), and (c); and

250 (v) the policy form requirements of Subsections (8) and (10).

251 (b) The examination described in Subsection (11)(a) shall take place as soon as
252 practicable after the transaction. The surplus lines producer shall submit to the examiner
253 information necessary to conduct the examination within a period specified by rule.

254 (c) (i) The examination described in Subsection (11)(a) may be conducted by the
255 commissioner or by an advisory organization created under Section 31A-15-111 and authorized
256 by the commissioner to conduct these examinations. The commissioner is not required to
257 authorize an additional advisory organization to conduct an examination under this Subsection
258 (11)(c).

259 (ii) The commissioner's authorization of one or more advisory organizations to act as
260 examiners under this Subsection (11)(c) shall be:

261 (A) by rule; and

262 (B) evidenced by a contract, on a form provided by the commissioner, between the
263 authorized advisory organization and the department.

264 (d) (i) (A) A person conducting the examination described in Subsection (11)(a) shall
265 collect a stamping fee of an amount not to exceed 1% of the policy premium payable in
266 connection with the transaction.

267 (B) A stamping fee collected by the commissioner shall be deposited in the General
268 Fund.

269 (C) The commissioner shall establish a stamping fee by rule.

270 (ii) A stamping fee collected by an advisory organization is the property of the advisory
271 organization to be used in paying the expenses of the advisory organization.

272 (iii) Liability for paying a stamping fee is as required under Subsection 31A-3-303(1)
273 for taxes imposed under Section 31A-3-301.

274 (iv) The commissioner shall adopt a rule dealing with the payment of stamping fees. If
275 a stamping fee is not paid when due, the commissioner or advisory organization may impose a
276 penalty of 25% of the stamping fee due, plus 1-1/2% per month from the time of default until
277 full payment of the stamping fee.

278 (v) A stamping fee relative to a policy covering a risk located partially in this state
279 shall be allocated in the same manner as under Subsection 31A-3-303(4).

280 (e) The commissioner, representatives of the department, advisory organizations,
281 representatives and members of advisory organizations, authorized insurers, and surplus lines
282 insurers are not liable for damages on account of statements, comments, or recommendations
283 made in good faith in connection with their duties under this Subsection (11)(e) or under
284 Section 31A-15-111.

285 (f) An examination conducted under this Subsection (11) and a document or materials
286 related to the examination are confidential.

287 (12) (a) For a surplus lines insurance transaction in the state entered into on or after
288 May 13, 2014, if an audit is required by the surplus lines insurance policy, a surplus lines
289 insurer:

290 (i) shall exercise due diligence to initiate an audit of an insured, to determine whether
291 additional premium is owed by the insured, by no later than six months after the expiration of
292 the term for which premium is paid; and

293 (ii) may not audit an insured more than three years after the surplus lines insurance
294 policy expires.

295 (b) A surplus lines insurer that does not comply with this Subsection (12) may not
296 charge or collect additional premium in excess of the premium agreed to under the surplus
297 lines insurance policy.

298 Section 4. Section **31A-19a-401** is amended to read:

299 **31A-19a-401. Scope of part.**

300 (1) This part applies to workers' compensation insurance and employers' liability
301 insurance written in connection with ~~[it]~~ workers' compensation insurance.

302 (2) ~~[All insurers]~~ An insurer writing workers' compensation coverage~~[, including the~~
303 ~~Workers' Compensation Fund created under Chapter 33, Workers' Compensation Fund, are]~~ is
304 subject to this part.

305 Section 5. Section **31A-21-101** is amended to read:

306 **31A-21-101. Scope of Chapters 21 and 22.**

307 (1) Except as provided in Subsections (2) through (6), this chapter and Chapter 22,
308 Contracts in Specific Lines, apply to all insurance policies, applications, and certificates:

309 (a) delivered or issued for delivery in this state;

310 (b) on property ordinarily located in this state;

- 311 (c) on persons residing in this state when the policy is issued; or
312 (d) on business operations in this state.
- 313 (2) This chapter and Chapter 22, Contracts in Specific Lines, do not apply to:
314 (a) an exemption provided in Section 31A-1-103;
315 (b) an insurance policy procured under Sections 31A-15-103 and 31A-15-104;
316 (c) an insurance policy on business operations in this state:
317 (i) if:
318 (A) the contract is negotiated primarily outside this state; and
319 (B) the operations in this state are incidental or subordinate to operations outside this
320 state; and
321 (ii) except that insurance required by a Utah statute shall conform to the statutory
322 requirements; or
323 (d) other exemptions provided in this title.
- 324 (3) (a) Sections 31A-21-102, 31A-21-103, 31A-21-104, Subsections 31A-21-107(1)
325 and (3), and Sections 31A-21-306, 31A-21-308, 31A-21-312, and 31A-21-314 apply to ocean
326 marine and inland marine insurance.
327 (b) Section 31A-21-201 applies to inland marine insurance that is written according to
328 manual rules or rating plans.
- 329 (4) A group or blanket policy is subject to this chapter and Chapter 22, Contracts in
330 Specific Lines, except:
331 (a) a group or blanket policy outside the scope of this title under Subsection
332 31A-1-103(3)(h); and
333 (b) other exemptions provided under Subsection (5).
- 334 (5) The commissioner may by rule exempt any class of insurance contract or class of
335 insurer from any or all of the provisions of this chapter and Chapter 22, Contracts in Specific
336 Lines, if the interests of the Utah insureds, creditors, or the public would not be harmed by the
337 exemption.
- 338 (6) Workers' compensation insurance[~~, including that written by the Workers'~~
339 ~~Compensation Fund created under Chapter 33, Workers' Compensation Fund,~~] is subject to this
340 chapter and Chapter 22, Contracts in Specific Lines.
- 341 (7) Unless clearly inapplicable, any provision of this chapter or Chapter 22, Contracts

342 in Specific Lines, applicable to either a policy or a contract is applicable to both.

343 Section 6. Section **31A-22-309** is amended to read:

344 **31A-22-309. Limitations, exclusions, and conditions to personal injury**
345 **protection.**

346 (1) (a) A person who has or is required to have direct benefit coverage under a policy
347 which includes personal injury protection may not maintain a cause of action for general
348 damages arising out of personal injuries alleged to have been caused by an automobile
349 accident, except where the person has sustained one or more of the following:

350 (i) death;

351 (ii) dismemberment;

352 (iii) permanent disability or permanent impairment based upon objective findings;

353 (iv) permanent disfigurement; or

354 (v) medical expenses to a person in excess of \$3,000.

355 (b) Subsection (1)(a) does not apply to a person making an uninsured motorist claim.

356 (2) (a) Any insurer issuing personal injury protection coverage under this part may only
357 exclude from this coverage benefits:

358 (i) for any injury sustained by the insured while occupying another motor vehicle
359 owned by or furnished for the regular use of the insured or a resident family member of the
360 insured and not insured under the policy;

361 (ii) for any injury sustained by any person while operating the insured motor vehicle
362 without the express or implied consent of the insured or while not in lawful possession of the
363 insured motor vehicle;

364 (iii) to any injured person, if the person's conduct contributed to [~~his~~] the person's
365 injury:

366 (A) by intentionally causing injury to [~~himself~~] the person; or

367 (B) while committing a felony;

368 (iv) for any injury sustained by any person arising out of the use of any motor vehicle
369 while located for use as a residence or premises;

370 (v) for any injury due to war, whether or not declared, civil war, insurrection, rebellion
371 or revolution, or to any act or condition incident to any of the foregoing; or

372 (vi) for any injury resulting from the radioactive, toxic, explosive, or other hazardous

373 properties of nuclear materials.

374 (b) ~~[The provisions of this subsection do]~~ This Subsection (2) does not limit the
375 exclusions ~~[which]~~ that may be contained in other types of coverage.

376 (3) The benefits payable to any injured person under Section 31A-22-307 are reduced
377 by:

378 (a) any benefits which that person receives or is entitled to receive as a result of an
379 accident covered in this code under any workers' compensation or similar statutory plan; and

380 (b) any amounts which that person receives or is entitled to receive from the United
381 States or any of its agencies because that person is on active duty in the military service.

382 (4) When a person injured is also an insured party under any other policy, including
383 those policies complying with this part, primary coverage is given by the policy insuring the
384 motor vehicle in use during the accident.

385 (5) (a) Payment of the benefits provided for in Section 31A-22-307 shall be made on a
386 monthly basis as expenses are incurred.

387 (b) Benefits for any period are overdue if they are not paid within 30 days after the
388 insurer receives reasonable proof of the fact and amount of expenses incurred during the
389 period. If reasonable proof is not supplied as to the entire claim, the amount supported by
390 reasonable proof is overdue if not paid within 30 days after that proof is received by the
391 insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof
392 is also overdue if not paid within 30 days after the proof is received by the insurer.

393 (c) If the insurer fails to pay the expenses when due, these expenses shall bear interest
394 at the rate of 1-1/2% per month after the due date.

395 (d) The person entitled to the benefits may bring an action in contract to recover the
396 expenses plus the applicable interest. If the insurer is required by the action to pay any overdue
397 benefits and interest, the insurer is also required to pay a reasonable attorney's fee to the
398 claimant.

399 (6) (a) Except as provided in Subsection (6)(b), every policy providing personal injury
400 protection coverage is subject to the following:

401 (i) that where the insured under the policy is or would be held legally liable for the
402 personal injuries sustained by any person to whom benefits required under personal injury
403 protection have been paid by another insurer, ~~[including the Workers' Compensation Fund~~

404 ~~created under Chapter 33, Workers' Compensation Fund,]~~ the insurer of the person who would
405 be held legally liable shall reimburse the other insurer for the payment, but not in excess of the
406 amount of damages recoverable; and

407 (ii) that the issue of liability for that reimbursement and its amount shall be decided by
408 mandatory, binding arbitration between the insurers.

409 (b) There shall be no right of reimbursement between insurers under Subsection (6)(a)
410 if the insurer of the person who would be held legally liable for the personal injuries sustained
411 has tendered its policy limit.

412 (c) (i) If the insurer of the person who would be held legally liable for the personal
413 injuries sustained reimburses a no-fault insurer prior to settling a third party liability claim with
414 an injured person and subsequently determines that some or all of the reimbursed amount is
415 needed to settle a third party claim, the insurer of the person who would be held legally liable
416 for the personal injuries sustained shall provide written notice to the no-fault insurer that some
417 or all of the reimbursed amount is needed to settle a third party liability claim.

418 (ii) The written notice described under Subsection (6)(c)(i) shall:

419 (A) identify the amount of the reimbursement that is needed to settle a third party
420 liability claim;

421 (B) provide notice to the no-fault insurer that the no-fault insurer has 15 days to return
422 the amount described in Subsection (6)(c)(ii)(A); and

423 (C) identify the third party liability insurer that the returned amount shall be paid to.

424 (iii) A no-fault insurer that receives a notice under this Subsection (6)(c) shall return
425 the portion of the reimbursement identified under Subsection (6)(c)(ii) to the third party
426 liability insurer identified under Subsection (6)(c)(ii)(C) within 15 business days from receipt
427 of a notice under this Subsection (6)(c).

428 Section 7. Section **31A-22-1001** is amended to read:

429 **31A-22-1001. Residual market for workers' compensation insurance.**

430 [The] (1) As used in this section:

431 (a) "Residual market" means the instrument to provide coverage to employers not able
432 to obtain coverage in the voluntary market.

433 (b) "Voluntary market" means the workers' compensation insurance market in which
434 workers' compensation insurance companies voluntarily offer coverage to applicants who meet

435 the insurers' underwriting standards or guidelines.

436 (2) (a) As a consequence of the repeal of Chapter 33, Workers' Compensation Fund
437 [created under Chapter 33], the Workers' Compensation Fund[;] shall enter into a contract with
438 the commissioner that requires the Workers' Compensation Fund to write all workers'
439 compensation insurance for which application is made to the Workers' Compensation Fund.
440 [This requirement does not apply to any other insurer.]

441 (b) The term of the contract required under Subsection (2)(a) shall be for the period
442 that the commissioner needs to comply with Subsection (3), but may not exceed three years.

443 (c) After the expiration of the contract's term under Subsection (2)(b), the Workers'
444 Compensation Fund may not operate under the contract described in this Subsection (2).

445 (3) (a) During the contract period described in Subsection (2), the commissioner shall:

446 (i) determine, by rule made in accordance with Title 63G, Chapter 3, Utah
447 Administrative Rulemaking Act, the new residual market mechanism by which this state
448 addresses the residual market; and

449 (ii) implement that new residual market mechanism.

450 (b) If the rules made under this Subsection (3) require one or more workers'
451 compensation carriers to provide coverage for the residual market under contract with the
452 department in other than a pool arrangement, the commissioner shall comply with Title 63G,
453 Chapter 6a, Utah Procurement Code, in selecting the one or more workers' compensation
454 carriers.

455 (4) The commissioner shall annually submit a written report in accordance with
456 Section 68-3-14 to the Business and Labor Interim Committee by no later than October 1 that:

457 (a) describes the status of the commissioner's activities under Subsection (3); and

458 (b) the need, if any, for legislation to address the residual market.

459 Section 8. Section **31A-22-1014** is enacted to read:

460 **31A-22-1014. Conversion of Workers' Compensation Fund to mutual insurance**
461 **corporation.**

462 (1) As a consequence of the repeal of Chapter 33, Workers' Compensation Fund,
463 effective January 1, 2018:

464 (a) The Workers' Compensation Fund shall convert from a quasi-public corporation to
465 a mutual insurance corporation subject to Chapter 5, Domestic Stock and Mutual Insurance

466 Corporations.

467 (b) On or before December 31, 2017, the Workers' Compensation Fund shall file
468 amended and restated articles of incorporation with the Department of Insurance and the
469 Division of Corporations and Commercial Code that comply with Chapter 5, Domestic Stock
470 and Mutual Insurance Corporations.

471 (c) Following the filing of the Workers' Compensation Fund's amended and restated
472 articles of incorporation:

473 (i) the commissioner shall reissue a certificate of authority effective January 1, 2018,
474 for the Workers' Compensation Fund to write workers' compensation insurance in Utah as a
475 mutual insurance corporation; and

476 (ii) the commissioner shall reauthorize the Workers' Compensation Fund's existing
477 filings, rates, forms, or other administrative matters on file with the department as a result of,
478 or related to, Workers' Compensation Fund's existing insurance business in the state, so that the
479 filings, rates, forms, or other administrative matters on file shall be effective January 1, 2018,
480 with respect to the Workers' Compensation Fund's insurance business activities as a mutual
481 insurance corporation.

482 (2) Subject to Subsection (1), the commissioner may, because of the Workers'
483 Compensation Fund's developed status, waive or otherwise not impose requirements imposed
484 on mutual insurance corporations by Chapter 5, Domestic Stock and Mutual Insurance
485 Corporations, to facilitate the conversion of Workers' Compensation Fund to a mutual
486 insurance corporation effective January 1, 2018, so long as the commissioner finds those
487 requirements unnecessary to protect policyholders and the public.

488 (3) From and after the Workers' Compensation Fund's conversion to a mutual
489 insurance corporation, the Workers' Compensation Fund shall retain title to all assets of, and
490 remain responsible for all liabilities incurred by, Workers' Compensation Fund as a
491 quasi-public corporation prior to the Workers' Compensation Fund conversion described in this
492 section.

493 Section 9. Section **31A-26-103** is amended to read:

494 **31A-26-103. Workers' compensation claims.**

495 In addition to being subject to this and other chapters of this title, insurers writing
496 workers' compensation insurance in this state[, including the Workers' Compensation Fund

497 ~~created under Chapter 33, Workers' Compensation Fund,]~~ are subject to the Labor Commission
 498 with respect to claims for and payment of compensation and benefits.

499 Section 10. Section **31A-35-103** is amended to read:

500 **31A-35-103. Exemption from other provisions of this title.**

501 Bail bond agencies are exempted from:

502 (1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;

503 (2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104,
 504 and 31A-4-107;

505 (3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section
 506 31A-5-103;

507 (4) Chapter 6a, Service Contracts;

508 (5) Chapter 6b, Guaranteed Asset Protection Waiver Act;

509 (6) Chapter 7, Nonprofit Health Service Insurance Corporations;

510 (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

511 (8) Chapter 8a, Health Discount Program Consumer Protection Act;

512 (9) Chapter 9, Insurance Fraternal;

513 (10) Chapter 10, Annuities;

514 (11) Chapter 11, Motor Clubs;

515 (12) Chapter 12, State Risk Management Fund;

516 [~~(13)~~ Chapter 13, Employee Welfare Funds and Plans;]

517 [~~(14)~~ (13) Chapter 14, Foreign Insurers;

518 [~~(15)~~ (14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention

519 Groups;

520 [~~(16)~~ (15) Chapter 16, Insurance Holding Companies;

521 [~~(17)~~ (16) Chapter 17, Determination of Financial Condition;

522 [~~(18)~~ (17) Chapter 18, Investments;

523 [~~(19)~~ (18) Chapter 19a, Utah Rate Regulation Act;

524 [~~(20)~~ (19) Chapter 20, Underwriting Restrictions;

525 [~~(21)~~ (20) Chapter 23b, Navigator License Act;

526 [~~(22)~~ (21) Chapter 25, Third Party Administrators;

527 [~~(23)~~ (22) Chapter 26, Insurance Adjusters;

528 ~~[(24)]~~ (23) Chapter 27, Delinquency Administrative Action Provisions;
529 ~~[(25)]~~ (24) Chapter 27a, Insurer Receivership Act;
530 ~~[(26)]~~ (25) Chapter 28, Guaranty Associations;
531 ~~[(27)]~~ (26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
532 ~~[(28)]~~ (27) Chapter 31, Insurance Fraud Act;
533 ~~[(29)]~~ (28) Chapter 32a, Medical Care Savings Account Act;
534 ~~[(30)] Chapter 33, Workers' Compensation Fund;~~
535 ~~[(31)]~~ (29) Chapter 34, Voluntary Health Insurance Purchasing Alliance Act;
536 ~~[(32)]~~ (30) Chapter 36, Life Settlements Act;
537 ~~[(33)]~~ (31) Chapter 37, Captive Insurance Companies Act;
538 ~~[(34)]~~ (32) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;
539 ~~[(35)]~~ (33) Chapter 38, Federal Health Care Tax Credit Program Act;
540 ~~[(36)]~~ (34) Chapter 39, Interstate Insurance Product Regulation Compact;
541 ~~[(37)]~~ (35) Chapter 40, Professional Employer Organization Licensing Act;
542 ~~[(38)]~~ (36) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act;
543 ~~[(39)]~~ (37) Chapter 42, Defined Contribution Risk Adjuster Act; and
544 ~~[(40)]~~ (38) Chapter 43, Small Employer Stop-Loss Insurance Act.

545 Section 11. Section **31A-40-209** is amended to read:

546 **31A-40-209. Workers' compensation.**

547 (1) In accordance with Section 34A-2-103, a client is responsible for securing workers'
548 compensation coverage for a covered employee.

549 (2) Subject to the requirements of Section 34A-2-103, if a professional employer
550 organization obtains or assists a client in obtaining workers' compensation insurance pursuant
551 to a professional employer agreement:

552 (a) the professional employer organization shall ensure that the client maintains and
553 provides workers' compensation coverage for a covered employee in accordance with
554 Subsection 34A-2-201(1) ~~[or (2)]~~ and rules of the Labor Commission, made in accordance with
555 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

556 (b) the workers' compensation coverage may show the professional employer
557 organization as the named insured through a master policy, if:

558 (i) the client is shown as an insured by means of an endorsement for each individual

559 client;

560 (ii) the experience modification of a client is used; and

561 (iii) the insurer files the endorsement with the Division of Industrial Accidents as
562 directed by a rule of the Labor Commission, made in accordance with Title 63G, Chapter 3,
563 Utah Administrative Rulemaking Act;

564 (c) at the termination of the professional employer agreement, if requested by the
565 client, the insurer shall provide the client records regarding the loss experience related to
566 workers' compensation insurance provided to a covered employee pursuant to the professional
567 employer agreement; and

568 (d) the insurer shall notify a client if the workers' compensation coverage for the client
569 is terminated.

570 (3) In accordance with Section 34A-2-105, the exclusive remedy provisions of Section
571 34A-2-105 apply to both the client and the professional employer organization under a
572 professional employer agreement regulated under this chapter.

573 (4) Notwithstanding the other provisions in this section, an insurer may choose whether
574 to issue:

575 (a) a policy for a client; or

576 (b) a master policy with the client shown as an additional insured by means of an
577 individual endorsement.

578 Section 12. Section **34A-2-102** is amended to read:

579 **34A-2-102. Definition of terms.**

580 (1) As used in this chapter:

581 (a) "Average weekly wages" means the average weekly wages as determined under
582 Section 34A-2-409.

583 (b) "Award" means a final order of the commission as to the amount of compensation
584 due:

585 (i) an injured employee; or

586 (ii) a dependent of a deceased employee.

587 (c) "Compensation" means the payments and benefits provided for in this chapter or
588 Chapter 3, Utah Occupational Disease Act.

589 (d) (i) "Decision" means a ruling of:

- 590 (A) an administrative law judge; or
- 591 (B) in accordance with Section 34A-2-801:
- 592 (I) the commissioner; or
- 593 (II) the Appeals Board.
- 594 (ii) "Decision" includes:
- 595 (A) an award or denial of a medical, disability, death, or other related benefit under this
- 596 chapter or Chapter 3, Utah Occupational Disease Act; or
- 597 (B) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah
- 598 Occupational Disease Act.
- 599 (e) "Director" means the director of the division, unless the context requires otherwise.
- 600 (f) "Disability" means an administrative determination that may result in an entitlement
- 601 to compensation as a consequence of becoming medically impaired as to function. Disability
- 602 can be total or partial, temporary or permanent, industrial or nonindustrial.
- 603 (g) "Division" means the Division of Industrial Accidents.
- 604 (h) "Impairment" is a purely medical condition reflecting an anatomical or functional
- 605 abnormality or loss. Impairment may be either temporary or permanent, industrial or
- 606 nonindustrial.
- 607 (i) "Order" means an action of the commission that determines the legal rights, duties,
- 608 privileges, immunities, or other interests of one or more specific persons, but not a class of
- 609 persons.
- 610 (j) (i) "Personal injury by accident arising out of and in the course of employment"
- 611 includes an injury caused by the willful act of a third person directed against an employee
- 612 because of the employee's employment.
- 613 (ii) "Personal injury by accident arising out of and in the course of employment" does
- 614 not include a disease, except as the disease results from the injury.
- 615 (k) "Safe" and "safety," as applied to employment or a place of employment, means the
- 616 freedom from danger to the life or health of employees reasonably permitted by the nature of
- 617 the employment.
- 618 ~~[(l) "Workers' Compensation Fund" means the nonprofit, quasi-public corporation~~
- 619 ~~created in Title 31A, Chapter 33, Workers' Compensation Fund.]~~
- 620 (2) As used in this chapter and Chapter 3, Utah Occupational Disease Act:

621 (a) "Brother or sister" includes a half brother or sister.

622 (b) "Child" includes:

623 (i) a posthumous child; or

624 (ii) a child legally adopted prior to an injury.

625 Section 13. Section **34A-2-103** is amended to read:

626 **34A-2-103. Employers enumerated and defined -- Regularly employed --**
627 **Statutory employers -- Exceptions.**

628 (1) (a) The state, and each county, city, town, and school district in the state are
629 considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

630 (b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah
631 Occupational Disease Act, prescribed in Sections 34A-2-105 and 34A-3-102, the state is
632 considered to be a single employer and includes any office, department, agency, authority,
633 commission, board, institution, hospital, college, university, or other instrumentality of the
634 state.

635 (2) (a) [~~Except as provided in Subsection (4)~~] Subject to the other provisions of this
636 section, each person, including each public utility and each independent contractor, who
637 regularly employs one or more workers or operatives in the same business, or in or about the
638 same establishment, under any contract of hire, express or implied, oral or written, is
639 considered an employer under this chapter and Chapter 3, Utah Occupational Disease Act.

640 (b) As used in this Subsection (2):

641 (i) "Independent contractor" means any person engaged in the performance of any work
642 for another who, while so engaged, is:

643 (A) independent of the employer in all that pertains to the execution of the work;

644 (B) not subject to the routine rule or control of the employer;

645 (C) engaged only in the performance of a definite job or piece of work; and

646 (D) subordinate to the employer only in effecting a result in accordance with the
647 employer's design.

648 (ii) "Regularly" includes all employments in the usual course of the trade, business,
649 profession, or occupation of the employer, whether continuous throughout the year or for only a
650 portion of the year.

651 (3) (a) The client under a professional employer organization agreement regulated

652 under Title 31A, Chapter 40, Professional Employer Organization Licensing Act:

653 (i) is considered the employer of a covered employee; and

654 (ii) subject to Section 31A-40-209, shall secure workers' compensation benefits for a
655 covered employee by complying with Subsection 34A-2-201(1) [~~or (2)~~] and commission rules.

656 (b) The division shall promptly inform the Insurance Department if the division has
657 reason to believe that a professional employer organization is not in compliance with
658 Subsection 34A-2-201(1) [~~or (2)~~] and commission rules.

659 (4) A domestic employer who does not employ one employee or more than one
660 employee at least 40 hours per week is not considered an employer under this chapter and
661 Chapter 3, Utah Occupational Disease Act.

662 (5) (a) As used in this Subsection (5):

663 (i) (A) "agricultural employer" means a person who employs agricultural labor as
664 defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in
665 Subsection 35A-4-206(3); and

666 (B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a
667 member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural
668 employer is a corporation, partnership, or other business entity, "agricultural employer" means
669 an officer, director, or partner of the business entity;

670 (ii) "employer's immediate family" means:

671 (A) an agricultural employer's:

672 (I) spouse;

673 (II) grandparent;

674 (III) parent;

675 (IV) sibling;

676 (V) child;

677 (VI) grandchild;

678 (VII) nephew; or

679 (VIII) niece;

680 (B) a spouse of any person provided in Subsections (5)(a)(ii)(A)(II) through (VIII); or

681 (C) an individual who is similar to those listed in Subsection (5)(a)(ii)(A) or (B) as

682 defined by rules of the commission; and

683 (iii) "nonimmediate family" means a person who is not a member of the employer's
684 immediate family.

685 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
686 agricultural employer is not considered an employer of a member of the employer's immediate
687 family.

688 (c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
689 agricultural employer is not considered an employer of a nonimmediate family employee if:

690 (i) for the previous calendar year the agricultural employer's total annual payroll for all
691 nonimmediate family employees was less than \$8,000; or

692 (ii) (A) for the previous calendar year the agricultural employer's total annual payroll
693 for all nonimmediate family employees was equal to or greater than \$8,000 but less than
694 \$50,000; and

695 (B) the agricultural employer maintains insurance that covers job-related injuries of the
696 employer's nonimmediate family employees in at least the following amounts:

697 (I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

698 (II) \$5,000 for health care benefits similar to benefits under health care insurance as
699 defined in Section 31A-1-301.

700 (d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
701 agricultural employer is considered an employer of a nonimmediate family employee if:

702 (i) for the previous calendar year the agricultural employer's total annual payroll for all
703 nonimmediate family employees is equal to or greater than \$50,000; or

704 (ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate
705 family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

706 (B) the agricultural employer fails to maintain the insurance required under Subsection
707 (5)(c)(ii)(B).

708 (6) An employer of agricultural laborers or domestic servants who is not considered an
709 employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under
710 this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

711 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and

712 (b) the rules of the commission.

713 (7) (a) (i) As used in this Subsection (7)(a), "employer" includes any of the following

714 persons that procures work to be done by a contractor notwithstanding whether or not the
715 person directly employs a person:

- 716 (A) a sole proprietorship;
- 717 (B) a corporation;
- 718 (C) a partnership;
- 719 (D) a limited liability company; or

720 (E) a person similar to one described in Subsections (7)(a)(i)(A) through (D).

721 (ii) If an employer procures any work to be done wholly or in part for the employer by
722 a contractor over whose work the employer retains supervision or control, and this work is a
723 part or process in the trade or business of the employer, the contractor, all persons employed by
724 the contractor, all subcontractors under the contractor, and all persons employed by any of
725 these subcontractors, are considered employees of the original employer for the purposes of
726 this chapter and Chapter 3, Utah Occupational Disease Act.

727 (b) Any person who is engaged in constructing, improving, repairing, or remodeling a
728 residence that the person owns or is in the process of acquiring as the person's personal
729 residence may not be considered an employee or employer solely by operation of Subsection
730 (7)(a).

731 (c) A partner in a partnership or an owner of a sole proprietorship is not considered an
732 employee under Subsection (7)(a) if the employer who procures work to be done by the
733 partnership or sole proprietorship obtains and relies on either:

734 (i) a valid certification of the partnership's or sole proprietorship's compliance with
735 Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of
736 workers' compensation benefits pursuant to Section 34A-2-201; or

737 (ii) if a partnership or sole proprietorship with no employees other than a partner of the
738 partnership or owner of the sole proprietorship, a workers' compensation coverage waiver
739 issued pursuant to Part 10, Workers' Compensation Coverage Waivers Act, stating that:

740 (A) the partnership or sole proprietorship is customarily engaged in an independently
741 established trade, occupation, profession, or business; and

742 (B) the partner or owner personally waives the partner's or owner's entitlement to the
743 benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the
744 partnership or sole proprietorship.

745 (d) A director or officer of a corporation is not considered an employee under
746 Subsection (7)(a) if the director or officer is excluded from coverage under Subsection
747 34A-2-104(4).

748 (e) A contractor or subcontractor is not an employee of the employer under Subsection
749 (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains
750 and relies on either:

751 (i) a valid certification of the contractor's or subcontractor's compliance with Section
752 34A-2-201; or

753 (ii) if a partnership, corporation, or sole proprietorship with no employees other than a
754 partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a
755 workers' compensation coverage waiver issued pursuant to Part 10, Workers' Compensation
756 Coverage Waivers Act, stating that:

757 (A) the partnership, corporation, or sole proprietorship is customarily engaged in an
758 independently established trade, occupation, profession, or business; and

759 (B) the partner, corporate officer, or owner personally waives the partner's, corporate
760 officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah
761 Occupational Disease Act, in the operation of the partnership's, corporation's, or sole
762 proprietorship's enterprise under a contract of hire for services.

763 (f) (i) For purposes of this Subsection (7)(f), "eligible employer" means a person who:

764 (A) is an employer; and

765 (B) procures work to be done wholly or in part for the employer by a contractor,
766 including:

767 (I) all persons employed by the contractor;

768 (II) all subcontractors under the contractor; and

769 (III) all persons employed by any of these subcontractors.

770 (ii) Notwithstanding the other provisions in this Subsection (7), if the conditions of
771 Subsection (7)(f)(iii) are met, an eligible employer is considered an employer for purposes of
772 Section 34A-2-105 of the contractor, subcontractor, and all persons employed by the contractor
773 or subcontractor described in Subsection (7)(f)(i)(B).

774 (iii) Subsection (7)(f)(ii) applies if the eligible employer:

775 (A) under Subsection (7)(a) is liable for and pays workers' compensation benefits as an

776 original employer under Subsection (7)(a) because the contractor or subcontractor fails to
777 comply with Section 34A-2-201;

778 (B) (I) secures the payment of workers' compensation benefits for the contractor or
779 subcontractor pursuant to Section 34A-2-201;

780 (II) procures work to be done that is part or process of the trade or business of the
781 eligible employer; and

782 (III) does the following with regard to a written workplace accident and injury
783 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

784 (Aa) adopts the workplace accident and injury reduction program;

785 (Bb) posts the workplace accident and injury reduction program at the work site at
786 which the eligible employer procures work; and

787 (Cc) enforces the workplace accident and injury reduction program according to the
788 terms of the workplace accident and injury reduction program; or

789 (C) (I) obtains and relies on:

790 (Aa) a valid certification described in Subsection (7)(c)(i) or (7)(e)(i);

791 (Bb) a workers' compensation coverage waiver described in Subsection (7)(c)(ii) or
792 (7)(e)(ii); or

793 (Cc) proof that a director or officer is excluded from coverage under Subsection
794 34A-2-104(4);

795 (II) is liable under Subsection (7)(a) for the payment of workers' compensation benefits
796 if the contractor or subcontractor fails to comply with Section 34A-2-201;

797 (III) procures work to be done that is part or process in the trade or business of the
798 eligible employer; and

799 (IV) does the following with regard to a written workplace accident and injury
800 reduction program that meets the requirements of Subsection 34A-2-111(3)(d):

801 (Aa) adopts the workplace accident and injury reduction program;

802 (Bb) posts the workplace accident and injury reduction program at the work site at
803 which the eligible employer procures work; and

804 (Cc) enforces the workplace accident and injury reduction program according to the
805 terms of the workplace accident and injury reduction program.

806 (8) (a) For purposes of this Subsection (8), "unincorporated entity" means an entity

807 organized or doing business in the state that is not:

- 808 (i) an individual;
- 809 (ii) a corporation; or
- 810 (iii) publicly traded.

811 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an
812 unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah
813 Construction Trades Licensing Act, is presumed to be the employer of each individual who
814 holds, directly or indirectly, an ownership interest in the unincorporated entity.

815 Notwithstanding Subsection (7)(c) and Subsection 34A-2-104(3), the unincorporated entity
816 shall provide the individual who holds the ownership interest workers' compensation coverage
817 under this chapter and Chapter 3, Utah Occupational Disease Act, unless the presumption is
818 rebutted under Subsection (8)(c).

819 (c) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3,
820 Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption
821 under Subsection (8)(b) for an individual by establishing by clear and convincing evidence that
822 the individual:

- 823 (i) is an active manager of the unincorporated entity;
- 824 (ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated
825 entity; or
- 826 (iii) is not subject to supervision or control in the performance of work by:
 - 827 (A) the unincorporated entity; or
 - 828 (B) a person with whom the unincorporated entity contracts.

829 (d) As part of the rules made under Subsection (8)(c), the commission may define:

- 830 (i) "active manager";
- 831 (ii) "directly or indirectly holds at least an 8% ownership interest"; and
- 832 (iii) "subject to supervision or control in the performance of work."

833 (9) (a) As used in this Subsection (9), "home and community based services" means
834 one or more of the following services provided to an individual with a disability or to the
835 individual's family that helps prevent the individual with a disability from being placed in a
836 more restrictive setting:

- 837 (i) respite care;

- 838 (ii) skilled nursing;
- 839 (iii) nursing assistant services;
- 840 (iv) home health aide services;
- 841 (v) personal care and attendant services;
- 842 (vi) other in-home care, such as support for the daily activities of the individual with a
843 disability;
- 844 (vii) specialized in-home training for the individual with a disability or a family
845 member of the individual with a disability;
- 846 (viii) specialized in-home support, coordination, and other supported living services;
847 and
- 848 (ix) other home and community based services unique to the individual with a
849 disability or the family of the individual with a disability that help prevent the individual with a
850 disability from being placed in a more restrictive setting.
- 851 (b) Notwithstanding Subsection (4) and subject to Subsection (9)(c), an individual with
852 a disability or designated representative of the individual with a disability is considered an
853 employer under this chapter and Chapter 3, Utah Occupational Disease Act, of an individual
854 who provides home and community based services if the individual with a disability or
855 designated representative of the individual with a disability:
- 856 (i) employs the individual to provide home and community based services for seven
857 hours per week or more; and
- 858 (ii) pays the individual providing the home and community based services from state or
859 federal money received by the individual with a disability or designated representative of the
860 individual with a disability to fund home and community based services, including through a
861 person designated by the Secretary of the Treasury in accordance with Section 3504, Internal
862 Revenue Code, as a fiduciary, agent, or other person who has the control, receipt, custody, or
863 disposal of, or pays the wages of, the individual providing the home and community based
864 services.
- 865 (c) The state and federal money received by an individual with a disability or
866 designated representative of an individual with a disability shall include the cost of the workers'
867 compensation coverage required by this Subsection (9) in addition to the money necessary to
868 fund the home and community based services that the individual with a disability or family of

869 the individual with a disability is eligible to receive so that the home and community based
 870 services are not reduced in order to pay for the workers' compensation coverage required by
 871 this Subsection (9).

872 (10) (a) For purposes of this Subsection (10), "federal executive agency" means an
 873 executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

874 (b) For purposes of determining whether two or more persons are considered joint
 875 employers under this chapter or Chapter 3, Utah Occupational Disease Act, an administrative
 876 ruling of a federal executive agency may not be considered a generally applicable law unless
 877 that administrative ruling is determined to be generally applicable by a court of law, or adopted
 878 by statute or rule.

879 (11) (a) As used in this Subsection (11):

880 (i) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

881 (ii) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

882 (iii) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

883 (b) For purposes of this chapter, a franchisor is not considered to be an employer of:

884 (i) a franchisee; or

885 (ii) a franchisee's employee.

886 (c) With respect to a specific claim for relief under this chapter made by a franchisee or
 887 a franchisee's employee, this Subsection (11) does not apply to a franchisor under a franchise
 888 that exercises a type or degree of control over the franchisee or the franchisee's employee not
 889 customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks
 890 and brand.

891 Section 14. Section **34A-2-107** is amended to read:

892 **34A-2-107. Appointment of workers' compensation advisory council --**
 893 **Composition -- Terms of members -- Duties -- Compensation.**

894 (1) The commissioner shall appoint a workers' compensation advisory council
 895 composed of:

896 (a) the following voting members:

897 (i) five employer representatives; and

898 (ii) five employee representatives; and

899 (b) the following nonvoting members:

900 (i) a representative of the [~~Workers' Compensation Fund~~] workers' compensation
901 insurance carrier that has the largest share of Utah's workers' compensation market as
902 determined by the Insurance Department;

903 (ii) a representative of a [~~private~~] workers' compensation insurance carrier different
904 from the workers' compensation carrier listed in Subsection (1)(b)(i);

905 (iii) a representative of health care providers;

906 (iv) the Utah insurance commissioner or the insurance commissioner's designee; and

907 (v) the commissioner or the commissioner's designee.

908 (2) Employers and employees shall consider nominating members of groups who
909 historically may have been excluded from the council, such as women, minorities, and
910 individuals with disabilities.

911 (3) (a) Except as required by Subsection (3)(b), as terms of current council members
912 expire, the commissioner shall appoint each new member or reappointed member to a two-year
913 term beginning July 1 and ending June 30.

914 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
915 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
916 council members are staggered so that approximately half of the council is appointed every two
917 years.

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

920 (b) The commissioner shall terminate the term of a council member who ceases to be
921 representative as designated by the member's original appointment.

922 (5) The council shall confer at least quarterly for the purpose of advising the
923 commission, the division, and the Legislature on:

924 (a) the Utah workers' compensation and occupational disease laws;

925 (b) the administration of the laws described in Subsection (5)(a); and

926 (c) rules related to the laws described in Subsection (5)(a).

927 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees
928 who acquire a disability because of an industrial injury or occupational disease the council
929 shall:

930 (a) offer advice on issues requested by:

- 931 (i) the commission;
- 932 (ii) the division; and
- 933 (iii) the Legislature; and
- 934 (b) make recommendations to:
- 935 (i) the commission; and
- 936 (ii) the division.
- 937 (7) The council shall study how hospital costs may be reduced for purposes of medical
- 938 benefits for workers' compensation. The council shall report to the Business and Labor Interim
- 939 Committee the council's recommendations by no later than November 30, 2017.
- 940 (8) The commissioner or the commissioner's designee shall serve as the chair of the
- 941 council and call the necessary meetings.
- 942 (9) The commission shall provide staff support to the council.
- 943 (10) A member may not receive compensation or benefits for the member's service, but
- 944 may receive per diem and travel expenses in accordance with:
- 945 (a) Section 63A-3-106;
- 946 (b) Section 63A-3-107; and
- 947 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 948 63A-3-107.
- 949 Section 15. Section **34A-2-201** is amended to read:
- 950 **34A-2-201. Employers to secure workers' compensation benefits for employees --**
- 951 **Methods.**
- 952 An employer shall secure the payment of workers' compensation benefits for its
- 953 employees by:
- 954 ~~[(1) insuring, and keeping insured, the payment of this compensation with the Workers'~~
- 955 ~~Compensation Fund;]~~
- 956 ~~[(2)] (1) insuring, and keeping insured, the payment of this compensation with [any~~
- 957 ~~stock corporation or mutual association] an insurer authorized under Title 31A, Insurance~~
- 958 ~~Code, to transact the business of workers' compensation insurance in this state; or~~
- 959 ~~[(3)] (2) obtaining approval from the division in accordance with Section 34A-2-201.5~~
- 960 ~~to pay direct compensation as a self-insured employer in the amount, in the manner, and when~~
- 961 ~~due as provided for in this chapter or Chapter 3, Utah Occupational Disease Act.~~

962 Section 16. Section **34A-2-203** is amended to read:

963 **34A-2-203. Payment of premiums for workers' compensation.**

964 [~~(1) Until June 30, 2007, a department, commission, board, or other agency of the state~~
965 ~~shall pay the insurance premium on its employees direct to the Workers' Compensation Fund.]~~

966 [~~(2) Beginning July 1, 2007, the~~

967 (1) The state shall secure the payment of workers' compensation benefits for its
968 employees:

969 (a) by:

970 [~~(i) insuring, and keeping insured, the payment of this compensation with the Workers'~~
971 ~~Compensation Fund;]~~

972 [~~(ii)~~] (i) insuring, and keeping insured, the payment of this compensation with [~~any~~
973 ~~stock corporation or mutual association]~~ an insurer authorized under Title 31A, Insurance
974 Code, to transact the business of workers' compensation insurance in this state; or

975 [~~(iii)~~] (ii) paying direct compensation as a self-insured employer in the amount, in the
976 manner, and when due as provided for in this chapter or Chapter 3, Utah Occupational Disease
977 Act;

978 (b) in accordance with Title 63A, Chapter 4, Risk Management; and

979 (c) subject to Subsection [~~(3)~~] (2).

980 [~~(3)~~] (2) (a) If the state determines to secure the payment of workers' compensation
981 benefits for its employees by paying direct compensation as a self-insured employer in the
982 amount, in the manner, and due as provided for in this chapter or Chapter 3, Utah Occupational
983 Disease Act, the state is:

984 (i) exempt from Section 34A-2-202.5 and Subsection 34A-2-704(14); and

985 (ii) required to pay a premium assessment as provided in Section 34A-2-202.

986 (b) If the state chooses to pay workers' compensation benefits for its employees
987 through insuring under Subsection [~~(2)~~](1)(a)(i) [~~or (ii)~~], the state shall obtain that insurance in
988 accordance with Title 63G, Chapter 6a, Utah Procurement Code.

989 Section 17. Section **34A-2-210** is amended to read:

990 **34A-2-210. Power to bring suit for noncompliance.**

991 (1) (a) The commission or the division on behalf of the commission may maintain a
992 suit in any court of the state to enjoin any employer, within this chapter or Chapter 3, Utah

993 Occupational Disease Act, from further operation of the employer's business, when the
994 employer fails to provide for the payment of benefits in one of the [~~three~~] ways provided in
995 Section 34A-2-201.

996 (b) Upon a showing of failure to provide for the payment of benefits, the court shall
997 enjoin the further operation of the employer's business until the payment of these benefits has
998 been secured by the employer as required by Section 34A-2-201. The court may enjoin the
999 employer without requiring bond from the commission or division.

1000 (2) If the division has reason to believe that an employer is conducting a business
1001 without securing the payment of compensation in one of the [~~three~~] ways provided in Section
1002 34A-2-201, the division may give the employer five days written notice by registered mail of
1003 the noncompliance and if the employer within the five days written notice does not remedy the
1004 default:

1005 (a) the commission or the division on behalf of the commission may file suit under
1006 Subsection (1); and

1007 (b) the court may, ex parte, issue without bond a temporary injunction restraining the
1008 further operation of the employer's business.

1009 Section 18. Section **34A-2-211** is amended to read:

1010 **34A-2-211. Notice of noncompliance to employer -- Enforcement power of**
1011 **division -- Penalty.**

1012 (1) (a) In addition to the remedies specified in Section 34A-2-210, if the division has
1013 reason to believe that an employer is conducting business without securing the payment of
1014 benefits in a manner provided in Section 34A-2-201, the division may give that employer
1015 written notice of the noncompliance by certified mail to the last-known address of the
1016 employer.

1017 (b) If the employer does not remedy the default within 15 days after the day on which
1018 the notice is delivered, the division may issue an order requiring the employer to appear before
1019 the division and show cause why the employer should not be ordered to comply with Section
1020 34A-2-201.

1021 (c) If the division finds that an employer has failed to provide for the payment of
1022 benefits in a manner provided in Section 34A-2-201, the division may require the employer to
1023 comply with Section 34A-2-201.

1024 (2) (a) Notwithstanding Subsection (1), the division may impose a penalty against the
1025 employer under this Subsection (2):

1026 (i) subject to Title 63G, Chapter 4, Administrative Procedures Act; and

1027 (ii) if the division believes that an employer of one or more employees is conducting
1028 business without securing the payment of benefits in a manner provided in Section 34A-2-201.

1029 (b) The penalty imposed under Subsection (2)(a) shall be the greater of:

1030 (i) \$1,000; or

1031 (ii) three times the amount of the premium the employer would have paid for workers'
1032 compensation insurance based on the rate filing of the [~~Workers' Compensation Fund~~] insurer
1033 that has largest share of Utah's workers' compensation market as determined by the Insurance
1034 Department, during the period of noncompliance.

1035 (c) For purposes of Subsection (2)(b)(ii):

1036 (i) the premium is calculated by applying rates and rate multipliers to the payroll basis
1037 under Subsection (2)(c)(ii), using the highest rated employee class code applicable to the
1038 employer's operations; and

1039 (ii) the payroll basis is 150% of the state's average weekly wage multiplied by the
1040 highest number of workers employed by the employer during the period of the employer's
1041 noncompliance multiplied by the number of weeks of the employer's noncompliance up to a
1042 maximum of 156 weeks.

1043 (3) A penalty imposed under Subsection (2) shall be:

1044 (a) deposited in the Uninsured Employers' Fund created by Section 34A-2-704;

1045 (b) used for the purposes of the Uninsured Employers' Fund specified in Section
1046 34A-2-704; and

1047 (c) collected by the Uninsured Employers' Fund administrator in accordance with
1048 Section 34A-2-704.

1049 (4) (a) An employer who disputes a determination, imposition, or amount of a penalty
1050 imposed under Subsection (2) shall request a hearing before an administrative law judge within
1051 30 days of the date of issuance of the administrative action imposing the penalty or the
1052 administrative action becomes a final order of the commission.

1053 (b) An employer's request for a hearing under Subsection (4)(a) shall specify the facts
1054 and grounds that are the basis of the employer's objection to the determination, imposition, or

1055 amount of the penalty.

1056 (c) An administrative law judge's decision under this Subsection (4) may be reviewed
1057 pursuant to Part 8, Adjudication.

1058 (5) An administrative action issued by the division under this section shall:

1059 (a) be in writing;

1060 (b) be sent by certified mail to the last-known address of the employer;

1061 (c) state the findings and administrative action of the division; and

1062 (d) specify its effective date, which may be:

1063 (i) immediate; or

1064 (ii) at a later date.

1065 (6) A final order of the commission under this section, upon application by the
1066 commission made on or after the effective date of the order to a court of general jurisdiction in
1067 any county in this state, may be enforced by an order to comply:

1068 (a) entered ex parte; and

1069 (b) without notice by the court.

1070 Section 19. Section **34A-2-406** is amended to read:

1071 **34A-2-406. Exemptions from chapter for employees temporarily in state --**

1072 **Conditions -- Evidence of insurance.**

1073 (1) Any employee who has been hired in another state and the employee's employer are
1074 exempt from this chapter and Chapter 3, Utah Occupational Disease Act, while the employee is
1075 temporarily within this state doing work for the employee's employer if:

1076 (a) the employer has furnished workers' compensation insurance coverage under the
1077 workers' compensation or similar laws of the other state;

1078 (b) the coverage covers the employee's employment while in this state; and

1079 (c) (i) the extraterritorial provisions of this chapter and Chapter 3, Utah Occupational
1080 Disease Act, are recognized in the other state and employers and employees who are covered in
1081 this state are likewise exempted from the application of the workers' compensation or similar
1082 laws of the other state; or

1083 (ii) the ~~[Workers' Compensation Fund]~~ insurer that has the largest share of Utah's
1084 workers' compensation market as determined by the Insurance Department:

1085 (A) is an admitted insurance carrier in the other state; or

1086 (B) has agreements with [a] an insurance carrier and is able to furnish workers'
 1087 compensation insurance or similar coverage to Utah employers and their subsidiaries or
 1088 affiliates doing business in the other state.

1089 (2) The benefits under the workers' compensation or similar laws of the other state are
 1090 the exclusive remedy against an employer for any injury, whether resulting in death or not,
 1091 received by an employee while working for the employer in this state.

1092 (3) A certificate from an authorized officer of the industrial commission or similar
 1093 department of the other state certifying that the employer is insured in the other state and has
 1094 provided extraterritorial coverage insuring the employer's employees while working in this
 1095 state is prima facie evidence that the employer carries compensation insurance.

1096 Section 20. Section **51-7-2** is amended to read:

1097 **51-7-2. Exemptions from chapter.**

1098 The following funds are exempt from this chapter:

1099 (1) funds invested in accordance with the participating employees' designation or
 1100 direction pursuant to a public employees' deferred compensation plan established and operated
 1101 in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

1102 [~~(2)~~] ~~funds of the Workers' Compensation Fund;~~

1103 [~~(3)~~] (2) funds of the Utah State Retirement Board;

1104 [~~(4)~~] (3) funds of the Utah Housing Corporation;

1105 [~~(5)~~] (4) endowment funds of higher education institutions;

1106 [~~(6)~~] (5) permanent and other land grant trust funds established pursuant to the Utah
 1107 Enabling Act and the Utah Constitution;

1108 [~~(7)~~] (6) the State Post-Retirement Benefits Trust Fund;

1109 [~~(8)~~] (7) the funds of the Utah Educational Savings Plan;

1110 [~~(9)~~] (8) funds of the permanent state trust fund created by and operated under Utah
 1111 Constitution, Article XXII, Section 4; and

1112 [~~(10)~~] (9) the funds in the Navajo Trust Fund.

1113 Section 21. Section **51-7-4** is amended to read:

1114 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**
 1115 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

1116 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the

1117 functions, powers, and duties vested by law in each state officer, board, commission,
1118 institution, department, division, agency, or other similar instrumentality relating to the deposit,
1119 investment, or reinvestment of public funds, and the purchase, sale, or exchange of investments
1120 or securities of, or for, funds or accounts under the control and management of each of these
1121 instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

1122 (a) funds assigned to the Utah State Retirement Board for investment under Section
1123 49-11-302;

1124 (b) funds of member institutions of the state system of higher education:

1125 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

1126 (ii) derived from student fees or from income from operations of auxiliary enterprises,
1127 which fees and income are pledged or otherwise dedicated to the payment of interest and
1128 principal of bonds issued by an institution of higher education;

1129 (iii) subject to rules made by the council, under Section 51-7-18, deposited in a foreign
1130 depository institution as defined in Section 7-1-103; and

1131 (iv) other funds that are not included in the institution's work program as approved by
1132 the State Board of Regents;

1133 (c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work
1134 Programs for Prisoners;

1135 (d) trust funds established by judicial order;

1136 [~~(e) funds of the Workers' Compensation Fund;~~]

1137 [~~(f)~~] (e) funds of the Utah Housing Corporation;

1138 [~~(g)~~] (f) endowment funds of higher education institutions; and

1139 [~~(h)~~] (g) the funds of the Utah Educational Savings Plan.

1140 (2) All public funds held or administered by the state or its boards, commissions,
1141 institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to
1142 the state treasurer as provided by this section shall be:

1143 (a) deposited and invested by the custodian in accordance with this chapter, unless
1144 otherwise required by statute or by applicable federal law; and

1145 (b) reported to the state treasurer in a form prescribed by the state treasurer.

1146 (3) Unless otherwise provided by the constitution or laws of this state or by contractual
1147 obligation, the income derived from the investment of state money by the state treasurer shall

1148 be deposited in and become part of the General Fund.

1149 Section 22. Section **53-2a-802** is amended to read:

1150 **53-2a-802. Definitions.**

1151 (1) (a) "Absent" means:

1152 (i) not physically present or not able to be communicated with for 48 hours; or

1153 (ii) for local government officers, as defined by local ordinances.

1154 (b) "Absent" does not include a person who can be communicated with via telephone,
1155 radio, or telecommunications.

1156 (2) "Department" means the Department of Administrative Services, the Department of
1157 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
1158 Commerce, the Department of Heritage and Arts, the Department of Corrections, the
1159 Department of Environmental Quality, the Department of Financial Institutions, the
1160 Department of Health, the Department of Human Resource Management, the Department of
1161 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,
1162 the Department of Natural Resources, the Department of Public Safety, the Public Service
1163 Commission, the Department of Human Services, the State Tax Commission, the Department
1164 of Technology Services, the Department of Transportation, any other major administrative
1165 subdivisions of state government, the State Board of Education, the State Board of Regents, the
1166 Utah Housing Corporation, [~~the Workers' Compensation Fund;~~] the State Retirement Board,
1167 and each institution of higher education within the system of higher education.

1168 (3) "Division" means the Division of Emergency Management established in Title 53,
1169 Chapter 2a, Part 1, Emergency Management Act.

1170 (4) "Emergency interim successor" means a person designated by this part to exercise
1171 the powers and discharge the duties of an office when the person legally exercising the powers
1172 and duties of the office is unavailable.

1173 (5) "Executive director" means the person with ultimate responsibility for managing
1174 and overseeing the operations of each department, however denominated.

1175 (6) (a) "Office" includes all state and local offices, the powers and duties of which are
1176 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

1177 (b) "Office" does not include the office of governor or the legislative or judicial offices.

1178 (7) "Place of governance" means the physical location where the powers of an office

1179 are being exercised.

1180 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,
1181 authorities, and other public corporations and entities whether organized and existing under
1182 charter or general law.

1183 (9) "Political subdivision officer" means a person holding an office in a political
1184 subdivision.

1185 (10) "State officer" means the attorney general, the state treasurer, the state auditor, and
1186 the executive director of each department.

1187 (11) "Unavailable" means:

1188 (a) absent from the place of governance during a disaster that seriously disrupts normal
1189 governmental operations, whether or not that absence or inability would give rise to a vacancy
1190 under existing constitutional or statutory provisions; or

1191 (b) as otherwise defined by local ordinance.

1192 Section 23. Section **58-55-302.5** is amended to read:

1193 **58-55-302.5. Continuing education requirements for contractor licensees --**
1194 **Continuing education courses.**

1195 (1) Each contractor licensee under a license issued under this chapter shall complete
1196 six hours of approved continuing education during each two-year renewal cycle established by
1197 rule under Subsection 58-55-303(1).

1198 (2) (a) The commission shall, with the concurrence of the division, establish by rule a
1199 program of approved continuing education for contractor licensees.

1200 (b) Except as provided in Subsection (2)(e), beginning on or after June 1, 2015, only
1201 courses offered by any of the following may be included in the program of approved continuing
1202 education for contractor licensees:

1203 (i) the Associated General Contractors of Utah;

1204 (ii) Associated Builders and Contractors, Utah Chapter;

1205 (iii) the Home Builders Association of Utah;

1206 (iv) the National Electrical Contractors Association Intermountain Chapter;

1207 (v) the Utah Plumbing & Heating Contractors Association;

1208 (vi) the Independent Electrical Contractors of Utah;

1209 (vii) the Rocky Mountain Gas Association;

- 1210 (viii) the Utah Mechanical Contractors Association;
- 1211 (ix) the Sheet Metal Contractors Association;
- 1212 (x) the Intermountain Electrical Association;
- 1213 (xi) the Builders Bid Service of Utah; or
- 1214 (xii) Utah Roofing Contractors Association.
- 1215 (c) An approved continuing education program for a contractor licensee may include a
- 1216 course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).
- 1217 (d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in
- 1218 Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education
- 1219 courses to a licensee who is a member of the entity.
- 1220 (ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a
- 1221 continuing education course that the entity offers to satisfy the continuing education
- 1222 requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.
- 1223 (iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a
- 1224 continuing education course that the entity offers to satisfy the continuing education
- 1225 requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade.
- 1226 (e) On or after June 1, 2015, an approved continuing education program for a
- 1227 contractor licensee may include a course offered and taught by:
- 1228 (i) a state executive branch agency;
- 1229 (ii) the ~~[Workers' Compensation Fund created in Section 31A-33-102]~~ the workers'
- 1230 compensation insurance carrier with the largest share of Utah's workers' compensation market
- 1231 as determined by the Insurance Department; or
- 1232 (iii) a nationally or regionally accredited college or university that has a physical
- 1233 campus in the state.
- 1234 (3) The division may contract with a person to establish and maintain a continuing
- 1235 education registry to include:
- 1236 (a) a list of courses that the division has approved for inclusion in the program of
- 1237 approved continuing education; and
- 1238 (b) a list of courses that:
- 1239 (i) a contractor licensee has completed under the program of approved continuing
- 1240 education; and

1241 (ii) the licensee may access to monitor the licensee's compliance with the continuing
1242 education requirement established under Subsection (1).

1243 (4) The division may charge a fee, as established by the division under Section
1244 63J-1-504, to administer the requirements of this section.

1245 Section 24. Section **59-9-101** is amended to read:

1246 **59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.**

1247 (1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall
1248 pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total
1249 premiums received by it during the preceding calendar year from insurance covering property
1250 or risks located in this state.

1251 (b) This Subsection (1) does not apply to:

1252 (i) workers' compensation insurance, assessed under Subsection (2);

1253 (ii) title insurance premiums taxed under Subsection (3);

1254 (iii) annuity considerations;

1255 (iv) insurance premiums paid by an institution within the state system of higher
1256 education as specified in Section 53B-1-102; and

1257 (v) ocean marine insurance.

1258 (c) The taxable premium under this Subsection (1) shall be reduced by:

1259 (i) the premiums returned or credited to policyholders on direct business subject to tax
1260 in this state;

1261 (ii) the premiums received for reinsurance of property or risks located in this state; and

1262 (iii) the dividends, including premium reduction benefits maturing within the year:

1263 (A) paid or credited to policyholders in this state; or

1264 (B) applied in abatement or reduction of premiums due during the preceding calendar
1265 year.

1266 (d) (i) For purposes of this Subsection (1)(d):

1267 (A) "Utah variable life insurance premium" means an insurance premium paid:

1268 (I) by:

1269 (Aa) a corporation; or

1270 (Bb) a trust established or funded by a corporation; and

1271 (II) for variable life insurance covering risks located within the state.

1272 (B) "Variable life insurance" means an insurance policy that provides for life
1273 insurance, the amount or duration of which varies according to the investment experience of
1274 one or more separate accounts that are established and maintained by the insurer pursuant to
1275 Title 31A, Insurance Code.

1276 (ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that
1277 portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable
1278 life insurance premium shall be calculated as follows:

1279 (A) 2-1/4% of the first \$100,000 of Utah variable life insurance premiums:

1280 (I) paid for each variable life insurance policy; and

1281 (II) received by the admitted insurer in the preceding calendar year; and

1282 (B) 0.08% of the Utah variable life insurance premiums that exceed \$100,000:

1283 (I) paid for the policy described in Subsection (1)(d)(ii)(A); and

1284 (II) received by the admitted insurer in the preceding calendar year.

1285 (2) (a) An admitted insurer writing workers' compensation insurance in this state[;
1286 ~~including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers'~~
1287 ~~Compensation Fund,]~~ shall pay to the tax commission, on or before March 31 in each year, a
1288 premium assessment on the basis of the total workers' compensation premium income received
1289 by the insurer from workers' compensation insurance in this state during the preceding calendar
1290 year as follows:

1291 (i) on or before December 31, 2010, an amount of equal to or greater than 1%, but
1292 equal to or less than 5.75% of the total workers' compensation premium income described in
1293 this Subsection (2);

1294 (ii) on and after January 1, 2011, but on or before December 31, 2017, an amount of
1295 equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation
1296 premium income described in this Subsection (2); and

1297 (iii) on and after January 1, 2018, an amount equal to 1.25% of the total workers'
1298 compensation premium income described in this Subsection (2).

1299 (b) Total workers' compensation premium income means the net written premium as
1300 calculated before any premium reduction for any insured employer's deductible, retention, or
1301 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
1302 34A-2-202.

1303 (c) The percentage of premium assessment applicable for a calendar year shall be
1304 determined by the Labor Commission under Subsection (2)(d). The total premium income
1305 shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not
1306 as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium
1307 assessment collected under this Subsection (2):

1308 (i) income to the state treasurer for credit to the Employers' Reinsurance Fund created
1309 under Subsection 34A-2-702(1) as follows:

1310 (A) on or before December 31, 2009, an amount of up to 5% of the total workers'
1311 compensation premium income;

1312 (B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up
1313 to 4.5% of the total workers' compensation premium income;

1314 (C) on and after January 1, 2011, but on or before December 31, 2017, an amount of up
1315 to 3% of the total workers' compensation premium income; and

1316 (D) on and after January 1, 2018, 0% of the total workers' compensation premium
1317 income;

1318 (ii) an amount equal to 0.25% of the total workers' compensation premium income to
1319 the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

1320 (iii) an amount of up to 0.5% and any remaining assessed percentage of the total
1321 workers' compensation premium income to the state treasurer for credit to the Uninsured
1322 Employers' Fund created under Section 34A-2-704; and

1323 (iv) beginning on January 1, 2010, 0.5% of the total workers' compensation premium
1324 income to the state treasurer for credit to the Industrial Accident Restricted Account created in
1325 Section 34A-2-705.

1326 (d) (i) The Labor Commission shall determine the amount of the premium assessment
1327 for each year on or before each October 15 of the preceding year. The Labor Commission shall
1328 make this determination following a public hearing. The determination shall be based upon the
1329 recommendations of a qualified actuary.

1330 (ii) The actuary shall recommend a premium assessment rate sufficient to provide
1331 payments of benefits and expenses from the Employers' Reinsurance Fund and to project a
1332 funded condition with assets greater than liabilities by no later than June 30, 2025.

1333 (iii) The actuary shall recommend a premium assessment rate sufficient to provide

1334 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a
1335 funded condition with assets equal to or greater than liabilities.

1336 (iv) At the end of each fiscal year the minimum approximate assets in the Employers'
1337 Reinsurance Fund shall be \$5,000,000 which amount shall be adjusted each year beginning in
1338 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1339 preceding calendar year bears to the total workers' compensation premium income for the
1340 calendar year 1988.

1341 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual
1342 disbursements from the Employers' Reinsurance Fund are projected to be less than the
1343 calculations of the corresponding future minimum required assets. The Labor Commission
1344 shall, after a public hearing, determine if the future annual disbursements are less than the
1345 corresponding future minimum required assets from projections provided by the actuary.

1346 (vi) At the end of each fiscal year the minimum approximate assets in the Uninsured
1347 Employers' Fund shall be \$2,000,000, which amount shall be adjusted each year beginning in
1348 1990 by multiplying by the ratio that the total workers' compensation premium income for the
1349 preceding calendar year bears to the total workers' compensation premium income for the
1350 calendar year 1988.

1351 (e) A premium assessment that is to be transferred into the General Fund may be
1352 collected on premiums received from Utah public agencies.

1353 (3) An admitted insurer writing title insurance in this state shall pay to the commission,
1354 on or before March 31 in each year, a tax of .45% of the total premium received by either the
1355 insurer or by its agents during the preceding calendar year from title insurance concerning
1356 property located in this state. In calculating this tax, "premium" includes the charges made to
1357 an insured under or to an applicant for a policy or contract of title insurance for:

1358 (a) the assumption by the title insurer of the risks assumed by the issuance of the policy
1359 or contract of title insurance; and

1360 (b) abstracting title, title searching, examining title, or determining the insurability of
1361 title, and every other activity, exclusive of escrow, settlement, or closing charges, whether
1362 denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title
1363 insurance producer, or any of them.

1364 (4) Beginning July 1, 1986, a former county mutual and a former mutual benefit

1365 association shall pay the premium tax or assessment due under this chapter. Premiums
 1366 received after July 1, 1986, shall be considered in determining the tax or assessment.

1367 (5) The following insurers are not subject to the premium tax on health care insurance
 1368 that would otherwise be applicable under Subsection (1):

1369 (a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual
 1370 Insurance Corporations;

1371 (b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
 1372 Corporations;

1373 (c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations
 1374 and Limited Health Plans;

1375 (d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternal;

1376 (e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

1377 [~~(f) an insurer licensed under Title 31A, Chapter 13, Employee Welfare Funds and~~
 1378 ~~Plans, and]~~

1379 [~~(g)~~ (f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

1380 (6) An insurer issuing multiple policies to an insured may not artificially allocate the
 1381 premiums among the policies for purposes of reducing the aggregate premium tax or
 1382 assessment applicable to the policies.

1383 (7) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and
 1384 Taxes, apply to the tax or assessment imposed under this chapter.

1385 Section 25. Section **63A-3-401** is amended to read:

1386 **63A-3-401. Definitions.**

1387 As used in this part:

1388 (1) "Board" means the Utah Transparency Advisory Board created under Section
 1389 63A-3-403.

1390 (2) "Division" means the Division of Finance of the Department of Administrative
 1391 Services.

1392 (3) (a) "Independent entity," except as provided in Subsection (3)(c), means the same
 1393 as that term is defined in Section 63E-1-102.

1394 (b) "Independent entity" includes an entity that is part of an independent entity
 1395 described in this Subsection (3), if the entity is considered a component unit of the independent

1396 entity under the governmental accounting standards issued by the Governmental Accounting
1397 Standards Board.

1398 (c) "Independent entity" does not include[: ~~(i) the Workers' Compensation Fund~~
1399 ~~created in Section 31A-33-102; or (ii)~~] the Utah State Retirement Office created in Section
1400 49-11-201.

1401 (4) "Participating local entity" means each of the following local entities:

1402 (a) a county;

1403 (b) a municipality;

1404 (c) a local district under Title 17B, Limited Purpose Local Government Entities - Local
1405 Districts;

1406 (d) a special service district under Title 17D, Chapter 1, Special Service District Act;

1407 (e) a school district;

1408 (f) a charter school;

1409 (g) except for a taxed interlocal entity as defined in Section 11-13-602, an interlocal
1410 entity as defined in Section 11-13-103; and

1411 (h) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is
1412 part of an entity described in Subsections (4)(a) through (g), if the entity is considered a
1413 component unit of the entity described in Subsections (4)(a) through (g) under the
1414 governmental accounting standards issued by the Governmental Accounting Standards Board.

1415 (5) (a) "Participating state entity" means the state of Utah, including its executive,
1416 legislative, and judicial branches, its departments, divisions, agencies, boards, commissions,
1417 councils, committees, and institutions.

1418 (b) "Participating state entity" includes an entity that is part of an entity described in
1419 Subsection (5)(a), if the entity is considered a component unit of the entity described in
1420 Subsection (5)(a) under the governmental accounting standards issued by the Governmental
1421 Accounting Standards Board.

1422 (6) "Public financial information" means records that are required to be made available
1423 on the Utah Public Finance Website, a participating local entity's website, or an independent
1424 entity's website as required by this part, and as the term "public financial information" is
1425 defined by rule under Section 63A-3-404.

1426 Section 26. Section **63E-1-102** is amended to read:

1427 **63E-1-102. Definitions -- List of independent entities.**

1428 As used in this title:

1429 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

1430 (2) "Committee" means the Retirement and Independent Entities Committee created by
1431 Section 63E-1-201.

1432 (3) "Independent corporation" means a corporation incorporated in accordance with
1433 Chapter 2, Independent Corporations Act.

1434 (4) (a) "Independent entity" means an entity having a public purpose relating to the
1435 state or its citizens that is individually created by the state or is given by the state the right to
1436 exist and conduct its affairs as an:

1437 (i) independent state agency; or

1438 (ii) independent corporation.

1439 (b) "Independent entity" includes the:

1440 (i) Utah Dairy Commission created by Section 4-22-2;

1441 (ii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

1442 (iii) Utah State Railroad Museum Authority created by Section 63H-5-102;

1443 (iv) Utah Housing Corporation created by Section 63H-8-201;

1444 (v) Utah State Fair Corporation created by Section 63H-6-103;

1445 [~~(vi) Workers' Compensation Fund created by Section 31A-33-102;~~]

1446 [~~(vii)~~] (vi) Utah State Retirement Office created by Section 49-11-201;

1447 [~~(viii)~~] (vii) School and Institutional Trust Lands Administration created by Section
1448 53C-1-201;

1449 [~~(ix)~~] (viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

1450 [~~(x)~~] (ix) Utah Communications Authority created by Section [~~63N-6-201~~]

1451 63H-7a-201;

1452 [~~(xi)~~] (x) Utah Energy Infrastructure Authority created by Section 63H-2-201;

1453 [~~(xii)~~] (xi) Utah Capital Investment Corporation created by Section 63N-6-301; and

1454 [~~(xiii)~~] (xii) Military Installation Development Authority created by Section
1455 63H-1-201.

1456 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

1457 (i) the Public Service Commission of Utah created by Section 54-1-1;

1458 (ii) an institution within the state system of higher education;
 1459 (iii) a city, county, or town;
 1460 (iv) a local school district;
 1461 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
 1462 Districts; or

1463 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

1464 (5) "Independent state agency" means an entity that is created by the state, but is
 1465 independent of the governor's direct supervisory control.

1466 (6) "Money held in trust" means money maintained for the benefit of:

1467 (a) one or more private individuals, including public employees;

1468 (b) one or more public or private entities; or

1469 (c) the owners of a quasi-public corporation.

1470 (7) "Public corporation" means an artificial person, public in ownership, individually
 1471 created by the state as a body politic and corporate for the administration of a public purpose
 1472 relating to the state or its citizens.

1473 (8) "Quasi-public corporation" means an artificial person, private in ownership,
 1474 individually created as a corporation by the state, which has accepted from the state the grant of
 1475 a franchise or contract involving the performance of a public purpose relating to the state or its
 1476 citizens.

1477 Section 27. Section **63E-1-203** is amended to read:

1478 **63E-1-203. Exemptions from committee activities.**

1479 Notwithstanding the other provisions of this Part 2, Retirement and Independent
 1480 Entities Committee, and Subsection 63E-1-102(4), the [~~following independent entities are~~]
 1481 Utah Housing Corporation created in Section 63H-8-201 is exempt from the study by the
 1482 committee under Section 63E-1-202[?].

1483 [~~(1) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'~~
 1484 ~~Compensation Fund; and]~~

1485 [~~(2) the Utah Housing Corporation created in Section 63H-8-201.~~]

1486 Section 28. Section **63I-4a-102** is amended to read:

1487 **63I-4a-102. Definitions.**

1488 (1) (a) "Activity" means to provide a good or service.

- 1489 (b) "Activity" includes to:
- 1490 (i) manufacture a good or service;
- 1491 (ii) process a good or service;
- 1492 (iii) sell a good or service;
- 1493 (iv) offer for sale a good or service;
- 1494 (v) rent a good or service;
- 1495 (vi) lease a good or service;
- 1496 (vii) deliver a good or service;
- 1497 (viii) distribute a good or service; or
- 1498 (ix) advertise a good or service.
- 1499 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 1500 (i) the state; or
- 1501 (ii) an entity of the state including a department, office, division, authority,
- 1502 commission, or board.
- 1503 (b) "Agency" does not include:
- 1504 (i) the Legislature;
- 1505 (ii) an entity or agency of the Legislature;
- 1506 (iii) the state auditor;
- 1507 (iv) the state treasurer;
- 1508 (v) the Office of the Attorney General;
- 1509 (vi) the Utah Dairy Commission created in Section 4-22-2;
- 1510 (vii) the Heber Valley Historic Railroad Authority created in Section 63H-4-102;
- 1511 (viii) the Utah State Railroad Museum Authority created in Section 63H-5-102;
- 1512 (ix) the Utah Housing Corporation created in Section 63H-8-201;
- 1513 (x) the Utah State Fair Corporation created in Section 63H-6-103;
- 1514 [~~(xi)~~ the Workers' Compensation Fund created in Section 31A-33-102;]
- 1515 [~~(xii)~~] (xi) the Utah State Retirement Office created in Section 49-11-201;
- 1516 [~~(xiii)~~] (xii) a charter school chartered by the State Charter School Board or a board of
- 1517 trustees of a higher education institution under Title 53A, Chapter 1a, Part 5, The Utah Charter
- 1518 Schools Act;
- 1519 [~~(xiv)~~] (xiii) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter

- 1520 25b, Utah Schools for the Deaf and the Blind;
- 1521 [~~(xv)~~] (xiv) an institution of higher education as defined in Section 53B-3-102;
- 1522 [~~(xvi)~~] (xv) the School and Institutional Trust Lands Administration created in Section
- 1523 53C-1-201;
- 1524 [~~(xvii)~~] (xvi) the Utah Communications Authority created in Section 63H-7a-201; or
- 1525 [~~(xviii)~~] (xvii) the Utah Capital Investment Corporation created in Section 63N-6-301.
- 1526 (3) "Agency head" means the chief administrative officer of an agency.
- 1527 (4) "Board" means the Free Market Protection and Privatization Board created in
- 1528 Section 63I-4a-202.
- 1529 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
- 1530 or in part from a private enterprise.
- 1531 (6) "Local entity" means:
- 1532 (a) a political subdivision of the state, including a:
- 1533 (i) county;
- 1534 (ii) city;
- 1535 (iii) town;
- 1536 (iv) local school district;
- 1537 (v) local district; or
- 1538 (vi) special service district;
- 1539 (b) an agency of an entity described in this Subsection (6), including a department,
- 1540 office, division, authority, commission, or board; or
- 1541 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
- 1542 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 1543 (7) "Private enterprise" means a person that engages in an activity for profit.
- 1544 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
- 1545 private enterprise engages in the activity, including a transfer by:
- 1546 (a) contract;
- 1547 (b) transfer of property; or
- 1548 (c) another arrangement.
- 1549 (9) "Special district" means:
- 1550 (a) a local district, as defined in Section 17B-1-102;

1551 (b) a special service district, as defined in Section 17D-1-102; or

1552 (c) a conservation district, as defined in Section 17D-3-102.

1553 Section 29. Section **63J-2-102** is amended to read:

1554 **63J-2-102. Definitions.**

1555 As used in this chapter:

1556 (1) (a) "Agency" means each department, commission, board, council, agency,
1557 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
1558 unit, bureau, panel, or other administrative unit of the state.

1559 (b) "Agency" does not include the legislative branch, the board of regents, the Utah
1560 Higher Education Assistance Authority, the board of trustees of each higher education
1561 institution, each higher education institution and its associated branches, centers, divisions,
1562 institutes, foundations, hospitals, colleges, schools, or departments, a public education entity,
1563 or an independent agency.

1564 (2) (a) "Dedicated credits revenues" means revenues from collections by an agency that
1565 are deposited directly into an account for expenditure on a separate line item and program.

1566 (b) "Dedicated credits" does not mean:

1567 (i) federal revenues and the related pass through or the related state match paid by one
1568 agency to another;

1569 (ii) revenues that are not deposited in governmental funds; or

1570 (iii) revenues from any contracts.

1571 (3) "Fees" means revenue collected by an agency for performing a service or providing
1572 a function that the agency deposits or accounts for as dedicated credits or fixed collections.

1573 (4) (a) "Fixed collections revenues" means revenue from collections:

1574 (i) fixed by law or by the appropriation act at a specific amount; and

1575 (ii) required by law to be deposited into a separate line item and program.

1576 (b) "Fixed collections" does not mean:

1577 (i) federal revenues and the related pass through or the related state match paid by one
1578 agency to another;

1579 (ii) revenues that are not deposited in governmental funds;

1580 (iii) revenues from any contracts; and

1581 (iv) revenues received by the Attorney General's Office from billings for professional

1582 services.

1583 (5) (a) "Governmental fund" means funds used to account for the acquisition, use, and
1584 balances of expendable financial resources and related liabilities using a measurement focus
1585 that emphasizes the flow of financial resources.

1586 (b) "Governmental fund" does not include internal service funds, enterprise funds,
1587 capital projects funds, debt service funds, or trust and agency funds as established in Section
1588 51-5-4.

1589 (6) "Independent agency" means the Utah State Retirement Office[;] and the Utah
1590 Housing Corporation[, and the ~~Workers' Compensation Fund~~].

1591 (7) "Program" means the function or service provided by an agency for which the
1592 agency collects fees.

1593 (8) "Revenue types" means the categories established by the Division of Finance under
1594 the authority of this chapter that classify revenue according to the purpose for which it is
1595 collected.

1596 Section 30. Section **63J-7-102** is amended to read:

1597 **63J-7-102. Scope and applicability of chapter.**

1598 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
1599 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
1600 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

1601 (2) This chapter does not govern:

1602 (a) a grant deposited into a General Fund restricted account;

1603 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

1604 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

1605 (d) a grant made to the state without a restriction or other designated purpose that is
1606 deposited into the General Fund as free revenue;

1607 (e) a grant made to the state that is restricted only to "education" and that is deposited
1608 into the Education Fund or Uniform School Fund as free revenue;

1609 (f) in-kind donations;

1610 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state
1611 when required by state law or application of state law;

1612 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax

1613 Contribution Act;

1614 (i) a grant received by an agency from another agency or political subdivision;

1615 (j) a grant to the Utah Dairy Commission created in Section 4-22-2;

1616 (k) a grant to the Heber Valley Historic Railroad Authority created in Section

1617 63H-4-102;

1618 (l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

1619 (m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

1620 (n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

1621 [~~(o)~~] a grant to the ~~Workers' Compensation Fund created in Section 31A-33-102;~~

1622 [~~(p)~~] (o) a grant to the Utah State Retirement Office created in Section 49-11-201;

1623 [~~(q)~~] (p) a grant to the School and Institutional Trust Lands Administration created in

1624 Section 53C-1-201;

1625 [~~(r)~~] (q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

1626 [~~(s)~~] (r) a grant to the Medical Education Program created in Section 53B-24-202;

1627 [~~(t)~~] (s) a grant to the Utah Capital Investment Corporation created in Section

1628 63N-6-301;

1629 [~~(u)~~] (t) a grant to the Utah Charter School Finance Authority created in Section

1630 53A-20b-103;

1631 [~~(v)~~] (u) a grant to the State Building Ownership Authority created in Section

1632 63B-1-304;

1633 [~~(w)~~] (v) a grant to the Utah Comprehensive Health Insurance Pool created in Section

1634 31A-29-104; or

1635 [~~(x)~~] (w) a grant to the Military Installation Development Authority created in Section

1636 63H-1-201.

1637 (3) An agency need not seek legislative review or approval of grants under Part 2,

1638 Grant Approval Requirements, if:

1639 (a) the governor has declared a state of emergency; and

1640 (b) the grant is donated to the agency to assist victims of the state of emergency under

1641 Subsection 53-2a-204(1).

1642 Section 31. Section **67-4-2** is amended to read:

1643 **67-4-2. Definitions.**

1644 As used in this chapter:

1645 (1) "Federal funds" means cash received from the United States government or from
1646 other individuals or entities for or on behalf of the United States and deposited with the state
1647 treasurer or any agency of the state.

1648 (2) "General Fund" means money received into the treasury and not specially
1649 appropriated to any other fund.

1650 (3) "Maintain custody" means to direct the safekeeping and investment of state funds.

1651 (4) (a) "State entity" means each department, commission, board, council, agency,
1652 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,
1653 unit, bureau, panel, or other administrative unit of the state.

1654 (b) "State entity" includes independent state agencies and public corporations.

1655 (5) (a) "State funds" means funds that are owned, held, or administered by a state
1656 entity, regardless of the source of the funds.

1657 (b) "State funds" includes funds of independent state agencies or public corporations,
1658 regardless of the source of funds.

1659 (c) "State funds" does not include funds held by the Utah State Retirement Board [~~or~~
1660 ~~the Workers' Compensation Fund~~].

1661 (6) "Warrant" means an order in a specific amount drawn upon the treasurer by the
1662 Division of Finance or another state agency.

1663 Section 32. **Repealer.**

1664 This bill repeals:

1665 Section **31A-33-101, Definitions.**

1666 Section **31A-33-102, Establishment of the Workers' Compensation Fund and the**
1667 **Injury Fund.**

1668 Section **31A-33-103, Legal nature of Workers' Compensation Fund.**

1669 Section **31A-33-103.5, Powers of fund -- Limitations.**

1670 Section **31A-33-104, Workers' Compensation Fund exempted.**

1671 Section **31A-33-105, Price of insurance -- Liability of state.**

1672 Section **31A-33-106, Board of directors -- Status of the fund in relationship to the**
1673 **state.**

1674 Section **31A-33-107, Duties of board -- Creation of subsidiaries -- Entering into**

1675 **joint enterprises.**

1676 Section **31A-33-108, Powers and duties of chief executive officer.**

1677 Section **31A-33-109, Liability limited.**

1678 Section **31A-33-110, Audits and examinations required.**

1679 Section **31A-33-111, Adoption of rates.**

1680 Section **31A-33-112, Withdrawal of policyholders.**

1681 Section **31A-33-113, Cancellation of policies.**

1682 Section **31A-33-114, Premium assessment.**

1683 Section **31A-33-115, Interest and costs of collecting delinquent premium.**

1684 Section **31A-33-116, Dividends.**

1685 Section **31A-33-117, Availability of employers' reports.**

1686 Section **31A-33-118, Scope of chapter.**

1687 Section 33. **Effective date.**

1688 (1) Except as provided in Subsection (2), this bill takes effect on December 31, 2017.

1689 (2) Section 31A-22-1014 enacted in this bill takes effect on May 9, 2017.