# REVISOR'S STATUTE

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Susan J. Koehn**

David L. Gladwell
Gerry A. Adair
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AN ACT RELATING TO STATE AFFAIRS; MAKING TECHNICAL AMENDMENTS; AND REPEALING CERTAIN OUTDATED SECTIONS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**10-1-114**, as enacted by Chapter 48, Laws of Utah 1977

**10-2-411**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

**10-2-413**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

**10-2-414**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

**10-2-415**, as repealed and reenacted by Chapter 389, Laws of Utah 1997

**10-9-605**, as enacted by Chapter 108, Laws of Utah 1997

**13-2-3**, as last amended by Chapter 10, Laws of Utah 1997

**13-11-4**, as last amended by Chapter 194, Laws of Utah 1998

**13-20-2**, as last amended by Chapters 222 and 339, Laws of Utah 1998

**16-11-2**, as last amended by Chapter 140, Laws of Utah 1997

**17-27-605**, as enacted by Chapter 108, Laws of Utah 1997

**17-35a-502**, as enacted by Chapter 369, Laws of Utah 1998

**17-35a-503**, as enacted by Chapter 369, Laws of Utah 1998

**17A-1-305 (Effective 01/01/00)**, as last amended by Chapter 362, Laws of Utah 1998

**17A-2-1062**, as enacted by Chapter 151, Laws of Utah 1998

**17A-2-1247**, as last amended by Chapters 211 and 308, Laws of Utah 1998

**17A-2-1247.5**, as last amended by Chapter 279, Laws of Utah 1998

**19-6-409**, as last amended by Chapters 95, 255 and 417, Laws of Utah 1998

**19-6-416**, as last amended by Chapter 162, Laws of Utah 1996

**19-8-113**, as enacted by Chapter 247, Laws of Utah 1997

**20A-1-102**, as last amended by Chapters 344 and 369, Laws of Utah 1998

**20A-4-106**, as last amended by Chapter 340, Laws of Utah 1995

**20A-7-209**, as last amended by Chapter 153, Laws of Utah 1995

**20A-11-1201**, as enacted by Chapter 158, Laws of Utah 1995

**20A-14-201**, as last amended by Chapter 294, Laws of Utah 1998

**26-6b-3**, as enacted by Chapter 211, Laws of Utah 1996

**26-6b-6**, as enacted by Chapter 211, Laws of Utah 1996

**26-9-202**, as last amended by Chapter 59, Laws of Utah 1995

**26-9d-1**, as enacted by Chapter 252, Laws of Utah 1992

**26-9d-5**, as enacted by Chapter 252, Laws of Utah 1992

**26-21-3**, as last amended by Chapter 209, Laws of Utah 1997

**26-28-2**, as last amended by Chapter 343, Laws of Utah 1995

**26-32a-103.5**, as last amended by Chapter 266, Laws of Utah 1996

**26-32a-107**, as last amended by Chapter 266, Laws of Utah 1996

**26-33a-103**, as last amended by Chapters 243 and 248, Laws of Utah 1996

**26-40-103**, as enacted by Chapter 360, Laws of Utah 1998

**31A-2-104**, as last amended by Chapter 344, Laws of Utah 1995

**35A-1-102**, as last amended by Chapter 1, Laws of Utah 1998

**35A-2-202**, as last amended by Chapter 1, Laws of Utah 1998

**35A-3-508**, as last amended by Chapter 1, Laws of Utah 1998

**35A-4-205**, as last amended by Chapter 375, Laws of Utah 1997

**41-3-702**, as last amended by Chapter 1 and renumbered and amended by Chapter 234 and last amended by Chapter 239, Laws of Utah 1992

**48-2b-102**, as last amended by Chapter 56, Laws of Utah 1998

**53-3-210**, as last amended by Chapters 34 and 48, Laws of Utah 1996

**53-3-901**, as enacted by Chapter 216, Laws of Utah 1993

**53-3-902**, as last amended by Chapter 12, Laws of Utah 1994

**53-8-213**, as enacted by Chapter 66, Laws of Utah 1997

**53-10-502**, as enacted by Chapter 263, Laws of Utah 1998

**53-11-108**, as enacted by Chapter 257, Laws of Utah 1998

**53-11-119**, as enacted by Chapter 257, Laws of Utah 1998

**53A-3-414**, as enacted by Chapter 2, Laws of Utah 1988

**53A-7-110**, as last amended by Chapter 46, Laws of Utah 1998

**53A-17a-101**, as renumbered and amended by Chapter 72, Laws of Utah 1991

**58-37c-11**, as repealed and reenacted by Chapter 297, Laws of Utah 1993

**58-37c-18**, as enacted by Chapter 100, Laws of Utah 1998

**58-37c-21**, as enacted by Chapter 101, Laws of Utah 1998

**58-37d-9**, as enacted by Chapter 101, Laws of Utah 1998

**58-47b-102**, as last amended by Chapter 159, Laws of Utah 1998

**58-47b-304**, as last amended by Chapters 13 and 159, Laws of Utah 1998

**58-60-103**, as last amended by Chapter 248, Laws of Utah 1997

**58-60-107**, as last amended by Chapter 311, Laws of Utah 1998

**58-65-302**, as last amended by Chapter 375, Laws of Utah 1997

**59-7-611**, as last amended by Chapter 322, Laws of Utah 1998

**59-9-101.1**, as enacted by Chapter 46, Laws of Utah 1997

**59-10-405**, as last amended by Chapter 129, Laws of Utah 1996

**59-12-201**, as renumbered and amended by Chapter 5, Laws of Utah 1987

**59-12-702**, as last amended by Chapters 193 and 209, Laws of Utah 1998

**59-23-4**, as enacted by Chapter 179, Laws of Utah 1997

**62A-4a-403**, as last amended by Chapter 214 and renumbered and amended by Chapter 260, Laws of Utah 1994

**63-9a-6**, as last amended by Chapter 314, Laws of Utah 1998

**63-38-2**, as last amended by Chapters 13 and 254, Laws of Utah 1998

**63-46b-1**, as last amended by Chapter 375, Laws of Utah 1997

**63-55-209**, as last amended by Chapter 13, Laws of Utah 1998

**63-55-258**, as last amended by Chapter 227, Laws of Utah 1998

**63A-5-220**, as last amended by Chapters 384 and 407, Laws of Utah 1998

**63C-3-104**, as last amended by Chapter 93, Laws of Utah 1998

**63C-7-211**, as enacted by Chapter 136, Laws of Utah 1997

**63C-9-501**, as enacted by Chapter 285, Laws of Utah 1998

**63D-1-204**, as renumbered and amended by Chapter 73, Laws of Utah 1997

**64-9b-2**, as last amended by Chapter 158, Laws of Utah 1997

**64-9b-6**, as last amended by Chapter 92, Laws of Utah 1987

**67-19a-401**, as last amended by Chapters 101 and 204, Laws of Utah 1991

**70A-2a-534**, as enacted by Chapter 166, Laws of Utah 1997

**72-7-106**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-204**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-401**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-402**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-404**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-502**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-505**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-510**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-7-515**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**72-12-109**, as renumbered and amended by Chapter 270, Laws of Utah 1998

**73-15-5**, as enacted by Chapter 193, Laws of Utah 1973

**75-2-610**, as repealed and reenacted by Chapter 39, Laws of Utah 1998

**76-6-404.5**, as enacted by Chapter 138, Laws of Utah 1998

**77-18-9**, as last amended by Chapters 170 and 263, Laws of Utah 1998

**77-32a-2**, as last amended by Chapter 215, Laws of Utah 1997

**78-5-101**, as last amended by Chapter 216, Laws of Utah 1997

**78-5-102**, as last amended by Chapter 118, Laws of Utah 1997

**78-5-103**, as last amended by Chapter 212, Laws of Utah 1997

**78-14a-101**, as last amended by Chapter 248, Laws of Utah 1996

**78-30-3.5**, as last amended by Chapters 80 and 263, Laws of Utah 1998

**78-45f-202**, as renumbered and amended by Chapter 232, Laws of Utah 1997

**78-46-1**, as enacted by Chapter 130, Laws of Utah 1979

RENUMBERS AND AMENDS:

**63-55b-131**, (Renumbered from 63-55b-3101, as enacted by Chapter 130, Laws of Utah 1998)

**63-55b-153**, (Renumbered from 63-55b-5301, as last amended by Chapter 343, Laws of Utah 1998)

**63-55b-159**, (Renumbered from 63-55b-5901, as enacted by Chapters 46, 345 and 346, Laws of Utah 1997)

**63-55b-163**, (Renumbered from 63-55b-6301, as enacted by Chapters 312 and 364, Laws of Utah 1998)

REPEALS:

**53-3-107**, as enacted by Chapter 282, Laws of Utah 1997

**53-4-101**, as enacted by Chapter 234, Laws of Utah 1993

**63-55b-6501**, as enacted by Chapter 319, Laws of Utah 1997

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

Section 1. Section **10-1-114** is amended to read:

**10-1-114. Repealer.**

[~~The following acts, chapters, titles and sections~~] Title 10, Chapters 1, 2, 3, 5, and 6 are repealed, except as provided in Section 10-1-115[~~: (1) Title 10, Chapters 1, 2, 3, 4, 5, 6 and 14,~~].

[~~(2) Sections 5-6-9 through 5-6-13,~~]

[~~(3) Sections 49-2-1 through 49-2-5, and 49-5-4,~~]

[~~(4) Sections 10-7-1, 10-7-2, 10-7-75 and 10-7-75.5,~~]

[~~(5) Sections 10-10-9 through 10-10-22.~~]

Section 2. Section **10-2-411** is amended to read:

**10-2-411. Disqualification of commission member -- Alternate member.**

(1) A member of the commission is disqualified with respect to a protest before the commission if that member owns property:

(a) within the area proposed for annexation in a petition that is the subject of the protest; or

(b) that is in the unincorporated area within 1/2 mile of the area proposed for annexation in a petition that is the subject of a protest under Subsection 10-2-407(1)[~~(d)~~](a)(iv).

(2) If a member is disqualified under Subsection (1), the body that appointed the disqualified member shall appoint an alternate member to serve on the commission for purposes of the protest as to which the member is disqualified.

Section 3. Section **10-2-413** is amended to read:

**10-2-413. Feasibility consultant -- Feasibility study -- Modifications to feasibility study.**

(1) (a) Unless a proposed annexing municipality denies an annexation petition under Subsection 10-2-407(3)(a)(i)(A) and except as provided in Subsection (1)(b), the commission shall choose and engage a feasibility consultant within 45 days of:

(i) the commission's receipt of a protest under Section 10-2-407, if the commission had been created before the filing of the protest; or

(ii) the commission's creation, if the commission is created after the filing of a protest.

(b) Notwithstanding Subsection (1)(a), the commission may not require a feasibility study with respect to a proposed annexation that meets the criteria of Subsection 10-2-407(2)(e).

(2) The commission shall require the feasibility consultant to:

(a) complete a feasibility study on the proposed annexation and submit written results of the study to the commission no later than 75 days after the feasibility consultant is engaged to conduct the study;

(b) submit with the full written results of the feasibility study a summary of the results no longer than a page in length; and

(c) attend the public hearing under Subsection 10-2-415(1) and present the feasibility study results and respond to questions at that hearing.

(3) (a) Subject to Subsection (4), the feasibility study shall consider:

(i) the population and population density within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(ii) the geography, geology, and topography of and natural boundaries within the area proposed for annexation, the surrounding unincorporated area, and, if a protest was filed by a municipality with boundaries within 1/2 mile of the area proposed for annexation, that municipality;

(iii) whether the proposed annexation eliminates, leaves, or creates an unincorporated island or peninsula;

(iv) whether the proposed annexation will hinder or prevent a future and more logical and beneficial annexation or a future logical and beneficial incorporation;

(v) the fiscal impact of the proposed annexation on the remaining unincorporated area, other municipalities, special districts, school districts, and other governmental entities;

(vi) current and five-year projections of demographics and economic base in the area proposed for annexation and surrounding unincorporated area, including household size and income, commercial and industrial development, and public facilities;

(vii) projected growth in the area proposed for annexation and the surrounding unincorporated area during the next five years;

(viii) the present and five-year projections of the cost of governmental services in the area proposed for annexation;

(ix) the present and five-year projected revenue to the proposed annexing municipality from the area proposed for annexation;

(x) the projected impact the annexation will have over the following five years on the amount of taxes that property owners within the area proposed for annexation, the proposed annexing municipality, and the remaining unincorporated county will pay;

(xi) past expansion in terms of population and construction in the area proposed for annexation and the surrounding unincorporated area;

(xii) the extension during the past ten years of the boundaries of each other municipality near the area proposed for annexation, the willingness of the other municipality to annex the area

proposed for annexation, and the probability that another municipality would annex some or all of the area proposed for annexation during the next five years if the annexation did not occur;

(xiii) the history, culture, and social aspects of the area proposed for annexation and surrounding area;

(xiv) the method of providing and the entity that has provided municipal-type services in the past to the area proposed for incorporation and the feasibility of municipal-type services being provided by the proposed annexing municipality; and

(xv) the effect on each school district whose boundaries include part or all of the area proposed for annexation or the proposed annexing municipality.

(b) For purposes of Subsection (3)(a)(ix), the feasibility consultant shall assume ad valorem property tax rates on residential property within the area proposed for annexation at the same level that residential property within the proposed annexing municipality would be without the annexation.

(c) For purposes of Subsection (3)(a)(viii), the feasibility consultant shall assume that the level and quality of governmental services that will be provided to the area proposed for annexation in the future is essentially comparable to the level and quality of governmental services being provided within the proposed annexing municipality at the time of the feasibility study.

(4) (a) Except as provided in Subsection (4)(b), the commission may modify the depth of study of and detail given to the items listed in Subsection (3)(a) by the feasibility consultant in conducting the feasibility study depending upon:

(i) the size of the area proposed for annexation;

(ii) the size of the proposed annexing municipality;

(iii) the extent to which the area proposed for annexation is developed;

(iv) the degree to which the area proposed for annexation is expected to develop and the type of development expected; and

(v) the number and type of protests filed against the proposed annexation.

(b) Notwithstanding Subsection (4)(a), the commission may not modify the requirement that the feasibility consultant provide a full and complete analysis of the items listed in Subsections (3)(a)(viii), (ix), and (xv).

(5) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the feasibility consultant may, as part of the feasibility study, make recommendations as to how the boundaries of the area proposed for annexation may be altered so that the requirements of Subsection 10-2-416(3) may be met.

(6) (a) Except as provided in Subsection (6)(b), the feasibility consultant fees and expenses shall be shared equally by the proposed annexing municipality and each entity or group under Subsection 10-2-407(1) that files a protest.

(b) (i) Except as provided in Subsection (6)(b)(ii), if a protest is filed by property owners under Subsection 10-2-407(1)[~~(d)~~](a)(iv), the county in which the area proposed for annexation shall pay the owners' share of the feasibility consultant's fees and expenses.

(ii) Notwithstanding Subsection (6)(b)(i), if both the county and the property owners file a protest, the county and the proposed annexing municipality shall equally share the property owners' share of the feasibility consultant's fees and expenses.

Section 4. Section **10-2-414** is amended to read:

**10-2-414. Modified annexation petition -- Supplemental feasibility study.**

(1) (a) (i) If the results of the feasibility study do not meet the requirements of Subsection 10-2-416(3), the sponsors of the annexation petition may, within 45 days of the feasibility consultant's submission of the results of the study, file with the city recorder or town clerk of the proposed annexing municipality a modified annexation petition altering the boundaries of the proposed annexation.

(ii) On the date of filing a modified annexation petition under Subsection (1)(a)(i), the sponsors of the annexation petition shall deliver or mail a copy of the modified annexation petition to the clerk of the county in which the area proposed for annexation is located.

(b) Each modified annexation petition under Subsection (1)(a) shall comply with the requirements of Subsections 10-2-403(2), (3), and (4).

(2) (a) Within 20 days of the city recorder or town clerk's receipt of the modified annexation petition, the city recorder or town clerk, as the case may be, shall follow the same procedure for the modified annexation petition as provided under Subsections 10-2-405(2) and (3)(a) for an original

annexation petition.

(b) If the city recorder or town clerk certifies the modified annexation petition under Subsection 10-2-405(2)(b)(i), the city recorder or town clerk, as the case may be, shall send written notice of the certification to:

(i) the commission;

(ii) each entity that filed a protest to the annexation petition; and

(iii) if a protest was filed under Subsection 10-2-407(1)[~~(d)~~](a)(iv), the contact person.

(c) (i) If the modified annexation petition proposes the annexation of an area that includes part or all of a special district or school district that was not included in the area proposed for annexation in the original petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the board of the special district or school district.

(ii) If the area proposed for annexation in the modified annexation petition is within 1/2 mile of the boundaries of a municipality whose boundaries were not within 1/2 mile of the area proposed for annexation in the original annexation petition, the city recorder or town clerk, as the case may be, shall also send notice of the certification of the modified annexation petition to the legislative body of that municipality.

(3) Within ten days of the commission's receipt of the notice under Subsection (2)(b), the commission shall engage the feasibility consultant that conducted the feasibility study to supplement the feasibility study to take into account the information in the modified annexation petition that was not included in the original annexation petition.

(4) The commission shall require the feasibility consultant to complete the supplemental feasibility study and to submit written results of the supplemental study to the commission no later than 30 days after the feasibility consultant is engaged to conduct the supplemental feasibility study.

Section 5. Section **10-2-415** is amended to read:

**10-2-415. Public hearing -- Notice.**

(1) If the results of the feasibility study or supplemental feasibility study meet the requirements of Subsection 10-2-416(3), the commission shall hold a public hearing within 30 days

of receipt of the feasibility study or supplemental feasibility study results.

(2) At the hearing under Subsection (1), the commission shall:

(a) require the feasibility consultant to present the results of the feasibility study and, if applicable, the supplemental feasibility study;

(b) allow those present to ask questions of the feasibility consultant regarding the study results; and

(c) allow those present to speak to the issue of annexation.

(3) (a) The commission shall:

(i) publish notice of the hearing at least once a week for two successive weeks in a newspaper of general circulation within the area proposed for annexation, the surrounding 1/2 mile of unincorporated area, and the proposed annexing municipality; and

(ii) send written notice of the hearing to the municipal legislative body of the proposed annexing municipality, the contact sponsor on the annexation petition, each entity that filed a protest, and, if a protest was filed under Subsection 10-2-407(1)[~~(d)~~](a)(iv), the contact person.

(b) If there is no newspaper of general circulation within the areas described in Subsection (3)(a)(i), the commission shall give the notice required under that subsection by posting notices, at least seven days before the hearing, in conspicuous places within those areas that are most likely to give notice of the hearing to the residents of those areas.

(c) The notices under Subsections (3)(a) and (b) shall include the feasibility study summary under Subsection 10-2-413(2)(b) and shall indicate that a full copy of the study is available for inspection and copying at the office of the commission.

(4) (a) The commission shall record the hearing under this section by electronic means.

(b) A transcription of the recording under Subsection (4)(a), the feasibility study, information received at the hearing, and the written decision of the commission shall constitute the record of the hearing.

Section 6. Section **10-9-605** is amended to read:

**10-9-605. Residences for persons with a disability.**

(1) As used in this section:

(a) "Disability" is defined in Section 57-21-2.

(b) "Residential facility for persons with a disability" means a residence:

(i) in which more than one person with a disability resides; and

(ii) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) Each municipality shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.;

(b) may require, if consistent with Subsection (2)(a), residential facilities for persons with a disability to be reasonably dispersed throughout the municipality; and

(c) shall provide that a residential facility for persons with a disability:

(i) is a permitted use in any zoning area where residential dwellings are allowed; and

(ii) may only be required to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

(3) The responsibility to license programs or entities which operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Human Services as provided in [~~Section 62A-2-114 and~~] Title 62A, Chapter 5, Services to People with Disabilities.

Section 7. Section **13-2-3** is amended to read:

**13-2-3. Employment of personnel -- Compensation of director.**

(1) The director, with the approval of the executive director, may employ personnel necessary to carry out the duties and responsibilities of the division at salaries established by the executive director according to standards established by the Department of Administrative Services.

(2) The executive director shall establish the salary of the director according to standards established by the Department of Administrative Services.

(3) The director may employ specialists, technical experts, or investigators to participate or assist in investigations if they reasonably require expertise beyond that normally required for division

personnel.

(4) An investigator employed pursuant to Subsection (3) may be designated a special function officer, as defined in Section [~~77-1a-4~~] 53-13-105, by the director, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 8. Section **13-11-4** is amended to read:

**13-11-4. Deceptive act or practice by supplier.**

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist;

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have;

(j) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the

representation is false;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to either cancel the sales agreement and receive a refund of all previous payments to the supplier or to extend the shipping date to a specific date proposed by the supplier, but any refund shall be mailed or delivered to the buyer within ten business days after the seller receives written notification from the buyer of the buyer's right to cancel the sales agreement and receive the refund;

(m) fails to furnish a notice of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if the sale is made other than at the supplier's established place of business pursuant to the supplier's mail, telephone, or personal contact and if the sale price exceeds $25, unless the supplier's cancellation policy is communicated to the buyer and the policy offers greater rights to the buyer than this Subsection (2)(m), which notice shall be a conspicuous statement written in dark bold at least 12 point type, on the first page of the purchase documentation, and shall read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER.";

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) represents that the funds or property conveyed in response to a charitable solicitation will be donated or used for a particular purpose or will be donated to or used by a particular organization,

if the representation is false; or

(p) if a consumer indicates his intention of making a claim for a motor vehicle repair against his motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told he was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement.

Section 9. Section **13-20-2** is amended to read:

**13-20-2. Definitions.**

As used in this chapter:

(1) "Consumer" means an individual who has entered into an agreement or contract for the transfer, lease, or purchase of a new motor vehicle other than for purposes of resale, or sublease, during the duration of the period defined under Section 13-20-5.

(2) "Manufacturer" means manufacturer, importer, distributor, or anyone who is named as the warrantor on an express written warranty on a motor vehicle.

(3) "Motor home" means a self-propelled vehicular unit, primarily designed as a temporary dwelling for travel, recreational, and vacation use.

(4) (a) "Motor vehicle" includes:

(i) a motor home, as defined in this section, but only the self-propelled vehicle and chassis sold in this state; and

(ii) a motor vehicle, as defined in Section 41-1a-102, sold in this state.

(b) "Motor vehicle" does not include:

(i) those portions of a motor home designated, used, or maintained primarily as a mobile dwelling, office, or commercial space;

(ii) farm tractor, motorcycle, road tractor, or truck tractor as defined in Section 41-1a-102;

(iii) mobile home as defined in Section 41-1a-102; or

(iv) any motor vehicle with a gross laden weight of over 12,000 pounds, except a motor home as defined under Subsection [~~(4)(a)(i)~~] (3).

Section 10. Section **16-11-2** is amended to read:

**16-11-2. Definitions.**

As used in this chapter:

(1) "Filed" means the division has received and approved, as to form, a document submitted under the provisions of this chapter, and has marked on the face of the document a stamp or seal indicating the time of day and date of approval, the name of the division, the division director's signature and division seal, or facsimiles of the signature or seal.

(2) "Professional corporation" means a corporation organized under this chapter.

(3) "Professional service" means the personal service rendered by:

(a) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of medicine;

(b) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, and any subsequent laws regulating the practice of dentistry;

(c) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of osteopathy;

(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, and any subsequent laws regulating the practice of chiropractic;

(e) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, and any subsequent laws regulating the practice of podiatry;

(f) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, and any subsequent laws regulating the practice of optometry;

(g) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, and any subsequent laws regulating the practice of veterinary medicine;

(h) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, and any subsequent laws regulating the practice of architecture;

(i) a public accountant holding a license under Title 58, Chapter 26, Certified Public Accountant Licensing Act, and any subsequent laws regulating the practice of public accounting;

(j) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice
Act, and any subsequent laws regulating the practice of naturopathy;

(k) a pharmacist holding a license under Title 58, Chapter 17a, Pharmacy Practice Act, and any subsequent laws regulating the practice of pharmacy;

(l) an attorney granted the authority to practice law by:

(i) the Utah Supreme Court, as provided in Title 78, Chapter 51, Attorneys and Counselors; or

(ii) the Supreme Court, other court, agency, instrumentality, or regulating board that licenses or regulates the authority to practice law in any state or territory of the United States other than Utah;

(m) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyor Licensing Act;

(n) a real estate broker or real estate agent holding a license under Title 61, Chapter 2, Division of Real Estate, and any subsequent laws regulating the selling, exchanging, purchasing, renting, or leasing of real estate;

(o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, and any subsequent laws regulating the practice of psychology;

(p) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and any subsequent laws regulating the practice of social work;

(q) a physical therapist holding a license under Title 58, Chapter 24a, Physical Therapist Practice Act, and any subsequent laws regulating the practice of physical therapy; or

(r) a nurse licensed under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, or Title 58, Chapter
44a, Nurse Midwife Practice Act.

(4) "Regulating board" means the board that is charged with the licensing and regulation of the practice of the profession which the professional corporation is organized to render. The definitions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, apply to this chapter unless the context clearly indicates that a different meaning is intended.

Section 11. Section **17-27-605** is amended to read:

**17-27-605. Residences for persons with a disability.**

(1) As used in this section:

(a) "Disability" is defined in Section 57-21-2.

(b) "Residential facility for persons with a disability" means a residence:

(i) in which more than one person with a disability resides; and

(ii) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities.

(2) Each county shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.;

(b) may require, if consistent with Subsection (2)(a), residential facilities for persons with a disability to be reasonably dispersed throughout the county; and

(c) shall provide that a residential facility for persons with a disability:

(i) is a permitted use in any zoning area where residential dwellings are allowed; and

(ii) may only be required to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

(3) The responsibility to license programs or entities which operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with the Department of Human Services as provided in [~~Section 62A-2-114 and~~] Title 62A, Chapter 5, Services to People with Disabilities.

Section 12. Section **17-35a-502** is amended to read:

**17-35a-502. County executive-council form of county government.**

(1) (a) A county operating under the form of government known as the "county executive-council" form shall be governed by the county council, a county executive, and such other officers and employees as are authorized by law.

(b) The optional plan shall provide for the qualifications, time, and manner of election, term of office, compensation, and removal of the county executive.

(2) The county executive shall be the chief executive officer or body of the county and shall have the powers and duties provided in Subsection [~~17-35b-501~~] 17-35a-501(2).

(3) In the county executive-council form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county executive.

(4) References in any statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the county executive-council form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county executive, with respect to executive functions, duties, and powers.

Section 13. Section **17-35a-503** is amended to read:

**17-35a-503. Council-manager form of county government.**

(1) A county operating under the form of government known as the "council-manager" form shall be governed by the county council, a county manager appointed by the council, and such other officers and employees as are authorized by law. The optional plan shall provide for the qualifications, time and manner of appointment, term of office, compensation, and removal of the county manager.

(2) The county manager shall be the administrative head of the county government and shall

have the powers and duties of a county executive, under Subsection [~~17-35b-501~~] 17-35a-501(2), except that the county manager shall not have any power of veto over ordinances enacted by the council.

(3) No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the manager in the making of any appointment or removal of any officer or employee or in the purchase of supplies, attempt to exact any promise relative to any appointment from any candidate for manager, or discuss directly or indirectly with him the matter of specific appointments to any county office or employment. A violation of the foregoing provisions of this Subsection (3) shall forfeit the office of the offending member of the council. Nothing in this section shall be construed, however, as prohibiting the council while in open session from fully and freely discussing with or suggesting to the manager anything pertaining to county affairs or the interests of the county. Neither manager nor any person in the employ of the county shall take part in securing,

or contributing any money toward, the nomination or election of any candidate for a county office. The optional plan may provide procedures for implementing this Subsection (3).

(4) In the council-manager form of county government, the legislative powers of the county shall be vested in the county council, and the executive powers of the county shall be vested in the county manager.

(5) A reference in statute or state rule to the "governing body" or the "board of county commissioners" of the county, in the council-manager form of county government, means:

(a) the county council, with respect to legislative functions, duties, and powers; and

(b) the county manager, with respect to executive functions, duties, and powers.

Section 14. Section **17A-1-305 (Effective 01/01/00)** is amended to read:

**17A-1-305 (Effective 01/01/00). Special district board -- Election procedures.**

(1) Except as provided in Subsection [(~~12~~)] (13), each elected board member shall be selected as provided in this section.

(2) Each election of a special district board member shall be held in conjunction with the regular general election at polling places designated by the clerk of each county in which the special district is located.

(3) (a) The clerk of each special district with a board member position to be filled at the next regular general election shall provide notice of:

(i) each elective position of the special district to be filled at the next regular general election;

(ii) the constitutional and statutory qualifications for each position; and

(iii) the dates and times for filing a declaration of candidacy.

(b) The notice required under Subsection (3)(a) shall be:

(i) posted in at least five public places within the special district at least ten days before the first day for filing a declaration of candidacy; or

(ii) published in a newspaper of general circulation within the special district at least three but no more than ten days before the first day for filing a declaration of candidacy.

(4) (a) To become a candidate for an elective special district board position, the prospective candidate shall file a declaration of candidacy in person with the special district, during office hours and not later than 5 p.m. between July 15 and August 15 of any even numbered year.

(b) When August 15 is a Saturday or Sunday, the filing time shall be extended until 5 p.m. on the following Monday.

(c) Before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the prospective candidate the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate to state whether or not the candidate meets those requirements;

(iii) if the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy; and

(iv) if it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall accept the declaration of candidacy.

(d) (i) The declaration of candidacy shall substantially comply with the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of , County of , State of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I am a registered voter and qualified elector of the special district; that I am

a candidate for the office of _____(stating the term) to be voted upon at the November regular general election to be held on Tuesday, the _____ day of November, ____, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)"

(ii) If at least one person does not file a declaration of candidacy as required by this section, a person shall be appointed to fill that board position by following the procedures and requirements for appointment established in Section 20A-1-512.

(5) There shall be no primary election.

(6) (a) The special district clerk shall certify the candidate names to the clerk of each county in which the special district is located no later than August 20 of the regular general election year.

(b) The clerk of each county in which the special district is located shall list the name of each candidate for special district office in the nonpartisan section of the regular general election ballot as provided in Title 20A, Chapter 6, Part 3, Regular General Election Ballots.

(7) (a) Only qualified electors of the special district who are registered to vote and who are entitled to vote may vote.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(8) Except as otherwise provided by this section, the election of special district board members is governed by Title 20A, Election Code.

(9) (a) A person elected to serve on a special district board shall serve a four-year term, beginning on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(10) The term of a person serving on a special district board as of May 1, 2000, whose election falls on an odd-numbered year is extended one year so that the person's election will be on

the next November election day in an even-numbered year.

(11) (a) If the application of Subsection (10) causes a disproportionate number of elected and appointed terms to expire at the same time, or if for any other reason a disproportionate number of positions expire at the same time, a number of elected terms shall be extended to January 1 following the next regular general election, or, in the case of appointed terms, a number of appointed terms shall be extended to January 1 following the normal expiration of appointed terms, to equalize, to the extent possible, the number of board positions expiring at the same time.

(b) The board member whose term is to be extended shall be determined by lot.

(c) After this apportionment has taken place, all board terms shall be four years.

(12) Each special district shall reimburse the county holding an election under this section for the costs of the election attributable to that special district.

(13) This section does not apply to a county improvement district under Chapter 2, Part 3, County Improvement Districts for Water, Sewerage, Flood Control, Electric and Gas, that provides electric or gas service or to an irrigation district under Chapter 2, Part 7, Irrigation Districts.

Section 15. Section **17A-2-1062** is amended to read:

**17A-2-1062. Multicounty district may employ or contract for security officers -- Security officer status and powers -- Limitation on damages.**

(1) The governing body of a multicounty district may employ security officers or contract with a private firm to supply security officers for the district.

(2) Each security officer employed or supplied under Subsection (1) is a special function officer under Section [~~77-1a-4~~] 53-13-105 and shall be subject to the provisions of that section.

(3) The duties of a security officer under this section include:

(a) issuing a citation for a violation of Subsection 17A-2-1061(1);

(b) enforcing the district's parking ordinance under Subsection 17A-2-1061(3);

(c) detaining a person committing a felony or misdemeanor at a transit facility until law enforcement authorities arrive, if the security officer has probable cause to believe that the person committed a felony or misdemeanor; and

(d) security functions respecting transit facilities and preserving the security, peace, and

safety of persons using transit facilities.

(4) A person may not recover damages in an action based on a claim related to a security officer's conduct if:

(a) the security officer had probable cause to believe that the person had committed a felony or misdemeanor at a transit facility; and

(b) the security officer acted reasonably under the circumstances.

Section 16. Section **17A-2-1247** is amended to read:

**17A-2-1247. Tax increment financing authorized -- Division of tax revenues -- Greater allocation allowed if authorized by taxing agency.**

(1) This section applies to projects for which a preliminary plan has been prepared prior to April 1, 1993, and for which all of the following have occurred prior to July 1, 1993: the agency blight study has been completed, and a hearing under Section 17A-2-1221 has in good faith been commenced by the agency.

(2) Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the state, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the taxable value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the taxable value of the

taxable property in the project on the effective date).

(b) In a redevelopment project with a redevelopment plan adopted before April 1, 1983, that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency before April 1, 1983, to finance or refinance, in whole or in part, the redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other taxing agencies are subject to collection. Unless and until the total taxable value of the taxable property in a redevelopment project exceeds the total taxable value of the taxable property in the project as shown by the last equalized assessment roll referred to in Subsection (2)(a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and any interest have been paid, all moneys received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) Notwithstanding the provisions of Subsections (2)(a) and (e), Subsection 17A-2-1210(5), or any other provision of this part, any loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) issued prior to April 1, 1983, may be refinanced and repaid from 100% of that portion of the levied taxes paid into the special fund of the redevelopment agency each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a) if the principal amount of loans, moneys advanced to, or indebtedness is not increased in the refinancing.

(d) In a redevelopment project with a redevelopment plan adopted before April 1, 1983, that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency according to the limits

established in Subsection (2)(f) to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency after April 1, 1983, to finance or refinance, in whole or in part, the redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other taxing agencies are subject to collection. Unless and until the total taxable value of the taxable property in a redevelopment project exceeds the total taxable value of the taxable property in the project as shown by the last equalized assessment roll referred to in Subsection (2)(a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and any interest have been paid, all moneys received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(e) In a redevelopment project with a redevelopment plan adopted after April 1, 1983, that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a) shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency according to the limits established in Subsection (2)(f) to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency after April 1, 1983, to finance or refinance, in whole or in part, the redevelopment project. Payment of tax revenues to the redevelopment agency shall be subject to and shall except uncollected or delinquent taxes in the same manner as payments of taxes to other taxing agencies are subject to collection. Unless and until the total taxable value of the taxable property in a redevelopment project exceeds the total taxable value of the taxable property in the project as shown by the last equalized assessment roll referred to in Subsection (2)(a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and any interest have been paid, all moneys received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(f) For purposes of Subsections (2)(d) and (e), the maximum amounts which shall be allocated to and when collected shall be paid into the special fund of a redevelopment agency may not exceed the following percentages:

(i) for a period of the first five tax years commencing from the first tax year a redevelopment agency accepts an amount allocated to and when collected paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) which loans, advances, or indebtedness are incurred by the redevelopment agency after April 1, 1983, 100% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a);

(ii) for a period of the next five tax years 80% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a);

(iii) for a period of the next five tax years 75% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a);

(iv) for a period of the next five tax years 70% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a); and

(v) for a period of the next five tax years 60% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a).

(g) (i) In addition to the maximum amounts allocated to and when collected paid into the special fund of a redevelopment agency under Subsection (2)(f), a redevelopment agency may receive an additional percentage greater than those described in Subsection (2)(f) if the amount of the tax increment funding received from the greater percentage is used:

(A) for an agency established by the governing body of a first class city:

(I) solely to pay all or part of the value of the land for and the cost of the installation and

construction of any building, facility, structure, or other improvement of a publicly or privately-owned convention center or sports complex, including parking and infrastructure improvements related to such convention center or sports complex; or

(II) solely to pay all or part of the cost of the installation and construction of an underpass that has not received funding from the Centennial Highway [~~Trust~~] Fund under Section [~~63-49-22~~] 72-2-118 as part of the construction of Interstate 15; or

(B) for any agency, to pay all or part of the cost of the installation, construction, or reconstruction of the 10000 South underpass or the 11400 South or 12300 South interchange on I-15 in Salt Lake County.

(ii) The additional percentage a redevelopment agency may receive under Subsection (2)(g)(i) shall be:

(A) 100% of that portion of the levied taxes each year in excess of the amount allocated to and when collected paid into the funds of the respective taxing agencies under Subsection (2)(a); and

(B) paid for a period of the first 32 years commencing from the first tax year a redevelopment agency accepts an amount allocated to and when collected paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, that are incurred by the redevelopment agency after April 1, 1983.

(iii) This Subsection (2)(g) applies only to a redevelopment agency in whose project area:

(A) construction has begun on a building, facility, structure, or other improvement of a publicly or privately-owned convention center or sports complex, including parking and infrastructure improvements related to such convention center or sports complex, on or before June 30, 1997;

(B) construction has begun on or before June 30, 1998, on an underpass that has not received funding from the Centennial Highway [~~Trust~~] Fund under Section [~~63-49-22~~] 72-2-118 as part of the construction of Interstate 15; or

(C) the installation, construction, or reconstruction of the 10000 South underpass or the 11400 South or 12300 South interchange on I-15 in Salt Lake County has begun on or before June

30, 1998.

(iv) An additional amount described in Subsection (2)(g)(i) may no longer be allocated to or used by the redevelopment agency, notwithstanding any other law to the contrary, if the additional amount is not pledged:

(A) to pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement described in Subsection (2)(g)(i)(A)(I) on or before June 30, 1997;

(B) on or before June 30, 1998, to pay all or part of the cost of the installation and construction of an underpass that has not received funding from the Centennial Highway [~~Trust~~] Fund under Section [~~63-49-22~~] 72-2-118 as part of the construction of Interstate 15; or

(C) on or before June 30, 1998, to pay all or part of the cost of the installation, construction, or reconstruction of the 10000 South underpass or the 11400 South or 12300 South interchange on I-15 in Salt Lake County.

(3) Nothing contained in Subsections (2)(d), (e), (f), and (g) prevents an agency from receiving a greater percentage than those established in Subsections (2)(f) and (g) of the levied taxes of any local taxing agency each year in excess of the amount allocated to and when collected paid into the funds of the respective local taxing agency if the governing body of the local taxing agency consents in writing.

Section 17. Section **17A-2-1247.5** is amended to read:

**17A-2-1247.5. Tax increment financing -- Project area budget approval.**

(1) This section applies to projects for which a preliminary plan has been adopted on or after July 1, 1993.

(2) (a) A taxing agency committee shall be created for each redevelopment or economic development project. The committee membership shall be selected as follows:

(i) two representatives appointed by the school district in the project area;

(ii) two representatives appointed by resolution of the county commission or county council for the county in which the project area is located;

(iii) two representatives appointed by resolution of the city or town's legislative body in

which the project area is located if the project is located within a city or town;

(iv) a representative approved by the State School Board; and

(v) one representative who shall represent all of the remaining governing bodies of the other local taxing agencies that levy taxes upon the property within the proposed project area. The representative shall be selected by resolution of each of the governing bodies of those taxing agencies within 30 days after the notice provided in Subsection 17A-2-1256(3).

(b) If the project is located within a city or town, a quorum of a taxing agency committee consists of five members. If the project is not located within a city or town, a quorum consists of four members.

(c) A taxing agency committee formed in accordance with this section has the authority to:

(i) represent all taxing entities in a project area and cast votes that will be binding on the governing boards of all taxing entities in a project area;

(ii) negotiate with the agency concerning the redevelopment plan;

(iii) approve or disapprove project area budgets under Subsection (3); and

(iv) approve an exception to the limits on the value and size of project areas imposed by Section 17A-2-1210, or the time and amount of tax increment financing under this section.

(3) (a)(i) If the project area budget does not allocate 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):

(A) an agency may not collect any tax increment for a project area until after the agency obtains the majority consent of a quorum of the taxing agency committee for the project area budget; and

(B) a project area budget adopted under Subsection (3)(a)(i)(A) may be amended if the agency obtains the majority consent of a quorum of the taxing agency committee.

(ii) If the project area budget allocates 20% of the tax increment for housing as provided in Subsection 17A-2-1264(2)(a):

(A) an agency may not collect tax increment from all or part of a project area until after:

(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, has certified the project area budget as complying with the

requirements of Section 17A-2-1264; and

(II) the agency's governing body has approved and adopted the project area budget by a 2/3 vote; and

(B) a project area budget adopted under Subsection (3)(a)(ii)(A) may be amended if:

(I) the Olene Walker Housing Trust Fund Board, established under Title 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund, certifies the amendment as complying with the requirements of Section 17A-2-1264; and

(II) the agency's governing body approves and adopts the amendment by a [~~2/3~~] two-thirds vote.

(b)Within 30 days after the approval and adoption of a project area budget, each agency shall file a copy of the budget with the county auditor, the State Tax Commission, the state auditor, and each property taxing entity affected by the agency's collection of tax increment under the project area budget.

(c) (i) Beginning on January 1, 1997, before an amendment to a project area budget is approved, the agency shall advertise and hold one public hearing on the proposed change in the project area budget.

(ii) The public hearing under Subsection (3)(c)(i) shall be conducted according to the procedures and requirements of Subsection 17A-2-1222(2), except that if the amended budget allocates a greater proportion of tax increment to a project area than was allocated to the project area under the previous budget, the advertisement shall state the percentage allocated under the previous budget and the percentage allocated under the amended budget.

(d) If an amendment is not approved, the agency shall continue to operate under the previously approved, unamended project area budget.

(4) (a) An agency may collect tax increment from all or a part of a project area. The tax increment shall be paid to the agency in the same manner and at the same time as payments of taxes to other taxing agencies to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, to finance or refinance, in whole or in part, the redevelopment or economic development project and the housing projects and

programs under Sections 17A-2-1263 and 17A-2-1264.

(b) (i) An agency may elect to be paid:

(A) if 20% of the project area budget is not allocated for housing as provided in Subsection 17A-2-1264(2)(a):

(I) 100% of annual tax increment for 12 years; or

(II) 75% of annual tax increment for 20 years; or

(B) if 20% of the project area budget is allocated for housing as provided in Subsection 17A-2-1264(2)(a):

(I) 100% of annual tax increment for 15 years; or

(II) 75% of annual tax increment for 24 years.

(ii) Tax increment paid to an agency under this Subsection (4)(b) shall be paid for the applicable length of time beginning the first tax year the agency accepts tax increment from a project area.

(c) An agency may receive a greater percentage of tax increment or receive tax increment for a longer period of time than that specified in Subsection (4)(b) if the agency obtains the majority consent of the taxing agency committee.

(5) (a) The redevelopment plan shall provide that the portion of the taxes, if any, due to an increase in the tax rate by a taxing agency after the date the project area budget is approved by the taxing agency committee may not be allocated to and when collected paid into a special fund of the redevelopment agency according to the provisions of Subsection (4) unless the taxing agency committee approves the inclusion of the increase in the tax rate at the time the project area budget is approved. If approval of the inclusion of the increase in the tax rate is not obtained, the portion of the taxes attributable to the increase in the rate shall be distributed by the county to the taxing agency imposing the tax rate increase in the same manner as other property taxes.

(b) The amount of the tax rate to be used in determining tax increment shall be increased or decreased by the amount of an increase or decrease as a result of:

(i) a statute enacted by the Legislature, a judicial decision, or an order from the State Tax Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

(ii) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103;

(iii) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; or

(iv) a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i).

(c) (i) Notwithstanding the increase or decrease resulting from Subsection (5)(b), the amount of money allocated to, and when collected paid to the agency each year for payment of bonds or other indebtedness may not be less than would have been allocated to and when collected paid to the agency each year if there had been no increase or decrease under Subsection (5)(b).

(ii) For a decrease resulting from Subsection (5)(b)(iv), the taxable value for the base year under Subsection [~~17-2-1247(2)(a) or~~] 17A-2-1202(2) or 17A-2-1247(2)(a), as the case may be, shall be reduced for any year to the extent necessary, including below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(A) in that year there is a decrease in the certified tax rate under Subsection 59-2-924(2)(c) or (2)(d)(i);

(B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(C) the decrease results in a reduction of the amount to be paid to the agency under Section 17A-2-1247 or 17A-2-1247.5.

(6) (a) For redevelopment plans first adopted before May 4, 1993, beginning January 1, 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project under Section 59-2-906.1 which are not pledged to support bond indebtedness and other contractual obligations are exempt from the provisions of Subsection (4).

(b) For redevelopment plans first adopted after May 3, 1993, beginning January 1, 1994, all of the taxes levied and collected upon the taxable property in the redevelopment project under Section 59-2-906.1 are exempt from the provisions of Subsection (4).

Section 18. Section **19-6-409** is amended to read:

**19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.**

(1) (a) There is created an expendable trust fund entitled the Petroleum Storage Tank Trust Fund.

(b) The sole sources of revenues for the fund are:

(i) petroleum storage tank fees under Section 19-6-411;

(ii) underground storage tank installation company permit fees under Section 19-6-411;

(iii) the environmental assurance fee and any penalties, paid under Section 19-6-410.5; and

(iv) any interest accrued on these revenues.

(c) Interest earned on fund monies shall be deposited into the fund.

(2) Fund monies may be used to pay:

(a) costs as provided in Section 19-6-419; and

(b) for the administration of the fund and the environmental assurance program and fee under Section 19-6-410.5.

(3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.

(4) The executive secretary may expend monies from the fund for:

(a) legal and claims adjusting costs incurred by the state in connection with claims, judgments, awards, or settlements for bodily injury or property damage to third parties;

(b) costs incurred by the state risk manager in determining the actuarial soundness of the fund; and

(c) other costs as provided in this part.

(5) For fiscal year 1997-98, money in the Petroleum Storage Tank Trust Fund, up to a maximum of $2,200,000, may be appropriated by the Legislature to the department as nonlapsing funds to be applied to the costs of investigation, abatement, and corrective action regarding releases not covered by the fund and not on the national priority list as defined in Section 19-6-302.

(6) The Legislature may appropriate $2,000,000 for fiscal year 1998-99 from the Petroleum Storage Tank Trust Fund to the Petroleum Storage Tank Cleanup Fund created in Section 19-6-405.7.

(7) For fiscal year 1998-99, up to $5,000,000 in the Petroleum Storage Tank Fund carried forward to the Petroleum Storage Tank Trust Fund may be appropriated by the Legislature to the Centennial Highway [~~Trust~~] Fund created under Section 72-2-118.

Section 19. Section **19-6-416** is amended to read:

**19-6-416. Restrictions on delivery of petroleum -- Civil penalty.**

(1) After July 1, 1991, a person may not deliver petroleum to, place petroleum in, or accept petroleum for placement in a petroleum storage tank that is not identified in compliance with Subsection 19-6-411[~~(8)~~](7).

(2) Any person who delivers or accepts delivery of petroleum to a petroleum storage tank or places petroleum, including waste petroleum substances, in an underground storage tank in violation of Subsection (1) is subject to a civil penalty of not more than $500 for each occurrence.

(3) The executive secretary shall issue a notice of agency action assessing a civil penalty of not more than $500 against any person who delivers or accepts delivery of petroleum to a petroleum storage tank or places petroleum, including waste petroleum substances, in violation of Subsection (1) in a petroleum storage tank or underground storage tank.

(4) A civil penalty may not be assessed under this section against any person who in good faith delivers or places petroleum in a petroleum storage tank or underground storage tank that is identified in compliance with Subsection 19-6-411[~~(8)~~](7) and rules made under that subsection, whether or not the tank is in actual compliance with the other requirements of Section 19-6-411.

Section 20. Section **19-8-113** is amended to read:

**19-8-113. Applicant's release from liability.**

(1) (a) An applicant who is not responsible for the contaminant or contamination under the provisions listed in Subsection (1)(b) at the time the applicant applies to enter into a voluntary cleanup agreement under this chapter, is released by issuance of a certificate of completion under Section 19-8-111 from all liability to the state for cleanup of property covered by the certificate, except for any releases or consequences the applicant causes.

(b) Provisions referred to in Subsection (1)(a) are: Title 19, Chapter 5, [~~Part 1,~~] Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part

3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act.

(2) There is no release from liability under this chapter if a certificate of completion is obtained by fraud, misrepresentation, or the knowing failure to disclose material information.

(3) (a) After a certificate of completion is issued under this chapter, an owner who then acquires property covered by the certificate, or a lender who then makes a loan secured by property covered by the certificate, is released from all liability to the state regarding property covered by the certificate for cleanup of contamination released before the date of the certificate, except under Subsection (3)(b).

(b) A release of liability under Subsection (3)(a) is not available to an owner or lender under Subsection (3)(a) who:

(i) was originally responsible for a release or contamination under Title 19, Chapter 5, [~~Part 1,~~] Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act; or Title 19, Chapter 6, Part 4, Underground Storage Tank Act;

(ii) changes the land use from the use specified in the certificate of completion if the changed use or uses may reasonably be expected to result in increased risks to human health or the environment; or

(iii) causes further releases on the property covered by the certification.

(c) A release under this Subsection (3) is subject to the limitations of Subsection (2).

Section 21. Section **20A-1-102** is amended to read:

**20A-1-102. Definitions.**

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on paper ballots or ballot cards and tabulates the results.

(3) "Ballot" means the cardboard, paper, or other material upon which a voter records his

votes and includes ballot cards, paper ballots, and secrecy envelopes.

(4) "Ballot card" means a ballot that can be counted using automatic tabulating equipment.

(5) "Ballot label" means the cards, papers, booklet, pages, or other materials that contain the names of offices and candidates and statements of ballot propositions to be voted on and which are used in conjunction with ballot cards.

(6) "Ballot proposition" means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, and other questions submitted to the voters for their approval or rejection.

(7) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

[~~(9)~~] (8) "Bond election" means an election held for the sole purpose of approving or rejecting the proposed issuance of bonds by a government entity.

[~~(8)~~] (9) "Book voter registration form" means voter registration forms contained in a bound book that are used by election officers and registration agents to register persons to vote.

(10) "By-mail voter registration form" means a voter registration form designed to be completed by the voter and mailed to the election officer.

(11) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(12) "Canvassing judge" means an election judge designated to assist in counting ballots at the canvass.

(13) "Convention" means the political party convention at which party officers and delegates are selected.

(14) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(15) "Counting judge" means a judge designated to count the ballots during election day.

(16) "Counting poll watcher" means a person selected as provided in Section 20A-3-201 to witness the counting of ballots.

(17) "Counting room" means a suitable and convenient private place or room, immediately

adjoining the place where the election is being held, for use by the counting judges to count ballots during election day.

(18) "County executive" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county executive in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county executive in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(19) "County legislative body" means:

(a) the county commission in the traditional form of government established by Section 17-4-2 and Title 17, Chapter 5, County Commissioners and Legislative Bodies;

(b) the county council in the county executive and chief administrative officer-council optional form of government authorized by Section 17-35a-501;

(c) the county council in the county executive-council optional form of government authorized by Section 17-35a-502;

(d) the county council in the council-manager optional form of government authorized by Section 17-35a-503; and

(e) the county council in the council-county administrative officer optional form of government authorized by Section 17-35a-504.

(20) "County officers" means those county officers that are required by law to be elected.

(21) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(22) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(23) "Election judge" means each canvassing judge, counting judge, and receiving judge.

(24) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots;

(b) the county clerk or clerks for all county ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5;

(c) the municipal clerk for all municipal ballots and for certain special district and school district ballots as provided in Section 20A-5-400.5; and

(d) the special district clerk or chief executive officer for all special district ballots that are not part of a statewide, county, or municipal ballot.

(25) "Election official" means any election officer, election judge, or satellite registrar.

(26) "Election returns" includes the pollbook, all affidavits of registration, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed absentee ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic voting system" means a system in which a voting device is used in conjunction with ballots so that votes recorded by the voter are counted and tabulated by automatic tabulating equipment.

(28) "Inactive voter" means a registered voter who has been sent the notice required by Section 20A-2-306 and who has failed to respond to that notice.

(29) "Inspecting poll watcher" means a person selected as provided in this title to witness the receipt and safe deposit of voted and counted ballots.

(30) "Judicial office" means the office filled by any judicial officer.

(31) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(32) "Local election" means a regular municipal election, a local special election, a special district election, and a bond election.

(33) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(34) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(35) "Municipal executive" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the mayor in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the manager in the council-manager optional form of government defined in Section 10-3-1209.

(36) "Municipal general election" means the election held in municipalities and special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(37) "Municipal legislative body" means:

(a) the city commission, city council, or town council in the traditional management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;

(b) the municipal council in the council-mayor optional form of government defined in Section 10-3-1209; and

(c) the municipal council in the council-manager optional form of government defined in Section 10-3-1209.

(38) "Municipal officers" means those municipal officers that are required by law to be elected.

(39) "Municipal primary election" means an election held to nominate candidates for municipal office.

(40) "Official ballot" means the ballots distributed by the election officer to the election judges to be given to voters to record their votes.

(41) "Official endorsement" means:

(a) the information on the ballot that identifies:

(i) the ballot as an official ballot;

(ii) the date of the election; and

(iii) the facsimile signature of the election officer; and

(b) the information on the ballot stub that identifies:

(i) the election judge's initials; and

(ii) the ballot number.

(42) "Official register" means the book furnished election officials by the election officer that contains the information required by Section 20A-5-401.

(43) "Paper ballot" means a paper that contains:

(a) the names of offices and candidates and statements of ballot propositions to be voted on; and

(b) spaces for the voter to record his vote for each office and for or against each ballot proposition.

(44) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Title 20A, Chapter 8, Political Party Formation and Procedures.

(45) "Polling place" means the building where residents of a voting precinct vote.

(46) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks his choice.

(47) "Posting list" means a list of registered voters within a voting precinct.

(48) "Primary convention" means the political party conventions at which nominees for the regular primary election are selected.

(49) "Protective counter" means a separate counter, which cannot be reset, that is built into a voting machine and records the total number of movements of the operating lever.

(50) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the person was elected.

(51) "Receiving judge" means the election judge that checks the voter's name in the official

register, provides the voter with a ballot, and removes the ballot stub from the ballot after the voter has voted.

(52) "Registration days" means the days designated in Section 20A-2-203 when a voter may register to vote with a satellite registrar.

(53) "Registration form" means a book voter registration form and a by-mail voter registration form.

(54) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(55) "Regular primary election" means the election on the fourth Tuesday of June of each even-numbered year, at which candidates of political parties and nonpolitical groups are voted for nomination.

(56) "Resident" means a person who resides within a specific voting precinct in Utah.

(57) "Sample ballot" means a mock ballot similar in form to the official ballot printed and distributed as provided in Section 20A-5-405.

(58) "Satellite registrar" means a person appointed under Section 20A-5-201 to register voters and perform other duties.

(59) "Scratch vote" means to mark or punch the straight party ticket and then mark or punch the ballot for one or more candidates who are members of different political parties.

(60) "Secrecy envelope" means the envelope given to a voter along with the ballot into which the voter places the ballot after he has voted it in order to preserve the secrecy of the voter's vote.

[~~(62)~~] (61) "Special district" means those local government entities created under the authority of Title 17A.

[~~(61)~~] (62) "Special election" means an election held as authorized by Section 20A-1-204.

(63) "Special district officers" means those special district officers that are required by law to be elected.

(64) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or the election judge; or

(c) lacks the official endorsement.

(65) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(66) "Stub" means the detachable part of each ballot.

(67) "Substitute ballots" means replacement ballots provided by an election officer to the election judges when the official ballots are lost or stolen.

(68) "Ticket" means each list of candidates for each political party or for each group of petitioners.

(69) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(70) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(71) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(72) "Voter" means a person who meets the requirements of election registration and is registered and is listed in the official register book.

(73) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(74) "Voting booth" means the space or compartment within a polling place that is provided for the preparation of ballots and includes the voting machine enclosure or curtain.

(75) "Voting device" means:

(a) an apparatus in which ballot cards are used in connection with a punch device for piercing the ballots by the voter;

(b) a device for marking the ballots with ink or another substance; or

(c) any other method for recording votes on ballots so that the ballot may be tabulated by means of automatic tabulating equipment.

(76) "Voting machine" means a machine designed for the sole purpose of recording and

tabulating votes cast by voters at an election.

(77) "Voting poll watcher" means a person appointed as provided in this title to witness the distribution of ballots and the voting process.

(78) "Voting precinct" means the smallest voting unit established as provided by law within which qualified voters vote at one polling place.

(79) "Watcher" means a voting poll watcher, a counting poll watcher, and an inspecting poll watcher.

(80) "Write-in ballot" means a ballot containing any write-in votes.

(81) "Write-in vote" means a vote cast for a person whose name is not printed on the ballot according to the procedures established in this title.

Section 22. Section **20A-4-106** is amended to read:

**20A-4-106. Paper ballots -- Sealing.**

(1) (a) (i) At all elections using paper ballots, as soon as the counting judges have read and tallied the ballots, they shall string the counted, excess, and spoiled ballots on separate strings.

(ii) After the ballots are strung, they may not be examined by anyone, except when examined during a recount conducted under the authority of Section 20A-4-401.

(b) The judges shall carefully seal all of the strung ballots in a strong envelope.

(2) (a) For regular primary elections, after all the ballots have been counted, certified to, and strung by the judges, they shall seal the ballots cast for each of the parties in separate envelopes.

(b) The judges shall:

(i) seal each of the envelopes containing the votes of each of the political parties in one large envelope; and

(ii) return that envelope to the county clerk.

(c) The judges shall:

(i) destroy the ballots in the blank ballot box; or

(ii) if directed to do so by the election officer, return them to the election officer for destruction.

(3) As soon as the judges have counted all the votes and sealed the ballots they shall sign and

certify the pollbooks.

(4) (a) [~~Except as provided in Subsection (c), the~~] The judges, before they adjourn, shall:

(i) enclose and seal the official register, the posting book, the pollbook, all affidavits of registration received by them, the ballot disposition form, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, and any unprocessed absentee ballots in a strong envelope or pouch;

(ii) ensure that all counted ballots, all excess ballots, and all spoiled ballots have been strung and placed in a separate envelope or pouch as required by Subsection (1);

(iii) place all unused ballots, all spoiled ballots, one tally list, and a copy of the ballot disposition form in a separate envelope or pouch; and

(iv) place the total votes cast form and the judges' vouchers requesting compensation for services rendered in a separate pouch.

(b) Before enclosing the official register in the envelope or pouch, the election judges shall certify it substantially as follows:

"We, the undersigned, judges of election for precinct _____, (jurisdiction) _____, Utah, certify that the required entries have been made for the election held _____, 19__, including:

a list of the ballot numbers for each voter;

the voters' signatures, except where a judge has signed for the absentee voters;

a list of information surrounding a voter who is challenged,

including any affidavits; and

a notation for each time a voter was assisted with a ballot."

(5) Each judge shall:

(a) write his name across the seal of each envelope or pouch;

(b) mark on the exterior of the envelope or pouch:

(i) the word "ballots" or "returns" or "unused ballots," or other words plainly indicating the contents of the packages; and

(ii) the number of the voting precinct.

Section 23. Section **20A-7-209** is amended to read:

**20A-7-209. Ballot title -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.**

(1) By July 6 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) prepare a ballot title for each initiative; and

(ii) return each petition and ballot title to the lieutenant governor by July 20.

(b) The ballot title may be distinct from the title of the proposed law attached to the initiative petition, and shall express, in not more than 100 words, the purpose of the measure.

(c) The ballot title and the number of the measure as determined by the Office of Legislative Research and General Counsel shall be printed on the official ballot.

(d) In preparing ballot titles, the Office of Legislative Research and General Counsel shall, to the best of its ability, give a true and impartial statement of the purpose of the measure.

(e) The ballot title may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(3) By July 21, the lieutenant governor shall mail a copy of the ballot title to any sponsor of the petition.

(4) (a) If the ballot title furnished by the Office of Legislative Research and General Counsel is unsatisfactory or does not comply with the requirements of this section, at least three of the sponsors of the petition may, by July 30, appeal the wording of the ballot title prepared by [~~of~~] the Office of Legislative Research and General Counsel to the Supreme Court.

(b) The Supreme Court shall:

(i) examine the ballot title;

(ii) hear arguments; and

(iii) by August 10, certify to the lieutenant governor a ballot title for the measure that fulfills the intent of this section.

(c) By September 1, the lieutenant governor shall certify the title verified to him by the

supreme court to the county clerks to be printed on the official ballot.

Section 24. Section **20A-11-1201** is amended to read:

**20A-11-1201. Title.**

This [~~chapter~~] part is known as the "Political Activities of Public Entities Act."

Section 25. Section **20A-14-201** is amended to read:

**20A-14-201. Boards of education -- School board districts -- Creation -- Reapportionment.**

(1) (a) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)(a).

(b) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(2) (a) County and municipal legislative bodies shall reapportion district boundaries to meet the population, compactness, and contiguity requirements of this section:

(i) at least once every ten years;

(ii) whenever a new district is created;

(iii) whenever districts are consolidated;

(iv) whenever a district loses more than 20% of the population of the entire school district to another district;

(v) whenever a district loses more than 50% of the population of a local school board district to another district; and

(vi) whenever a district receives new residents equal to at least 20% of the population of the district at the time of the last reapportionment because of a transfer of territory from another district.

(b) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last reapportionment, the local school board may assign the new territory to one or more existing school board districts.

(3) (a) Reapportionment does not affect the right of any school board member to complete the term for which the member was elected.

(b) (i) After reapportionment, representation in a local school board district shall be determined as provided in Subsection (3).

(ii) If only one board member whose term extends beyond reapportionment lives within a reapportioned local school board district, that board member shall represent that local school board district.

(iii) (A) If two or more members whose terms extend beyond reapportionment live within a reapportioned local school board district, the members involved shall select one member by lot to represent the local school board district.

(B) The other members shall serve at-large for the remainder of their terms.

(C) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(iv) If there is no board member living within a local school board district whose term extends beyond reapportionment, the seat shall be treated as vacant and filled as provided in this part.

(4) (a) If, before an election affected by reapportionment, the county or municipal legislative body that conducted the reapportionment determines that one or more members must be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the reapportioned local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

Section 26. Section **26-6b-3** is amended to read:

**26-6b-3. Temporary involuntary treatment, isolation, and quarantine.**

(1) The department, or the local health department having jurisdiction over the location where an individual who is subject to supervision is found, may issue an order for the individual's temporary involuntary treatment, quarantine, or isolation pursuant to Subsection 26-1-30(2), 26A-1-114(1)(b), or Section 26-6-4 upon compliance with the requirements of this section.

(2) An individual who is subject to supervision who willfully fails to voluntarily submit to

treatment, quarantine, or isolation as requested by the department or the local health department may be ordered to submit to treatment, quarantine, or isolation upon:

(a) written affidavit of the department or the local health department stating:

(i) a belief that the individual who is subject to supervision is likely to fail to submit to treatment, quarantine, or isolation if not immediately restrained;

(ii) this failure would pose a threat to the public health; and

(iii) the personal knowledge of the individual's condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician indicating the physician finds the individual is subject to supervision.

(3) A temporary order issued under Subsection (1) may:

(a) be made by the department or by the local health department;

(b) order the individual to submit to reasonable involuntary treatment, quarantine, and isolation, or any of these; and

(c) not require an individual to be subject to involuntarily quarantine, isolation, or treatment for more than five days, excluding Saturdays, Sundays, and legal holidays, unless a petition has been filed with the district court pursuant to Section [~~26-6b-4~~] 26-6b-5.

(4) (a) Pending issuance of an examination order pursuant to Section 26-6b-5 or an order for involuntary quarantine, isolation, or treatment from a district court pursuant to Section 26-6b-6, the individual who is the subject of the temporary order may be required to submit to involuntary quarantine, isolation, or treatment in his home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or the local health department.

(b) The department or the local health department, whichever initially ordered the quarantine, isolation, or treatment, shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary treatment, isolation, or quarantine of an individual ordered to submit to involuntary treatment, isolation, or quarantine.

(5) The individual who is subject to supervision shall be served a copy of the temporary

order, together with the affidavit and the physician's written statement, upon being taken into custody. A copy shall also be maintained at the place of quarantine, isolation, or treatment.

Section 27. Section **26-6b-6** is amended to read:

**26-6b-6. Court determination for involuntary supervision after examination period.**

(1) The district court shall set a hearing regarding the involuntary quarantine, isolation, and treatment of an individual, to be held within ten business days of the issuance of its examination order issued pursuant to Section 26-6b-5, unless the petitioner informs the district court prior to this hearing that the individual:

(a) is not subject to supervision;

(b) has stipulated to the issuance of an order for involuntary quarantine, isolation, or treatment; or

(c) has agreed that quarantine, isolation, or treatment are available and acceptable without court proceedings.

(2) (a) If the individual is not subject to supervision, or if quarantine, isolation, or treatment are available and acceptable to the individual without court proceedings, the court may, without taking any further action, terminate the proceedings and dismiss the petition.

(b) If the individual has stipulated to the issuance of an order for involuntary quarantine, isolation, or treatment, the court may issue an order as provided in Subsection [~~(5)~~] (6) without further hearing.

(3) (a) If the examination report required in Section 26-6b-5 proves the individual is not subject to supervision, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual is present in person or by telephonic means and has had the opportunity to be represented by counsel, extend its examination order for a reasonable period, not to exceed 90 days, if the petitioner has reason to believe the individual:

(i) is contaminated with a chemical or biological agent that is a threat to the public health; or

(ii) is in a condition, the exposure to which poses a serious public health hazard, but despite the exercise of reasonable diligence the diagnostic studies have not been completed.

(4) The petitioner shall, at the time of the hearing, provide the district court with the following items, to the extent that they have been issued or are otherwise available:

(a) the temporary order issued by the petitioner;

(b) admission notes if the individual was hospitalized; and

(c) medical records pertaining to the current involuntary treatment, quarantine, or isolation.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6) (a) The district court shall order the individual to submit to involuntary treatment, quarantine, or isolation if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(i) the individual is infected with a communicable disease, is contaminated with a chemical or biological agent, is in a condition, the exposure to which poses a serious public health hazard, or is in a condition which if treatment is not completed the individual will soon pose a serious public health hazard;

(ii) there is no appropriate and less restrictive alternative to a court order of quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual with treatment that is adequate and appropriate to his conditions and needs; and

(iv) it is in the public interest to order the individual to submit to involuntary quarantine, isolation, and treatment, or any of them.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of involuntary treatment, quarantine, or isolation shall designate the period, subject to Subsection (8), for which the individual shall be treated, isolated, or quarantined.

(8) (a) The order of involuntary quarantine, isolation, or treatment may not exceed six

months without benefit of a district court review hearing.

(b) The district court review hearing shall be held prior to the expiration of the order issued under Subsection (7). At the review hearing the court may order involuntary quarantine, isolation, or treatment for up to an indeterminate period, if the district court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Section 28. Section **26-9-202** is amended to read:

**26-9-202. Definitions.**

As used in this part:

(1) "Applicant" means a person who meets the application requirements established by the committee for a grant or a scholarship under this part.

(2) "Committee" means the Rural Medical Financial Assistance Committee created by Section 26-1-7.

(3) "Educational expenses" are tuition, fees, books, supplies, educational equipment and material, and reasonable living expenses.

(4) "Medically underserved rural area" means a county, city, town, or other service area with a population of less than 99 people per square mile and designated by the committee as underserved by physicians or physician assistants.

(5) "Physician" means a person who:

(a) has completed training at an educational institution that provides training leading to the award of a Medical Doctor or Doctor of Osteopathy degree and who has completed a post-graduate training program in medicine at an institution accredited by the Accreditation Committee on Graduate Medical Education, the American Osteopathic Association Bureau of Professional Education, or the Royal College of Physicians and Surgeons of Canada; and

(b) is licensed to practice in the state under Title 58, Chapter [~~12, Part 1~~] 68, Utah Osteopathic [~~Medicine Licensing~~] Medical Practice Act, or under Title 58, Chapter [~~12, Part 5~~] 67, Utah Medical Practice Act.

(6) "Physician assistant" means a person who is graduated from a physician assistant

program approved by the Committee on Allied Health Education and Accreditation of the American Medical Association and who is licensed to practice in the state under Title 58, Chapter [~~12, Part 9~~] 70a, Physician Assistant [~~Practice~~] Act.

(7) "Recipient" means an applicant selected to receive a grant or a scholarship under this part.

Section 29. Section **26-9d-1** is amended to read:

**26-9d-1. Definitions.**

As used in this chapter:

(1) "Applicant" means a person who meets the application requirements established by the committee for a grant or a scholarship.

(2) "Committee" means the Nurse Financial Assistance Committee created by Section 26-1-7.

(3) "Educational expenses" means the cost of nursing education, including tuition, fees, books, supplies, educational equipment and materials, and reasonable living expenses.

(4) "Educational loan" means a commercial, government, or government guaranteed loan taken to pay educational expenses.

(5) "Graduate nursing education" means nursing education at a school of nursing that leads to a masters or doctorate degree in nursing or that leads to certification as a registered nurse anesthetist.

(6) "Graduate-prepared nurse" means a nurse who has a masters or doctorate degree in nursing.

(7) "Needed nursing specialty area" means an area of the nursing profession where there may be a shortage of qualified nurses, including nurses holding graduate degrees, nurse educators, and other specific areas as determined by the committee pursuant to this chapter.

(8) "Nurse" means a person licensed to practice nursing in the state under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act.

(9) "Nursing education" means a course of study designed to prepare persons for the practice of nursing as a licensed practical nurse, registered nurse, or a nurse licensed in a special category of

practice under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act.

(10) "Nursing shortage area" means a geographic area deficient in nurses that meets the criteria established by the committee pursuant to this chapter.

(11) "Recipient" means an applicant selected to receive a grant or a scholarship under this chapter.

(12) "School of nursing" means an educational institution that provides a program of nursing education:

(a) approved by Utah or the state where the school of nursing is located; or

(b) accredited by the National League of Nursing.

(13) "Statewide Deans and Directors Committee" means a committee created by deans and directors representing schools of nursing from throughout the state.

Section 30. Section **26-9d-5** is amended to read:

**26-9d-5. Loan repayment grants -- Terms and amounts -- Service.**

(1) (a) To increase the number of nurses practicing in nursing shortage areas of the state, the department may provide grants to persons in exchange for their agreement to practice nursing for a specified period of time in nursing shortage areas in the state.

(b) Grants may be given only to repay loans taken by a nurse for educational expenses incurred while attending a school of nursing.

(2) Grants given to nurses under this section may not:

(a) be used to satisfy other service obligations owed by the nurse under any similar program and may not be used to repay a loan that is in default at the time of application; or

(b) be in an amount greater than the total outstanding balance on the loans taken for educational expenses, including accrued interest.

(3) Grants may be given to any of the following categories of nurses:

(a) registered nurses;

(b) graduate-prepared nurses;

(c) nurses licensed in a special category of practice under Title 58, Chapter [~~31~~] 31b; and

(d) licensed practical nurses.

(4) If there are sufficient qualified applicants who desire to practice in nursing shortage areas in rural areas of the state, at least 20% of the grant money shall be given to recipients who agree to practice in a rural nursing shortage area.

(5) The department may not disburse any grant funds under this chapter until the recipient has performed at least six months of full-time service at the designated nursing shortage area.

Section 31. Section **26-21-3** is amended to read:

**26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.**

(1) The Health Facility Committee created by Section 26-1-7 consists of 13 members appointed by the governor with the consent of the senate. No more than seven members may be from the same political party. The appointed members shall be knowledgeable about health care facilities and issues. The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of the nursing care facility industry;

(e) one registered nurse, licensed to practice under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act;

(f) one professional in the field of mental retardation not affiliated with a nursing care facility;

(g) one licensed architect or engineer with expertise in health care facilities;

(h) two representatives of health care facilities, other than nursing care facilities or hospitals, licensed under this chapter; and

(i) four consumers, one of whom has an interest in or expertise in geriatric care.

(2) (a) Except as required by Subsection (b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (a), the governor shall, at the time of

appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) A member may not serve more than two consecutive full terms or ten consecutive years, whichever is less. However, a member may continue to serve as a member until he is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Seven members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

Section 32. Section **26-28-2** is amended to read:

**26-28-2. Definitions.**

As used in this chapter:

(1) "Anatomical gift" means the giving of permission for a person authorized in this chapter to remove parts of the human body as limited in the document of gift after death of the human body and use them for the purposes listed in Subsection 26-28-3(1).

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(3) "Document of gift" means a card, a will, or other writing used to make an anatomical gift in compliance with this chapter.

(4) "Donor" means an individual who, prior to his death, executes a document of gift concerning all or part of his own body.

(5) "Evidence of a document of gift" means a statement attached to or imprinted on any license to operate a motor vehicle or any other writing expressing a desire to make an anatomical gift or giving evidence of the existence of a document of gift.

(6) "Hospital" means a general acute hospital facility licensed in accordance with Title 26, Chapter 21, Health Care Facility [~~Licensure~~] Licensing and Inspection Act, or by the United States

government.

(7) "Part" means an organ, tissue, eye, bone, blood vessel, blood, fluid, or other portion of a human body.

(8) "Physician" means a person licensed to practice medicine under Title 58, Chapter [~~12, Part 1~~] 68, Utah Osteopathic [~~Medicine Licensing~~] Medical Practice Act, or under Title 58, Chapter [~~12, Part 5~~] 67, Utah Medical Practice Act, or a person similarly licensed in any state.

(9) "Procurement entity" means:

(a) an organization recognized by the United States Department of Health and Human Services as meeting the requirements of 42 U.S.C. Section 273; or

(b) a hospital, medical school, physician, eye bank, or tissue bank.

(10) "Technician" means a person certified by the American Association of Tissue Banks as a certified tissue bank specialist.

Section 33. Section **26-32a-103.5** is amended to read:

**26-32a-103.5. Restrictions on landfilling of tires -- Penalties.**

(1) (a) After January 1, 1994, an individual, including a waste tire transporter, may not dispose of more than four whole tires at one time in a landfill or any other location in the state authorized by the executive secretary to receive waste tires, except for purposes authorized by board rule. Rules implementing this provision shall be made on or before January 1, 1994.

(b) Tires are exempt from this subsection if the original tire:

(i) is from any device moved exclusively by human power; or

(ii) has a rim diameter greater than 24.5 inches.

(2) When possible, the operator of the landfill or other authorized location shall direct that the waste tires be disposed in a designated area to facilitate retrieval if a market becomes available for the disposed waste tires or material derived from waste tires.

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section 26-32a-107.8, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do not qualify for reimbursement under Section 26-32a-107.8, but the landfill shall dispose of the material in accordance with Section [~~25-32a-107.8~~]

26-32a-107.8.

(4) (a) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than $100 per waste tire or per amount of materials equivalent to one tire disposed of in violation of this section. A warning notice may be issued prior to taking further enforcement action under this subsection.

(b) A civil proceeding to enforce this section and collect penalties under this section may be brought in the district court where the violation occurred by the board, the local health department, or the county attorney having jurisdiction over the location where the tires were disposed in violation of this section.

(c) Penalties collected under this section shall be deposited in the trust fund.

Section 34. Section **26-32a-107** is amended to read:

**26-32a-107. Partial reimbursement.**

(1) (a) Any recycler who on or after the effective date of this act uses waste tires or materials derived from waste tires that meet requirements of Subsection (4) and used exclusively for energy recovery or creation of ultimate products may submit an application under Section 26-32a-108 to the local health department having jurisdiction over the applicant's business address for partial reimbursement of the cost of transporting and processing.

(b) A recycler who recycles, at an out-of-state location, tires that are generated within the state shall apply to the executive secretary for partial reimbursement, rather than to a local health department.

(c) A recycler who qualifies under this section for partial reimbursement may waive the reimbursement and request in writing that the reimbursement be paid to a person who processes the waste tires prior to the recycler's receipt of the waste tires or his receipt of materials derived from the waste tires for recycling.

(2) Subject to the limitations in Section 26-32a-111, a recycler is entitled to $70 as partial reimbursement for each ton of tires recycled on and after the effective date of this act.

(3) (a) In order for a recycler within the state to be eligible for partial reimbursement, the recycler shall establish in cooperation with tire retailers or transporters, or with both, a reasonable

schedule to remove waste tires in sufficient quantities to allow for economic transportation of waste tires located in any municipality within the state as defined in Section 10-1-104.

(b) A recycler complying with Subsection (3)(a) may also receive partial reimbursement for recycling tires received from locations other than those associated with retail tire businesses, including waste tires from waste tire piles and abandoned waste tire piles, under Section 26-32a-107.5.

(4) A recycler under Subsection (1) shall also demonstrate the waste tires or materials derived from waste tires that qualify for the reimbursement:

(a) (i) were removed and transported by a registered tire transporter, a registered recycler, or a person under Subsection 26-32a-103[~~(20)~~](24)(c); or

(ii) were generated by a private person who is not a waste tire transporter as defined in Section 26-32a-103, and that person brings the waste tires to the recycler; and

(b) were generated in the state; and

(c) if the tires are from a waste tire pile or abandoned waste tire pile, the recycler complies with the applicable provisions of Section 26-32a-107.5.

Section 35. Section **26-33a-103** is amended to read:

**26-33a-103. Committee membership -- Terms -- Chair -- Compensation.**

(1) The Health Data Committee created by Section 26-1-7 shall be composed of 13 members appointed by the governor and confirmed by the Senate.

(2) No more than seven members of the committee may be members of the same political party.

(3) The appointed members of the committee shall be knowledgeable regarding the health care system and the characteristics and use of health data and shall be selected so that the committee at all times includes individuals who provide care.

(4) The membership of the committee shall be:

(a) one person employed by or otherwise associated with a hospital as defined by Section 26-21-2;

(b) one physician, as defined in Section 58-67-102, licensed to practice in this state, who

spends the majority of his time in the practice of medicine in this state;

(c) one registered nurse licensed to practice in this state under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act;

(d) three persons employed by or otherwise associated with a business that supplies health care insurance to its employees, at least one of whom represents an employer employing 50 or fewer employees;

(e) one person employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(f) two consumer representatives from organized consumer or employee associations;

(g) one person broadly representative of the public interest;

(h) one person employed by or associated with an organization that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(i) two people representing public health.

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

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

(c) Members may serve after their terms expire until replaced.

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

(7) Committee members shall annually elect a chair of the committee from among their membership.

(8) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon ten working days notice to the other members, or upon written request by at least four committee members with at least ten working days notice to other committee members.

(9) Seven committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

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

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

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

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

(11) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-4 and 52-4-5 are met.

Section 36. Section **26-40-103** is amended to read:

**26-40-103. Creation and administration of the Utah Children's Health Insurance Program.**

(1) There is created the Utah Children's Health Insurance Program to be administered by the department in accordance with the provisions of:

(a) this chapter; and

(b) the State Children's Health Insurance Program, 42 U.S.C. Sec. [~~1397~~] 1397aa et seq.

(2) The department shall:

(a) prepare and submit the state's children's health insurance plan before May 1, 1998, and any amendments to the federal Department of Health and Human Services in accordance with 42 U.S.C. Sec.1397ff; and

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

(i) eligibility requirements;

(ii) program benefits;

(iii) the level of coverage for each program benefit;

(iv) cost-sharing requirements for enrollees, which may not:

(A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

(B) impose deductible, copayment, or coinsurance requirements on an enrollee for well-child, well-baby, and immunizations;

(v) the administration of the program; and

(vi) the provider assessment, including:

(A) the factor for the assessment;

(B) the administration, collection, and enforcement of the assessment, including:

(I) auditing a provider's records; and

(II) imposing penalties for failure to pay the assessment as required; and

(C) reducing the amount of the assessment to the extent funds are deposited into the Hospital Provider Assessment Account created in Section 26-40-112 as a result of private contributions to the program.

(3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the effectiveness of the department's administration of the program and report any findings to:

(a) the Health and Human Services Interim Committee of the Legislature;

(b) the Health Policy Commission; and

(c) the department.

Section 37. Section **31A-2-104** is amended to read:

**31A-2-104. Other employees -- Insurance fraud investigators.**

(1) The department shall employ a chief examiner and such other professional, technical, and clerical employees as necessary to carry out the duties of the department.

(2) An insurance fraud investigator employed pursuant to Subsection (1) may be designated a special function officer, as defined in Section [~~77-1a-4~~] 53-13-105, by the commissioner, but is not eligible for retirement benefits under the Public Safety Employee's Retirement System.

Section 38. Section **35A-1-102** is amended to read:

**35A-1-102. Definitions.**

Unless otherwise specified, as used in this title:

(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

(2) "Consortium of counties" means an organization of the counties within a regional workforce services area designated under Section 35A-2-101:

(a) in which all of the county commissions jointly comply with this title in working with the executive director of the department regarding regional workforce services areas; and

(b) (i) that existed as of July 1, 1997; or

(ii) that is created on or after July 1, 1997, with the approval of the executive director.

(3) "Department" means the Department of Workforce Services created in Section 35A-1-103.

[~~(5)~~] (4) "Employment assistance" means services or benefits provided by the department under:

(a) Chapter 3, Employment Support Act; and

(b) Chapter 5, Training and Workforce Improvement Act.

[~~(6)~~] (5) "Employment center" is a location in a regional workforce services area where the services provided by a regional workforce services area under Section 35A-2-201 may be accessed by a client.

[~~(4)~~] (6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Regional Workforce Services Areas.

(7) "Employment plan" means a written agreement between the department and a client that describes:

(a) the relationship between the department and the client;

(b) the obligations of the department and the client; and

(c) the result if an obligation is not fulfilled by the department or the client.

(8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.

(9) "Public assistance" means:

(a) services or benefits provided under Chapter 3, Employment Support Act;

(b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

(c) foster care maintenance payments provided with the General Fund or under Title IV-E of the Social Security Act;

(d) food stamps; and

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

(10) "Regional workforce services area" means a regional workforce services area established in accordance with Chapter 2, Regional Workforce Services Areas.

(11) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.

Section 39. Section **35A-2-202** is amended to read:

**35A-2-202. Single employment counselor -- Specialization -- Employment plan.**

(1) At each employment center of a regional workforce services area established under Section 35A-2-101 there shall be employed one or more employment [~~advisors~~] counselors.

(2) A client shall be assigned one employment counselor unless a client:

(a) needs only limited services under this title for which expedited procedures are appropriate; or

(b) receives diversion assistance under Section 35A-3-303.

(3) An employment counselor shall:

(a) develop an employment plan jointly with the client; and

(b) coordinate any services provided, brokered, or contracted for by the department to that client.

(4) The employment counselor assigned to a client may be selected because of the

employment counselor's experience or knowledge in the benefits or services available under the title that best meet the specific needs of the client and the employment counselor's skills in working with groups of clients to develop plans leading to self-sufficiency.

(5) (a) An employment counselor shall be:

(i) trained in the requirements of and benefits or services provided through employment centers in at least one of the following:

(A) Chapter 3, Employment Support Act; and

(B) Chapter 5, Training and Workforce Improvement Act;

(ii) capable of:

(A) conducting an effective assessment;

(B) negotiating an employment plan; and

(C) providing the necessary encouragement and support to a client; and

(iii) knowledgeable of:

(A) department policies;

(B) relevant law;

(C) current labor market conditions;

(D) education and training programs for adults; and

(E) services and supports available in the community.

(b) At the discretion of the director of a regional workforce services area, an employment counselor may receive special training in the requirements of or providing services under the statutes listed in Subsection (5)(a)(i).

(6) (a) A client employment plan may include:

(i) services and support necessary for stabilization;

(ii) assessment and training; and

(iii) placement.

(b) The client employment plan shall consider the job opportunities available to the client based on the job market.

(c) The client employment plan shall be outcome-focused.

(7) If a client seeks cash assistance under Chapter 3, Employment Support Act, the assignment of an employment counselor and the creation and implementation of an employment plan shall be consistent with Section 35A-3-304.

Section 40. Section **35A-3-508** is amended to read:

**35A-3-508. Inventory of civic organizations.**

(1) To enable the division to refer a client or applicant to an appropriate civic organization under this part, the division, in cooperation with the coalition described in Section [~~35A-3-511~~] 35A-3-510, shall complete a statewide inventory of civic organizations. For those organizations that wish to participate, the inventory shall include:

(a) a description of the services and supports provided;

(b) the geographical locations served;

(c) methods of accessing services; and

(d) eligibility for services.

(2) The inventory shall be stored, updated annually, and made available in a usable form as a resource directory for all employment counselors.

Section 41. Section **35A-4-205** is amended to read:

**35A-4-205. Exempt employment.**

(1) If the services are also exempted under the Federal Unemployment Tax Act, as amended, employment does not include:

(a) service performed prior to January 1, 1973, in the employ of a state, except as provided in Subsection 35A-4-204(2)(d);

(b) service performed in the employ of a political subdivision of a state, except as provided in Subsection 35A-4-204(2)(d);

(c) service performed in the employ of the United States Government or an instrumentality of the United States immune under the United States Constitution from the contributions imposed by this chapter, except that, to the extent that the Congress of the United States shall permit, this chapter shall apply to those instrumentalities and to services performed for the instrumentalities to the same extent as to all other employers, employing units, individuals and services; provided, that

if this state is not certified for any year by the Secretary of Labor under Section 3304 of the Federal Internal Revenue Code of 1954, 26 U.S.C. 3304, the payments required of the instrumentalities with respect to that year shall be refunded by the division from the fund in the same manner and within the same period as is provided in Subsection 35A-4-306(5) with respect to contributions erroneously collected;

(d) service performed after June 30, 1939, as an employee representative as defined in the Railroad Unemployment Insurance Act, 45 U.S.C. 351 et seq., and service performed after June 30, 1939, for an employer as defined in that act except that if the division determines that any employing unit which is principally engaged in activities not included in those definitions constitutes such an employer only to the extent of an identifiable and separable portion of its activities, this exemption applies only to services performed for the identifiable and separable portion of its activities;

(e) agricultural labor as defined in Section 35A-4-206;

(f) domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in Subsection 35A-4-204(2)(k);

(g) (i) service performed in the employ of a school, college, or university, if the service is performed:

(A) by a student who is enrolled and is regularly attending classes at that school, college, or university; or

(B) by the spouse of the student, if the spouse is advised, at the time the spouse commences to perform that service, that the employment of that spouse to perform that service is provided under a program to provide financial assistance to the student by the school, college, or university, and that the employment will not be covered by any program of unemployment insurance;

(ii) service performed by an individual who is enrolled at a nonprofit or public educational institution, that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program taken for credit at the institution, that combines academic instruction with work experience, if the service is an integral part of the program and the institution has so certified to the employer, but this subsection does not apply to service performed in a program

established for or on behalf of an employer or group of employers; or

(iii) service performed in the employ of a hospital, if the service is performed by a patient of the hospital;

(h) service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of the child's parent;

(i) for the purposes of Subsections 35A-4-204(2)(d) and (e), service performed:

(i) in the employ of:

(A) a church or convention or association of churches; or

(B) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) by a duly ordained, commissioned, or licensed minister of a church in the exercise of the minister's ministry or by a member of a religious order in the exercise of duties required by the order;

(iii) after December 31, 1977, in the employ of a governmental entity referred to in Subsection 35A-4-204(2) if the service is performed by an individual in the exercise of the individual's duties:

(A) as an elected official;

(B) as a member of a legislative body or the judiciary of the state or its political subdivisions;

(C) as a member of the National Guard or Air National Guard;

(D) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(E) in an advisory position or a policymaking position the performance of the duties of which ordinarily does not require more than eight hours per week;

(iv) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, injury, or providing a remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving that rehabilitation or remunerative work;

(v) as part of an unemployment work-relief or work-training program, assisted or financed

in whole or in part by any federal agency or an agency of a state or political subdivision of the state, by an individual receiving the work-relief or work-training;

(vi) prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution;

(j) casual labor not in the course of the employing unit's trade or business;

(k) service performed in any calendar quarter in the employ of any organization exempt from income tax under Subsection 501(a), Internal Revenue Code, other than an organization described in Subsection 401(a) or Section 521 Internal Revenue Code, if the remuneration for the service is less than $50;

(l) service is performed in the employ of a foreign government, including service as a consular or other officer, other employee, or a nondiplomatic representative;

(m) service performed in the employ of an instrumentality wholly owned by a foreign government:

(i) if the service is of a character similar to that performed in foreign countries by employees of the United States government or its instrumentalities; and

(ii) if the division finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government with respect to whose instrumentality exemption is claimed grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and its instrumentalities;

(n) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all the service performed by the individual for that person is performed for remuneration solely by way of commission;

(o) service performed by an individual in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(p) service covered by an arrangement between the division and the agency charged with the administration of any other state or federal unemployment compensation law under which all

services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are considered to be performed entirely within the agency's state or under the federal law;

(q) service performed by lessees engaged in metal mining under lease agreements, unless the individual lease agreement, or the practice in actual operation under the agreement, is such as would constitute the lessees' employees of the lessor at common law;

(r) service performed by an individual for a person as a licensed real estate agent or salesman if all the service performed by the individual for that person is performed for remuneration solely by way of commission;

(s) service performed by an individual for a person as a licensed securities agent or salesman, registered representative, if the service performed by the individual for that person is performed for remuneration solely by way of commission;

(t) services as an outside salesman paid solely by way of commission if the services were performed outside of all places of business of the enterprises for which the services are performed except:

(i) as provided in Subsection [~~34A-4-204~~] 35A-4-204(2)(i); or

(ii) if the services would constitute employment at common law;

(u) service performed by an individual as a telephone survey conductor or pollster if:

(i) the individual does not perform the service on the principal's premises; and

(ii) the individual is paid for the service solely on a piece-rate or commission basis; or

(v) service performed by a nurse licensed or registered under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, if:

(i) the service of the nurse is performed in the home of the patient;

(ii) substantially all of the nurse's compensation for the service is from health insurance proceeds; and

(iii) no compensation or fee for the service is paid to any agency or company as a business furnishing nursing services.

(2) "Included and excluded service" means if the services performed during 1/2 or more of

any pay period by an individual for the person employing the individual constitute employment, all the services of the individual for the period are considered to be employment; but if the services performed during more than half of any such pay period by an individual for the person employing the individual do not constitute employment, then none of the services of the individual for the period are considered to be employment. As used in this subsection, "pay period" means a period of not more than 31 consecutive days for which payment of remuneration is ordinarily made to the individual by the person employing the individual.

Section 42. Section **41-3-702** is amended to read:

**41-3-702. Civil penalty for violation.**

(1) The following are civil violations under this chapter and are in addition to criminal violations under this chapter:

(a) Level I:

(i) failure to display business license;

(ii) failure to surrender license of salesperson because of termination, suspension, or revocation;

(iii) failure to maintain a separation from nonrelated motor vehicle businesses at licensed locations;

(iv) issuing a temporary permit improperly;

(v) failure to maintain records;

(vi) selling a new motor vehicle to a nonfranchised dealer or leasing company without licensing the motor vehicle;

(vii) special plate violation; and

(viii) failure to maintain a sign at principal place of business.

(b) Level II:

(i) failure to report sale;

(ii) advertising violation;

(iii) dismantling without a permit;

(iv) manufacturing without meeting construction or vehicle identification number standards;

and

(v) withholding customer license plates.

(c) Level III:

(i) operating without a principal place of business;

(ii) selling a new motor vehicle without holding the franchise;

(iii) crushing a motor vehicle without proper evidence of ownership;

(iv) selling from an unlicensed location;

(v) altering a temporary permit;

(vi) refusal to furnish copies of records; and

(vii) assisting an unlicensed dealer or salesperson in sales of motor vehicles.

(2) (a) The schedule of civil penalties for violations of Subsection (1) is:

(i) Level I: $25 for the first offense, $100 for the second offense, and $250 for the third and subsequent offenses;

(ii) Level II: $100 for the first offense, $250 for the second offense, and $1,000 for the third and subsequent offenses; and

(iii) Level III: $250 for the first offense, $1,000 for the second offense, and $5,000 for the third and subsequent offenses.

(b) When determining under this section if an offense is a second or subsequent offense, only prior offenses committed within the 12 months prior to the commission of the current offense may be considered.

(3) The following are civil violations in addition to criminal violations under Section 41-1a-1008:

(a) knowingly selling a salvage vehicle, as defined in Section 41-1a-1001, without disclosing that the salvage vehicle has been repaired or rebuilt;

(b) knowingly making a false statement on a vehicle damage disclosure statement, as defined in Section 41-1a-1001; or

(c) fraudulently certifying that a damaged motor vehicle is entitled to an unbranded title, as defined in Section 41-1a-1001, when it is not.

(4) The civil penalty for a violation under Subsection [~~(1)~~] (3) is:

(a) not less than $1,000, or treble the actual damages caused by the person, whichever is greater; and

(b) reasonable attorneys' fees and costs of the action.

(5) A civil action may be maintained by a purchaser or by the administrator.

Section 43. Section **48-2b-102** is amended to read:

**48-2b-102. Definitions.**

(1) "Bankruptcy" includes bankruptcy under federal bankruptcy law or under Utah insolvency law.

(2) "Business" includes every trade, occupation, or profession.

(3) "Division" means the Division of Corporations and Commercial Code of the Department of Commerce.

(4) "Foreign limited liability company" means a limited liability company organized under the laws of any other jurisdiction.

(5) "Limited liability company" or "company" means a business entity organized under this chapter.

(6) "Person" means an individual, general partnership, limited partnership, limited liability company, limited association, domestic or foreign trust, estate, association, or corporation.

(7) "Professional services" means the personal services rendered by:

(a) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, and any subsequent laws regulating the practice of architecture;

(b) an attorney granted the authority to practice law by the Supreme Court of the state of Utah as provided in Title 78, Chapter 51;

(c) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, and any subsequent laws regulating the practice of chiropractic;

(d) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentists and Dental Hygienists Practice Act, and any subsequent laws regulating the practice of dentistry;

(e) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and

Land Surveyors Licensing Act;

(f) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, and any subsequent laws regulating the practice of naturopathy;

(g) a nurse licensed under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse Midwife Practice Act;

(h) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, and any subsequent laws regulating the practice of optometry;

(i) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, and any subsequent laws regulating the practice of osteopathy;

(j) a pharmacist holding a license under Title 58, Chapter 17a, Pharmacy Practice Act, and any subsequent laws regulating the practice of pharmacy;

(k) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, and any subsequent laws regulating the practice of medicine;

(l) a physical therapist holding a license under Title 58, Chapter 24a, Physical Therapist Practice Act, and any subsequent laws regulating the practice of physical therapy;

(m) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, and any subsequent laws regulating the practice of chiropody;

(n) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, and any subsequent laws regulating the practice of psychology;

(o) a public accountant holding a license under Title 58, Chapter 26, Certified Public Accountant Licensing Act, and any subsequent laws regulating the practice of public accounting;

(p) a real estate broker or real estate agent holding a license under Title 61, Chapter 2, Division of Real Estate, and any subsequent laws regulating the sale, exchange, purchase, rental, or leasing of real estate;

(q) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, and any subsequent laws regulating the practice of mental health therapy; and

(r) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, and

any subsequent laws regulating the practice of veterinary medicine.

(8) "Regulating board" means the board organized pursuant to state law that is charged with the licensing and regulation of the practice of the profession that a limited liability company is organized to render.

(9) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(10) "Successor limited liability company" means the surviving or resulting limited liability company existing pursuant to a merger or consolidation of two or more limited liability companies.

Section 44. Section **53-3-210** is amended to read:

**53-3-210. Temporary learner permit -- Instruction permit -- Commercial driver instruction permit -- Practice permit.**

(1) (a) The division upon receiving an application for a class D or M license from a person 16 years of age or older may issue a temporary learner permit after the person has successfully passed

all parts of the examination not involving actually driving a motor vehicle.

(b) The temporary learner permit allows the applicant, while having the permit in the applicant's immediate possession, to drive a motor vehicle upon the highways for six months from the date of the application in conformance with the restrictions indicated on the permit.

(2) (a) The division, upon receiving an application, may issue an instruction permit effective for one year to an applicant who is enrolled in a driver education program that includes practice driving, if the program is approved by the State [~~Office~~] Board of Education, even though the applicant has not reached the legal age to be eligible for a license.

(b) The instruction permit entitles the applicant, while having the permit in his immediate possession, to drive a motor vehicle, only if an approved instructor is occupying a seat beside the applicant or in accordance with the requirements of Subsections (4) and 53A-13-208 (4).

(3) The division may issue a commercial driver instruction permit under Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act.

(4) (a) The division shall issue a practice permit to an applicant who:

(i) is at least 15 years and nine months of age;

(ii) has been issued an instruction permit under this section;

(iii) is enrolled in or has successfully completed a driver education course in a:

(A) commercial driver training school licensed under Title 53, Chapter 3, Part 5, Commercial Driver Training Schools Act; or

(B) driver education program approved by the division;

(iv) has passed the written test required by the division;

(v) has passed the physical and mental fitness tests; and

(vi) has submitted the nonrefundable fee for a class D license.

(b) The division shall supply the practice permit form. The form shall include the following information:

(i) the person's full name, date of birth, sex, home address, height, weight, and eye color;

(ii) the name of the school providing the driver education course;

(iii) the dates of issuance and expiration of the permit;

(iv) the statutory citation authorizing the permit; and

(v) the conditions and restrictions contained in this section for operating a class D motor vehicle.

(c) The practice permit is valid for up to 90 days from the date of issuance. The practice permit allows the person, while having the permit in the applicant's immediate possession, to operate a class D motor vehicle when the person's parent, legal guardian, or adult spouse, who must be a licensed driver, is occupying a seat next to the person and no other passengers are in the vehicle.

(d) If an applicant has been issued a practice permit by the division, the applicant may obtain an original or provisional class D license from the division upon passing the skills test administered by the division and reaching 16 years of age.

Section 45. Section **53-3-901** is amended to read:

**53-3-901. Title.**

This [~~chapter~~] part is known as the "Motorcycle Rider Education Act."

Section 46. Section **53-3-902** is amended to read:

**53-3-902. Definitions.**

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

(1) "Motorcycle" has the same meaning as provided in Section 41-1a-102.

(2) "Program" means the motorcycle rider education program for training and information disbursement created under Section 53-3-903.

(3) "Rider training course" means a motorcycle rider education curriculum and delivery system approved by the division as meeting national standards designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of a motorcycle.

Section 47. Section **53-8-213** is amended to read:

**53-8-213. Special function officer status for certain employees -- Retirement provisions.**

(1) The commissioner may designate an employee of the Utah Highway Patrol Division as a special function officer, as defined in Section [~~77-1a-4~~] 53-13-105, for the purpose of enforcing all laws relating to vehicle parts and equipment, including the provisions of this part and Title 41, Chapter 6, Article 16, Equipment.

(2) Notwithstanding Section 49-4a-203, a special function officer designated under this section may not become or be designated as a member of the Public Safety Retirement Systems.

Section 48. Section **53-10-502** is amended to read:

**53-10-502. Bureau duties.**

The bureau:

(1) maintains dispatch and communications services for regional public safety consolidated communications centers;

(2) provides facilities and acts as a public safety answering point to answer and respond to [~~9-1-1~~] 911 calls from a region;

(3) provides professional emergency dispatch and communications support for law enforcement, emergency medical, fire suppression, highway maintenance, public works, and public safety agencies representing municipal, county, state, and federal governments; and

(4) coordinates incident response.

Section 49. Section **53-11-108** is amended to read:

**53-11-108. Licensure -- Basic qualifications.**

An applicant for licensure under this chapter shall meet the following qualifications:

(1) An applicant shall be:

(a) at least 21 years of age;

(b) a citizen or legal resident of the United States; and

(c) of good moral character.

(2) An applicant may not:

(a) have been convicted of:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act of personal violence or force on any person or convicted of threatening to commit any act of personal violence or force against another person;

(iv) any act constituting dishonesty or fraud;

(v) impersonating a peace officer; or

(vi) any act involving moral turpitude;

(b) be on probation, parole, community supervision, or named in an outstanding arrest warrant; or

(c) be employed as a peace officer.

(3) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(4) (a) The applicant shall also have completed a training program of not less than 16 hours that is approved by the board and includes:

(i) instruction on the duties and responsibilities of a licensee under this chapter, including:

(A) search, seizure, and arrest procedure;

(B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

(C) specific duties and responsibilities regarding entering an occupied structure to carry out functions under this chapter;

(ii) the laws and rules relating to the bail bond business;

(iii) the rights of the accused; and

(iv) ethics.

(b) The program may be completed after the licensure application is submitted, but shall be completed before a license may be issued under this chapter.

(5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

(a) successfully complete a course regarding the specified types of weapons he plans to carry. The course shall:

(i) be not less than 16 hours;

(ii) be conducted by any national, state, or local firearms training organization approved by the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division created in Section [~~53-5-103~~] 53-10-103; and

(iii) provide training regarding general familiarity with the types of firearms to be carried, including:

(A) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(B) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of deadly force, transportation, and concealment; and

(b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

Section 50. Section **53-11-119** is amended to read:

**53-11-119. Grounds for disciplinary action.**

(1) The board may take disciplinary action under Subsection (2), (4), or (5) regarding a license granted under this chapter if the board finds the licensee commits any of the following while engaged in activities regulated under this chapter:

(a) fraud or willful misrepresentation in applying for an original license or renewal of an existing license;

(b) using any letterhead, advertising, or other printed matter in any manner representing that he is an instrumentality of the federal government, a state, or any political subdivision of a state;

(c) using a name different from that under which he is currently licensed for any advertising,

solicitation, or contract to secure business unless the name is an authorized fictitious name;

(d) impersonating, permitting, or aiding and abetting an employee to impersonate a law enforcement officer or employee of the United States, any state, or a political subdivision of a state;

(e) knowingly violating, advising, encouraging, or assisting in the violation of any statute, court order, or injunction in the course of conducting an agency regulated under this chapter;

(f) falsifying fingerprints or photographs while operating under this chapter;

(g) has a conviction for:

(i) a felony;

(ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) any act involving moral turpitude;

(iv) any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person;

(v) any act constituting dishonesty or fraud;

(vi) impersonating a peace officer; or

(vii) any act of illegally obtaining or disseminating private, controlled, or protected records under Section 63-2-801;

(h) soliciting business for an attorney in return for compensation;

(i) being placed on probation, parole, [~~community~~] compensatory service, or named in an outstanding arrest warrant;

(j) committing, or permitting any employee or contract employee to commit any act during the period between the expiration of a license for failure to renew within the time fixed by this chapter, and the reinstatement of the license, that would be cause for the suspension or revocation of the license or grounds for denial of the application for the license;

(k) willfully neglecting to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, but if the investigator chooses to withdraw from the case and returns the funds for work not yet done, no violation of this section exists;

(l) failing or refusing to cooperate with, failing to provide truthful information to, or refusing

access to an authorized representative of the department engaged in an official investigation;

(m) employing or contracting with any unlicensed or improperly licensed person or agency to conduct activities regulated under this chapter if the licensure status was known or could have been ascertained by reasonable inquiry;

(n) permitting, authorizing, aiding, or in any way assisting a licensed employee to conduct services as described in this chapter on an independent contractor basis and not under the authority of the licensed agency;

(o) failure to maintain in full force and effect workers' compensation insurance, if applicable;

(p) advertising in a false, deceptive, or misleading manner;

(q) refusing to display the identification card issued by the department to any person having reasonable cause to verify the validity of the license;

(r) committing any act of unprofessional conduct; or

(s) engaging in any other conduct prohibited by this chapter.

(2) On completion of an investigation, the board may:

(a) dismiss the case;

(b) take emergency action;

(c) issue a letter of concern, if applicable;

(d) impose a civil penalty not to exceed $500;

(e) place all records, evidence, findings, and conclusions and any other information pertinent to the investigation in the confidential and protected records section of the file maintained at the department; or

(f) if the board finds, based on the investigation, that a violation of Subsection (1) has occurred, notice shall be sent to the licensee of the results of the hearing by mailing a true copy to the licensee's last-known address in the department's files by certified mail, return receipt requested.

(3) A letter of concern shall be retained by the commissioner and may be used in future disciplinary actions against a licensee.

(4) (a) If the board finds, based on its investigation under Subsection (1), that the public health, safety, or welfare requires emergency action, the board may order a summary suspension of

a license pending proceedings for revocation or other action.

(b) If the board issues an order of summary suspension, the board shall issue to the licensee a written notice of complaint and formal hearing, setting forth the charges made against the licensee and his right to a formal hearing before the board within 60 days.

(5) Based on information the board receives during a hearing it may:

(a) (i) dismiss the complaint if the board believes it is without merit;

(ii) fix a period and terms of probation best adapted to educate the licensee;

(iii) place the license on suspension for a period of not more than 12 months; or

(iv) revoke the license; and

(b) impose a civil penalty not to exceed $500.

(6) (a) On a finding by the board that a bail recovery agency licensee committed a violation of Subsection (1), the probation, suspension, or revocation terminates the employment of all licensees employed or employed by contract by the bail bond agency.

(b) If a licensee who is an employee or contract employee of a bail bond agency committed a violation of Subsection (1), the probation, suspension, or revocation applies only to the license held by that individual under this chapter.

(7) (a) Appeal of the board's decision shall be made in writing to the commissioner within 30 days after the date of issuance of the board's decision.

(b) The hearing shall be scheduled not later than 60 days after receipt of the request.

(c) The commissioner shall review the finding by the board and may affirm, return to the board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the recommendation of the board.

(8) A person may appeal the commissioner's decision to the district court pursuant to Section 63-46b-15.

(9) All penalties collected under this section shall be deposited in the General Fund.

Section 51. Section **53A-3-414** is amended to read:

**53A-3-414. Local school boards' responsibility for school buildings and grounds when used as civic centers.**

A local school board has the following powers:

(1) It manages, directs, and controls civic centers under this chapter.

(2) It adopts rules for the use of these civic centers.

(3) It may charge a reasonable fee for the use of school facilities as a civic center so that the district incurs no expense for that use.

(4) It may appoint a special functions officer under Section [~~77-1a-4~~] 53-13-105 to have charge of the grounds and protect school property when used for civic center purposes.

(5) It may refuse the use of a civic center, for other than school purposes, if it determines the use inadvisable.

Section 52. Section **53A-7-11o** is amended to read:

**53A-7-110. Powers and duties.**

(1) The commission:

(a) shall make recommendations to the State Board of Education and professional organizations of educators:

(i) concerning standards of professional performance, competence, and ethical conduct for persons holding certificates issued by the board; and

(ii) for the improvement of the education profession;

(b) shall adopt rules to carry out the purposes of this chapter;

(c) shall establish procedures for receiving and acting upon charges and recommendations regarding immoral, unprofessional, or incompetent conduct, unfitness for duty, or other violations of standards of ethical conduct, performance, and professional competence;

(d) shall establish the manner in which hearings are conducted and reported, and recommendations are submitted to the State Board of Education for its action;

(e) may:

(i) warn or reprimand a certificate holder;

(ii) recommend that the State Board of Education revoke or suspend a certificate, or restrict or prohibit recertification;

(iii) enter into a written agreement requiring a current or former educator who has been the

subject of a commission action to demonstrate to the satisfaction of the commission that the individual is rehabilitated and will conform to standards of professional performance, competence, and ethical conduct; or

(iv) take other appropriate action;

(f) may administer oaths, issue subpoenas, and make investigations relating to any matter before the commission; and

(g) where reasonable cause exists, may initiate a criminal background check on a certificate holder:

(i) the certificate holder shall receive written notice if a fingerprint check is requested as a part of the background check;

(ii) fingerprints of the individual shall be taken, and the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division of the Department of Public Safety shall release the individual's full record, as shown on state, regional, and national records, to the commission; and

(iii) the commission shall pay the cost of the background check except as provided under Section 53A-6-103, and the moneys collected shall be credited to the [~~Law Enforcement~~] Criminal Investigations and Technical Services Division to offset its expenses.

(2) (a) In fulfilling its duty under Subsection (1) (c), the commission shall investigate any allegation of sexual abuse of a student or a minor by an educator whether or not the educator has surrendered his certificate without a hearing.

(b) The investigation shall be independent of and separate from any criminal investigation.

(c) The commission may receive any evidence related to the allegation of sexual abuse, including sealed or expunged records released to the board under Section 77-18-15.

(3) In making recommendations under Subsection (1)(e)(ii), the commission shall use a preponderance of evidence standard in its hearings as the basis for recommending revocation or suspension of a certificate or restriction or prohibition of recertification.

Section 53. Section **53A-17a-101** is amended to read:

**53A-17a-101. Title.**

This chapter is known as [~~"The~~] the "Minimum School Program Act."

Section 54. Section **58-37c-11** is amended to read:

**58-37c-11. Penalty for unlawful conduct.**

(1) Any person who violates the unlawful conduct provision defined in Subsections 58-37c-3[~~(10)~~](12)(a) through (j) is guilty of a class A misdemeanor.

(2) Any person who violates the unlawful conduct provisions defined in Subsection 58-37c-3[~~(10)~~](12)(k) is guilty of a second degree felony.

Section 55. Section **58-37c-18** is amended to read:

**58-37c-18. Recordkeeping requirements for sale of crystal iodine.**

(1) Any person licensed to engage in a regulated transaction and who sells crystal iodine to another person shall:

(a) comply with the recordkeeping requirements of Section [~~58-37-10~~] 58-37c-10;

(b) require photo identification of the purchaser;

(c) obtain from the purchaser a signature on a certificate of identification provided by the seller; and

(d) obtain from the purchaser a legible fingerprint, preferably of the right thumb, which shall be placed on the certificate next to the purchaser's signature.

(2) Any failure to comply with Subsection (1) is a class B misdemeanor.

Section 56. Section **58-37c-21** is amended to read:

**58-37c-21. Department of Public Safety enforcement authority.**

(1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section [~~53-4-103~~] 53-10-103.

(2) The division has authority to enforce this chapter. To carry out this purpose, the division may:

(a) inspect, copy, and audit records, inventories of controlled substance precursors, and reports required under this chapter and rules adopted under this chapter;

(b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

(c) assist the law enforcement agencies of the state in enforcing this chapter;

(d) conduct investigations to enforce this chapter;

(e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(f) work in cooperation with the Division of Occupational and Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Section 57. Section **58-37d-9** is amended to read:

**58-37d-9. Department of Public Safety enforcement authority.**

(1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section [~~53-4-103~~] 53-10-103.

(2) The division has authority to enforce this chapter. To carry out this purpose, the division may:

(a) assist the law enforcement agencies of the state in enforcing this chapter;

(b) conduct investigations to enforce this chapter;

(c) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(d) work in cooperation with the Division of Occupational and Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Section 58. Section **58-47b-102** is amended to read:

**58-47b-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Utah Board of Massage Therapy created in Section 58-47b-201.

(2) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular system.

(3) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice to work under the direct supervision of a licensed massage [~~technician~~] therapist.

(4) "Massage therapist" means an individual licensed under this chapter as a massage

therapist.

(5) "Practice of massage therapy" means:

(a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;

(b) the systematic manual or mechanical manipulation of the soft tissue of the body for the therapeutic purpose of:

(i) promoting the health and well-being of a client;

(ii) enhancing the circulation of the blood and lymph;

(iii) relaxing and lengthening muscles;

(iv) relieving pain;

(v) restoring metabolic balance; and

(vi) achieving homeostasis;

(c) the use of the hands or a mechanical or electrical apparatus;

(d) the use of rehabilitative procedures involving the soft tissue of the body;

(e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;

(f) oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;

(g) manual traction and stretching exercise;

(h) correction of muscular distortion by treatment of the soft tissues of the body;

(i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain; and

(j) similar or related activities and modality techniques.

(6) "Soft tissue" means the muscles and related connective tissue.

(7) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-47b-501.

(8) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule.

Section 59. Section **58-47b-304** is amended to read:

**58-47b-304. Exemptions from licensure.**

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy as defined under this chapter, subject to the stated circumstances and limitations, without being licensed, but may not represent themselves as a massage therapist or massage apprentice:

(a) physicians and surgeons licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(b) nurses licensed under Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, or under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(c) physical therapists licensed under Title 58, Chapter 24a, Physical Therapist Practice Act;

(d) osteopathic physicians and surgeons licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(e) chiropractic physicians licensed under Title 58, Chapter 73, Chiropractic Physician Practice Act;

(f) hospital staff members employed by a hospital who practice massage as part of their responsibilities;

(g) athletic trainers who practice massage as part of their responsibilities while employed by an educational institution or an athletic team that participates in organized sports competition;

(h) students in training enrolled in a massage therapy school approved by the division;

(i) until January 1, 1999, individuals engaging in lymphatic massage and who meet training standards as defined by division rule;

(j) naturopathic physicians licensed under Title 58, Chapter 71, Naturopathic Physician Practice Act;

(k) occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act; and

(l) persons performing gratuitous massage.

(2) This chapter may not be construed to authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state.

(3) This chapter may not be construed to:

(a) create or require insurance coverage or reimbursement for massage therapy from third party payors if this type of coverage did not exist on or before February 15, 1990; or

(b) prevent any insurance carrier from offering coverage for massage therapy.

Section 60. Section **58-60-103** is amended to read:

**58-60-103. Licensure required.**

(1) An individual shall be licensed under this chapter; Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; Chapter [~~31~~] 31b, Nurse Practice Act; Chapter 61, Psychologist Licensing Act; or exempted from licensure under this chapter in order to:

(a) engage in or represent he will engage in the practice of mental health therapy, clinical social work, certified social work, marriage and family therapy, or professional counseling; or

(b) practice as or represent himself as a mental health therapist, clinical social worker, certified social worker, marriage and family therapist, professional counselor, psychiatrist, psychologist, or registered psychiatric mental health nurse specialist.

(2) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in or represent that he is engaged in practice as a social service worker; or

(b) represent himself as or use the title of social service worker.

(3) An individual shall be licensed under this chapter or exempted from licensure under this chapter in order to:

(a) engage in or represent that he is engaged in practice as a licensed substance abuse counselor; or

(b) represent himself as or use the title of licensed substance abuse counselor.

Section 61. Section **58-60-107** is amended to read:

**58-60-107. Exemptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of practice as a mental health therapist, subject to the stated circumstances and limitations, without being licensed under this chapter:

(1) the following when practicing within the scope of the license held:

(a) a physician and surgeon or osteopathic physician and surgeon licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a registered psychiatric mental health nurse specialist licensed under Chapter [~~31~~] 31b, Nurse Practice Act; and

(c) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

(2) a recognized member of the clergy while functioning in his ministerial capacity as long as he does not represent himself as or use the title of a license classification in Subsection 58-60-102(5);

(3) an individual who is offering expert testimony in any proceeding before a court, administrative hearing, deposition upon the order of any court or other body having power to order the deposition, or proceedings before any master, referee, or alternative dispute resolution provider;

(4) an individual engaged in performing hypnosis who is not licensed under Title 58, Occupations and Professions, in a profession which includes hypnosis in its scope of practice, and who:

(a) (i) induces a hypnotic state in a client for the purpose of increasing motivation or altering lifestyles or habits, such as eating or smoking, through hypnosis;

(ii) consults with a client to determine current motivation and behavior patterns;

(iii) prepares the client to enter hypnotic states by explaining how hypnosis works and what the client will experience;

(iv) tests clients to determine degrees of suggestibility;

(v) applies hypnotic techniques based on interpretation of consultation results and analysis of client's motivation and behavior patterns; and

(vi) trains clients in self-hypnosis conditioning;

(b) may not:

(i) engage in the practice of mental health therapy;

(ii) represent himself using the title of a license classification in Subsection 58-60-102(5); or

(iii) use hypnosis with or treat a medical, psychological, or dental condition defined in

generally recognized diagnostic and statistical manuals of medical, psychological, or dental disorders;

(5) an individual's exemption from licensure under Subsection 58-1-307(1)(b) or (c) while completing any supervised clinical training requirement for licensure extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but any exemption under this subsection may not exceed two years past the date the minimum supervised clinical training requirement has been completed;

(6) an individual holding an earned doctoral degree or master's degree in social work, marriage and family therapy, or professional counseling, who is employed by an accredited institution of higher education and who conducts research and teaches in that individual's professional field, but only if the individual does not engage in providing or supervising professional services regulated under this chapter to individuals or groups regardless of whether there is compensation for the services;

(7) an individual, holding an earned doctoral degree or master's degree in a discipline which is a prerequisite for practice as a mental health therapist, who provides mental health therapy as an employee of a public or private organization which provides mental health therapy while under the direct supervision of a person licensed under this chapter as part of a professional training program approved by the division and offered through the agency for not more than 12 months;

(8) an individual providing general education in the subjects of alcohol or drug use or abuse, including prevention; and

(9) an individual providing advice or counsel to another individual in a setting of their association as friends or relatives and in a nonprofessional and noncommercial relationship, if there is no compensation paid for the advice or counsel.

Section 62. Section **58-65-302** is amended to read:

**58-65-302. Qualifications for licensure.**

(1) Each applicant for licensure as an alarm company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63-38-3.2;

(c) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(i) demonstrates 6,000 hours of experience in the alarm company business;

(ii) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(iii) passes an examination component established by rule by the division in collaboration with the board;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(ii) the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, the names, addresses, dates of birth, Social Security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(g) if a proprietorship, the names, addresses, dates of birth, Social Security numbers, and

fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(h) be of good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the division and the board to indicate that the best interests of the public are served by granting the applicant a license;

(i) document that none of applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(j) document that none of applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

(k) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in form and in amounts to be established by rule by the division in collaboration with the board;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

[~~(iii) registration with the Division of Corporations and Commercial Code; and~~]

[~~(iv)~~] (iii) registration as is required by applicable law with the:

(A) Division of Corporations and Commercial Code;

(B) Division of Workforce Information and Payment Services in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(C) State Tax Commission; and

(D) Internal Revenue Service; and

(l) meet with the division and board.

(2) Each applicant for licensure as an alarm company agent shall:

(a) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(b) pay a fee determined by the department under Section 63-38-3.2;

(c) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the division and the board to indicate that the best interests of the public are served by granting the applicant a license;

(d) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(e) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(f) meet with the division and board if requested by the division or the board.

(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants.

(4) To determine if an applicant meets the qualifications of Subsections (1)(h) and (2)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, and shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the F.B.I. for criminal history information under this section.

(5) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a

fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the F.B.I. review concerning an applicant in a timely manner after receipt of information from the F.B.I.

(6) (a) The division shall charge each applicant a fee, in accordance with Section 63-38-3.2, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews under this chapter.

(7) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure under this chapter is qualified for licensure.

Section 63. Section **59-7-611** is amended to read:

**59-7-611. Energy saving systems tax credit -- Limitations -- Definitions -- Tax credit in addition to other credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.**

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure which a business entity uses to transact its business except as provided in Subsection (1)(f)(ii); and

(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

[~~(h)~~] (g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

[~~(i)~~] (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and a resident individual as defined in Section 59-10-103.

[~~(g)~~] (i) "Office of Energy and Resource Planning" means the Office of Energy and Resource Planning, Department of Natural Resources.

(j) "Passive solar system":

(i) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(k) "Residential energy system" means any active solar, passive solar, wind, or hydroenergy system used to supply energy to or for any residential unit.

(l) "Residential unit" means any house, condominium, apartment, or similar dwelling unit which serves as a dwelling for a person, group of persons, or a family but does not include property subject to the fees in lieu of the ad valorem tax under:

(i) Section 59-2-404;

(ii) Section 59-2-405; or

(iii) Section 59-2-405.1.

(m) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of the credit under this Subsection (2)(a) may not exceed $2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

(iii) If a business entity sells a residential unit to an individual taxpayer prior to making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-602.

(b) (i) A business entity that purchases or participates in the financing of a commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

(A) the commercial energy system supplies all or part of the energy required by commercial

units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in service.

(B) The total amount of the credit under this Subsection (2)(b) may not exceed $50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(c) (i) A tax credit under this section may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried over for a period which does not exceed the next four taxable years.

(3) (a) The tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) (i) The Office of Energy and Resource Planning may promulgate standards for residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) A tax credit may not be taken under Subsection (2) until the Office of Energy and Resource Planning has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(c) The Office of Energy and Resource Planning and the commission are authorized to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are necessary to implement this section.

(d) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any credits taken under this section.

Section 64. Section **59-9-101.1** is amended to read:

**59-9-101.1. Employers' Reinsurance Fund special assessment.**

(1) For purposes of this section:

(a) "Calendar year" means a time period beginning January 1 and ending December 31 during which an assessment is imposed.

(b) "Total workers' compensation premium income" has the same meaning as under Subsection 59-9-101(2).

(2) (a) For calendar years beginning on January 1, 1998, through December 31, 2000, the following shall pay to the commission, on or before March 31 of each year, an assessment imposed by the Labor Commission under Subsection (3):

(i) an admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund of Utah created under Title 31A, Chapter 33, Workers' Compensation Fund of Utah; and

(ii) an employer authorized under Section 34A-2-201 to pay workers' compensation direct.

(b) The assessment imposed under Subsection (3) shall be in addition to:

(i) the premium assessment imposed under Subsection 59-9-101(2); and

(ii) the assessment imposed under Section 34A-2-202.

(3) (a) If the conditions described in Subsection (3)(b) are met, the Labor Commission may impose an assessment in accordance with Subsections (3)(c) and (d) of up to 2% of:

(i) the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year; or

(ii) if authorized under Section 34A-2-201 to pay workers' compensation direct, the amount calculated under Section 34A-2-202 for a self-insured employer that is equivalent to the total workers' compensation premium income.

(b) The Labor Commission may impose the assessment described in Subsection (3)(a) if:

(i) the Labor Commission determines that:

(A) all admitted insurers writing workers' compensation insurance in this state shall pay the maximum 7.25% of the premium income under Subsection 59-9-101(2)(c)(i); and

(B) all employers authorized to pay compensation direct shall pay the maximum 7.25% assessment under Section 34A-2-202; and

(ii) the maximum 7.25% of the premium income is insufficient to:

(A) provide payment of benefits and expenses from the Employers' Reinsurance Fund to project a funded condition of the Employers' Reinsurance Fund with assets greater than liabilities by no later than June 30, 2025; or

(B) maintain the minimum approximate assets required in Subsection 59-9-101(2)(d)(iv).

(c) On or before each October 15 of the preceding year and following a public hearing, the Labor Commission shall determine:

(i) whether an assessment will be imposed under this section for a calendar year; and

(ii) if the assessment will be imposed, the percentage of the assessment applicable for the calendar year.

(d) The Labor Commission shall:

(i) base its determination on the recommendations of the qualified actuary required in Subsection 59-9-101(2)(d)(i); and

(ii) take into consideration the recommended premium assessment rate recommended by the

actuary under Subsection 59-9-101(2)(d)(ii).

(4) An employer shall aggregate all assessments imposed under this section and Section 34A-2-202 or 59-9-101 to determine whether the total assessment obligation shall be paid in quarterly installments in accordance with Sections 34A-2-202 and 59-9-104.

(5) The commission shall promptly remit the assessment collected under Subsection (2) to the state treasurer for credit to the Employers' Reinsurance Fund created under Section [~~35A-3-702~~] 34A-2-702.

Section 65. Section **59-10-405** is amended to read:

**59-10-405. Voluntary withholding agreements.**

(1) The commission may by rule provide for withholding:

(a) from remuneration for services performed by an employee for the employee's employer that, without regard to this section, does not constitute wages; or

(b) from any other type of payment with respect to which the commission finds that withholding would be appropriate under this part if the employer and the employee, or in the case of any other type of payment the person making and the person receiving the payment, agree to the withholding.

(2) The agreement provided for in Subsection (1)(b) shall be made in a form and manner as the commission may by rule prescribe.

(3) For purposes of this part, remuneration or other payments with respect to which an agreement provided for in Subsection (1), other than election made pursuant to Section [~~35-4-407~~] 35A-4-407, is made shall be treated as if they were wages paid by an employer to an employee to the extent that such remuneration is paid or other payments are made during the period for which the agreement is in effect.

Section 66. Section **59-12-201** is amended to read:

**59-12-201. Title.**

This part [~~shall be~~] is known as [~~"The~~] the "Local Sales and Use Tax Act."

Section 67. Section **59-12-702** is amended to read:

**59-12-702. Definitions.**

As used in this part:

(1) "Botanical organization" means any private or public nonprofit organization or administrative unit of a private or public nonprofit organization having as its primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education.

(2) (a) "Cultural organization" means:

(i) a nonprofit institutional organization or an administrative unit of a nonprofit institutional organization having as its primary purpose the advancement and preservation of:

(A) natural history;

(B) art;

(C) music;

(D) theater; or

(E) dance; and

(ii) for purposes of Subsections 59-12-704(1)(d) and [~~59-12-704~~](6) includes:

(A) a nonprofit institutional organization or administrative unit of a nonprofit institutional organization having as its primary purpose the advancement and preservation of history;

(B) a municipal or county cultural council having as its primary purpose the advancement and preservation of:

(I) history;

(II) natural history;

(III) art;

(IV) music;

(V) theater; or

(VI) dance.

(b) "Cultural organization" does not include:

(i) any agency of the state;

(ii) except as provided in Subsection (2)(a)(ii)(B), any political subdivision of the state;

(iii) any educational institution whose annual revenues are directly derived more than 50%

from state funds; or

(iv) any radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(3) "Recreational facility" means any publicly owned or operated park, campground, marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, or other facility used for recreational purposes.

(4) In a county of the first class, "zoological facilities" means any buildings, exhibits, utilities and infrastructure, walkways, pathways, roadways, offices, administration facilities, public service facilities, educational facilities, enclosures, public viewing areas, animal barriers, animal housing, animal care facilities, and veterinary and hospital facilities related to the advancement, exhibition, or preservation of mammals, birds, reptiles, or amphibians.

(5) (a) (i) Except as provided in Subsection (5)(a)(ii), " zoological organization" means a nonprofit institutional organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as its primary purpose the advancement and exhibition of mammals, birds, reptiles, and amphibians to an audience of 500,000 or more persons annually.

(b) "Zoological organization" does not include any agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

Section 68. Section **59-23-4** is amended to read:

**59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prescribe valuation methodology -- Deposit of revenue.**

(1) There is levied a brine shrimp royalty of .035 of the value of unprocessed brine shrimp eggs.

(2) (a) The commission shall annually determine the value of unprocessed brine shrimp eggs in accordance with a valuation methodology established by the commission in rule.

(b) Each person who harvests brine shrimp eggs shall file, in a form prescribed by the

commission, a sworn statement with the commission by August 1 of each year. The statement shall set out in detail any information required by the commission.

(3) All revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in Section [~~63-34-13~~] 63-34-14.

Section 69. Section **62A-4a-403** is amended to read:

**62A-4a-403. Reporting requirements.**

(1) Except as provided in Subsection (2), when any person including persons licensed under Title 58, Chapter [~~12, Part 5~~] 67, Utah Medical Practice Act, or Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, has reason to believe that a child has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in sexual abuse, physical abuse, or neglect, he shall immediately notify the nearest peace officer, law enforcement agency, or office of the division. On receipt of this notice, the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of child abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency. The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken pursuant to a report made under this section.

(2) The notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs, if:

(a) the confession was made directly to the clergyman or priest by the perpetrator; and

(b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

(3) (a) When a clergyman or priest receives information about abuse or neglect from any source other than confession of the perpetrator, he is required to give notification on the basis of that information even though he may have also received a report of abuse or neglect from the confession of the perpetrator.

(b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

Section 70. Section **63-9a-6** is amended to read:

**63-9a-6. Obligations issued by authority -- Limitation of liability on obligations -- Limitation on amount of obligations issued.**

(1) All obligations issued by the authority under this chapter shall be limited obligations of the authority and shall not constitute, nor give rise to, a general obligation or liability of, nor a charge against the general credit or taxing power of, this state or any of its political subdivisions. This limitation shall be plainly stated upon all obligations.

(2) (a) No authority obligations incurred under this section may be issued in an amount exceeding the difference between the total indebtedness of the state and an amount equal to 1 1/2% of the value of the taxable property of the state.

(b) Debt issued under authority of Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization, and Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization, may not be included as part of the total indebtedness of the state of Utah in determining the debt limit established by this Subsection (2).

(c) Debt issued under authority of Section [~~63B-7-510~~] 63B-7-503 may not be included as part of the total indebtedness of the state in determining the debt limit established by this Subsection (2).

(3) The obligations shall be authorized by resolution of the authority, following approval of the Legislature, and may:

(a) be executed and delivered at any time, and from time to time, as the authority may determine;

(b) be sold at public or private sale in the manner and at the prices, either at, in excess of, or below their face value and at such times as the authority may determine;

(c) be in the form and denominations as the authority may determine;

(d) be of the tenor as the authority may determine;

(e) be in registered or bearer form either as to principal or interest or both;

(f) be payable in those installments and at the times as the authority may determine;

(g) be payable at the places, either within or without this state, as the authority may determine;

(h) bear interest at the rate or rates, payable at the place or places, and evidenced in the manner, as the authority may determine;

(i) be redeemable prior to maturity, with or without premium;

(j) contain such other provisions not inconsistent with this chapter as shall be deemed for the best interests of the authority and provided for in the proceedings of the authority under which the bonds shall be authorized to be issued; and

(k) bear facsimile signatures and seals.

(4) The authority may pay any expenses, premiums or commissions, which it deems necessary or advantageous in connection with the authorization, sale, and issuance of these obligations, from the proceeds of the sale of the obligations or from the revenues of the projects involved.

Section 71. Section **63-38-2** is amended to read:

**63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.**

(1) (a) The governor shall, within three days after the convening of the Legislature in the annual general session, submit a budget for the ensuing fiscal year by delivering it to the presiding officer of each house of the Legislature together with a schedule for all of the proposed appropriations of the budget, clearly itemized and classified.

(b) The budget message shall include a projection of estimated revenues and expenditures for the next fiscal year.

(2) At least 34 days before the submission of any budget, the governor shall deliver a confidential draft copy of his proposed budget recommendations to the Office of the Legislative Fiscal Analyst.

(3) (a) The budget shall contain a complete plan of proposed expenditures and estimated

revenues for the next fiscal year based upon the current fiscal year state tax laws and rates.

(b) The budget may be accompanied by a separate document showing proposed expenditures and estimated revenues based on changes in state tax laws or rates.

(4) The budget shall be accompanied by a statement showing:

(a) the revenues and expenditures for the last fiscal year;

(b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and funds of the state;

(c) an estimate of the state's financial condition as of the beginning and the end of the period covered by the budget;

(d) a complete analysis of lease with an option to purchase arrangements entered into by state agencies;

(e) the recommendations for each state agency for new full-time employees for the next fiscal year; which recommendation should be provided also to the State Building Board under Subsection 63A-5-103(2);

(f) any explanation the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(g) the information detailing certain regulatory fee increases required by Section 63-38-3.2.

(5) The budget shall include an itemized estimate of the appropriations for:

(a) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(b) the Executive Department;

(c) the Judicial Department as certified to the governor by the state court administrator;

(d) payment and discharge of the principal and interest of the indebtedness of the state of Utah;

(e) the salaries payable by the state under the Utah Constitution or under law for the lease agreements planned for the next fiscal year;

(f) other purposes that are set forth in the Utah Constitution or under law; and

(g) all other appropriations.

(6) Deficits or anticipated deficits shall be included in the budget.

(7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall require from the proper state officials, including public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state moneys, and all institutions applying for state moneys and appropriations, itemized estimates of revenues and expenditures. The entities required by this subsection to submit itemized estimates of revenues and expenditures to the governor, shall also report to the Utah Information Technology Commission created in Title 63D, Chapter 1, before October 30 of each year. The report to the Information Technology Commission shall include the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures and an analysis of:

(A) the entity's need for appropriations for information technology;

(B) how the entity's development of information technology coordinates with other state or local government entities;

(C) any performance measures used by the entity for implementing information technology goals; and

(D) any efforts to develop public/private partnerships to accomplish information technology goals.

(ii) (A) The governor may also require other information under these guidelines and at times as the governor may direct.

(B) These guidelines may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(b) The estimate for the Legislative Department as certified by the presiding officers of both houses shall be included in the budget without revision by the governor. Before preparing the estimates for the Legislative Department, the Legislature shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures,

including an analysis of:

(i) the Legislature's implementation of information technology goals;

(ii) any coordination of information technology with other departments of state and local government;

(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and

(iv) any performance measures used by the entity for implementing information technology goals.

(c) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on it. Before preparing the estimates for the Judicial Department, the state court administrator shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

(i) the Judicial Department's information technology goals;

(ii) coordination of information technology statewide between all courts;

(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and

(iv) any performance measures used by the entity for implementing information technology goals.

(d) Before preparing the estimates for the State Office of Education, the state superintendent shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

(i) the Office of Education's information technology goals;

(ii) coordination of information technology statewide between all public schools;

(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and

(iv) any performance measures used by the Office of Education for implementing information technology goals.

(e) Before preparing the estimates for the state system of Higher Education, the commissioner shall report to the Information Technology Commission the proposed information technology expenditures and objectives, the proposed appropriation requests and other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

(i) Higher Education's information technology goals;

(ii) coordination of information technology statewide within the state system of higher education;

(iii) any efforts to develop public/private partnerships to accomplish information technology goals; and

(iv) any performance measures used by the state system of higher education for implementing information technology goals.

(f) The governor may require the attendance at budget meetings of representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations.

(g) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(8) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(9) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

(10) (a) In submitting the budget for the Departments of Health and Human Services, the governor shall consider a separate recommendation in his budget for funds to be contracted to:

(i) local mental health authorities under Section 17A-3-606;

(ii) local substance abuse authorities under Section 62A-8-110.5;

(iii) area agencies under Section 62A-3-104.2;

(iv) programs administered directly by and for operation of the Divisions of Mental Health, Substance Abuse, and Aging and Adult Services; and

(v) local health departments under Title 26A, Chapter 1, Local Health Departments.

(b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the governor shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, and area agencies the same percentage increase for wages and benefits that he includes in his budget for persons employed by the state.

(c) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (10)(b), he shall include a message to the Legislature regarding his reason for not including that amount.

(11) (a) In submitting the budget for the Division of Services for People with Disabilities within the Department of Human Services, the governor shall consider an amount sufficient to grant employees of private nonprofit corporations that contract with that division, the same percentage increase for cost-of-living that he includes in his budget for persons employed by the state.

(b) If the governor does not include in his budget an amount sufficient to grant the increase described in Subsection (11)(a), he shall include a message to the Legislature regarding his reason for not including that amount.

(12) (a) The Families, Agencies, and Communities Together Council may propose to the governor under Subsection 63-75-4[~~(3)~~](4)(e) a budget recommendation for collaborative service delivery systems operated under Section 63-75-6.5.

(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

(13) The governor shall include in his budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.

Section 72. Section **63-46b-1** is amended to read:

**63-46b-1. Scope and applicability of chapter.**

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) all state agency actions that determine the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including all agency actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of these actions.

(2) This chapter does not govern:

(a) the procedures for making agency rules, or the judicial review of those procedures or rules;

(b) the issuance of any notice of a deficiency in the payment of a tax, the decision to waive penalties or interest on taxes, the imposition of and penalties or interest on taxes, or the issuance of any tax assessment, except that this chapter governs any agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of those actions;

(c) state agency actions relating to extradition, to the granting of pardons or parole, commutations or terminations of sentences, or to the rescission, termination, or revocation of parole or probation, [~~to actions and decisions of the Psychiatric Security Review Board relating to discharge, conditional release, or retention of persons under its jurisdiction,~~] to the discipline of, resolution of grievances of, supervision of, confinement of, or the treatment of inmates or residents of any correctional facility, the Utah State Hospital, the Utah State Developmental Center, or persons in the custody or jurisdiction of the Division of Mental Health, or persons on probation or parole, or judicial review of those actions;

(d) state agency actions to evaluate, discipline, employ, transfer, reassign, or promote students or teachers in any school or educational institution, or judicial review of those actions;

(e) applications for employment and internal personnel actions within an agency concerning its own employees, or judicial review of those actions;

(f) the issuance of any citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Chapter 55, Utah Construction Trades Licensing Act, except

that this chapter governs any agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency actions relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of those actions;

(h) state agency actions under Title 7, Chapter 1, Article 3, Powers and Duties of Commissioner of Financial Institutions; and Title 7, Chapter 2, Possession of Depository Institution by Commissioner; Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies; and Title 63, Chapter 30, Utah Governmental Immunity Act, or judicial review of those actions;

(i) the initial determination of any person's eligibility for unemployment benefits, the initial determination of any person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency actions relating to the distribution or award of monetary grants to or between governmental units, or for research, development, or the arts, or judicial review of those actions;

(k) the issuance of any notice of violation or order under Title 26, Chapter 8, Utah Emergency Medical Services System Act; Title 19, Chapter 2, Air Conservation Act; Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act; Title 19, Chapter 5, Water Quality Act; Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act; Title 19, Chapter 6, Part 4, Underground Storage Tank Act; or Title 19, Chapter 6, Part 7, Used Oil Management Act, except that this chapter governs any agency action commenced by any person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency actions, to the extent required by federal statute or regulation to be conducted according to federal procedures;

(m) the initial determination of any person's eligibility for government or public assistance benefits;

(n) state agency actions relating to wildlife licenses, permits, tags, and certificates of registration;

(o) licenses for use of state recreational facilities; and

(p) state agency actions under Title 63, Chapter 2, Government Records Access and Management Act, except as provided in Section 63-2-603.

(3) This chapter does not affect any legal remedies otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering conferences with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceedings; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56, respectively, of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) Declaratory proceedings authorized by Section 63-46b-21 are not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of declaratory proceedings authorized by Section 63-46b-21 are governed by this chapter.

(6) This chapter does not preclude an agency from enacting rules affecting or governing adjudicative proceedings or from following any of those rules, if the rules are enacted according to the procedures outlined in Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and if the rules conform to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that any provision of this chapter

would result in the denial of funds or services to an agency of the state from the federal government, the applicability of those provisions to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening any time period prescribed in this chapter, except those time periods established for judicial review.

Section 73. Section **63-55-209** is amended to read:

**63-55-209. Repeal dates, Title 9.**

(1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is repealed July 1, 1999.

(2) Title 9, Chapter 2, Part 3, Small Business Advisory Council, is repealed July 1, 1999.

(3) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

(4) Title 9, Chapter 2, Part 7, Utah Technology Finance Corporation Act, is repealed July 1, 2002.

(5) Section 9-2-1208 regarding waste tire recycling loans is repealed July 1, 2000.

(6) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is repealed July 1, 2000, Sections [~~59-7-608~~] 59-7-610 and 59-10-108.7 are repealed for tax years beginning on or after January 1, 2001.

(7) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed July 1, 1999.

(8) Title 9, Chapter 4, Part 4, Disaster Relief, is repealed July 1, 1999.

(9) Title 9, Chapter 4, Part 9, Utah Housing Finance Agency Act, is repealed July 1, 2006.

Section 74. Section **63-55-258** is amended to read:

**63-55-258. Repeal dates, Title 58.**

(1) Title 58, Chapter 3a, Architects Licensing Act, is repealed July 1, 2003.

(2) Title 58, Chapter 5a, Podiatric Physician Licensing Act, is repealed July 1, 2002.

(3) Title 58, Chapter 9, Funeral Services Licensing Act, is repealed July 1, 2008.

(4) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2006.

(5) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2005.

(6) Title 58, Chapter 16a, Utah Optometry Practice Act, is repealed July 1, 1999.

(7) Title 58, Chapter 17a, Pharmacy Practice Act, is repealed July 1, 2006.

(8) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2003.

(9) Title 58, Chapter 22, Professional Engineers and Land Surveyors Licensing Act, is repealed July 1, 2005.

(10) Title 58, Chapter 24a, Physical Therapist Practice Act, is repealed July 1, 2003.

(11) Title 58, Chapter 26, Certified Public Accountant Licensing Act, is repealed July 1, 2002.

(12) Title 58, Chapter 28, Veterinary Practice Act, is repealed July 1, 2004.

(13) Title 58, Chapter [~~31~~] 31b, Nurse Practice Act, is repealed July 1, 2005.

(14) Title 58, Chapter 37, Utah Controlled Substances Act, is repealed July 1, 2007.

(15) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, is repealed July 1, 2007.

(16) Title 58, Chapter 37b, Imitation Controlled Substances Act, is repealed July 1, 2007.

(17) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2005.

(18) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is repealed July 1, 1999.

(19) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2005.

(20) Title 58, Chapter 44a, Nurse Midwife Practice Act, is repealed July 1, 2000.

(21) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2003.

(22) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2004.

(23) Title 58, Chapter 49, Dietitian Certification Act, is repealed July 1, 2005.

(24) Title 58, Chapter 53, Landscape Architects Licensing Act, is repealed July 1, 2008.

(25) Title 58, Chapter 58, Preneed Funeral Arrangement Act, is repealed July 1, 2001.

(26) Title 58, Chapter 59, Employee Leasing Company Licensing Act, is repealed July 1, 2002.

(27) Title 58, Chapter 66, Utah Professional Boxing Regulation Act, is repealed July 1, 2005.

(28) Title 58, Chapter 67, Utah Medical Practice Act, is repealed July 1, 2006.

(29) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, is repealed July 1, 2006.

(30) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, is repealed July 1, 2006.

(31) Title 58, Chapter 71, Naturopathic Physician Practice Act, is repealed July 1, 2006.

(32) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2002.

(33) Title 58, Chapter 73, Chiropractic Physician Practice Act, is repealed July 1, 2006.

Section 75. Section **63-55b-131**, which is renumbered from Section 63-55b-3101 is renumbered and amended to read:

**~~[63-55b-3101].~~ 63-55b-131. Repeal date.**

Section 31A-23-315 is repealed July 1, 2001.

Section 76. Section **63-55b-153**, which is renumbered from Section 63-55b-5301 is renumbered and amended to read:

**~~[63-55b-5301].~~ 63-55b-153. Repeal Date -- Title 53A.**

(1) Section 53A-1-403.5 is repealed July 1, 2007.

(2) Title 53, Chapter 12, State Olympic Public Safety Command Act, is repealed July 1, 2002.

Section 77. Section **63-55b-159**, which is renumbered from Section 63-55b-5901 is renumbered and amended to read:

**~~[63-55b-5901].~~ 63-55b-159. Repeal Date -- Title 59.**

(1) Section 59-7-604 is repealed January 1, 2002.

(2) Section 59-7-611 and Sections 59-10-601 through 59-10-604 are repealed January 1, 2001.

(3) Section 59-9-101.1 is repealed January 1, 2001, and the department may not impose an assessment under Section 59-9-101.1 after December 31, 2000.

Section 78. Section **63-55b-163**, which is renumbered from Section 63-55b-6301 is renumbered and amended to read:

**~~[63-55b-6301]~~.** **63-55b-163. Repeal date -- Title 63, Title 63D.**

(1) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2002.

(2) Section 63D-1-301.6 is repealed January 1, 1999.

Section 79. Section **63A-5-220** is amended to read:

**63A-5-220. Definitions -- Creation of Trust Fund for People with Disabilities -- Use of trust fund monies -- Feasibility study and report.**

(1) As used in this section:

(a) "Developmental center" means the Utah State Developmental Center described in Section 62A-5-201.

(b) "Division" means the Division of Services for People with Disabilities within the Department of Human Services.

(c) "Fund" means the Trust Fund for People with Disabilities created by this section.

(2) Notwithstanding the provisions of Section 63A-5-215, any monies received by the division from the sale, lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center shall be deposited in the fund.

(3) (a) There is created a restricted account within the General Fund entitled the "Trust Fund for People with Disabilities."

(b) The Division of Finance shall deposit the following revenues into the fund:

(i) revenue from the sale, lease, except any lease existing on May 1, 1995, or other disposition of real property associated with the developmental center;

(ii) revenue from the sale, lease, or other disposition of water rights associated with the developmental center; and

(iii) revenue from voluntary contributions made to the fund.

(c) Notwithstanding the provisions of Section 65A-4-1, any sale or disposition of real

property or water rights associated with the developmental center shall be conducted as provided in this Subsection (3)(c).

(i) The division shall secure the approval of the governor through the director of the Division of Facilities Construction and Management before making the sale or other disposition of land or water rights.

(ii) The Division of Facilities Construction and Management shall sell or otherwise dispose of the land or water rights as directed by the governor.

(d) The state treasurer shall invest monies contained in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, and all interest shall remain with the fund.

(e) (i) Except as provided in Subsection (3)(e)(ii), no expenditure or appropriation may be made from the fund.

(ii) (A) The Legislature may appropriate interest earned on fund monies invested pursuant to Subsection (3)(d), leases from real property and improvements, [~~and~~] leases from water, rents, and fees to the Division of Services for People with Disabilities within the Department of Human Services for use by that division for programs described in Title 62A, Chapter 5, Services to People with Disabilities.

(B) Fund monies appropriated each year under Subsection (3)(e)(ii)(A) may not be expended unless approved by the Board of Services for People with Disabilities within the Department of Human Services.

(4) By July 1, 1998, the Board of Regents shall:

(a) review the advisability of leasing developmental center land by Utah Valley State College;

(b) in conducting their review, consult with the Division of Facilities Construction and Management about the advantages and disadvantages of the leasing and purchasing options;

(c) if the board determines that a lease or purchase is advisable, identify which land should be acquired, the terms of the lease or purchase, and the financing mechanism to be used; and

(d) report its findings, conclusions, and recommendations to the Education Interim

Committee, the Health and Human Services Interim Committee, and the Executive Appropriations Interim Committee.

Section 80. Section **63C-3-104** is amended to read:

**63C-3-104. Duties of commission.**

The Health Policy Commission shall report to the Legislature and the governor on the following issues in accordance with Section 63C-3-101:

(1) (a) Each year, the commission may consider and make recommendations on the following:

(i) federal health care reform and its impact on the state, including recommendations to respond to federal health initiatives;

(ii) proposals for Medicaid reform and federal Medicaid waivers;

(iii) evaluation of Medicare and its relationship to Utah's reform;

(iv) impact of state initiatives on access, quality, and cost;

(v) impact of market structure on competition;

(vi) simplification of the administrative process;

(vii) feasibility of establishing a statewide health information repository for the purpose of gathering statistical information about providers, practice parameters, cost, quality, and access, while protecting confidential information containing personal identifiers of patients from inclusion in any data base, except a data base created in accordance with Title 26, Chapter 33a, Utah Health Data Authority Act;

(viii) review the need for, and revisions to benefit plans;

(ix) the impact of federal and state health care reform on the viability of academic health centers in Utah; and

(x) other issues that are discovered during the planning process.

(b) The commission may change the order in which it considers and makes recommendations on the issues described in Subsections (2) through (8) and may consider other issues as it considers necessary to promote the purposes of this chapter.

(2) By December 1, 1995:

(a) advisability of, and if recommended, formation of a purchasing cooperative for individuals and employers with 50 or fewer employees, including structure, membership, costs, benefit plans, and health plan approval criteria;

(b) impact of medical savings accounts in the health care market;

(c) plan to address special population needs;

(d) plan to continue the following insurance reform implementation and refinement:

(i) systemwide community rating;

(ii) portability;

(iii) guaranteed issue; and

(iv) risk adjustment mechanism;

(e) [~~continue~~] continued development of the rural health plan, including the study and monitoring of the impact of managed health care plans in frontier areas of the state, and any consequences such plans have on the cost of medical care and access to health care providers in rural-frontier areas of the state;

(f) [~~continue~~] continued development of cost/quality monitoring process; and

(g) health care provider education reform emphasizing primary care and financing the health care provider education system.

(3) By December 1, 1996:

(a) alternatives to capitated reimbursement;

(b) final recommendations for rural health plan; and

(c) feasibility of including the following in a benefit plan:

(i) alcohol and drug treatment;

(ii) long-term care; and

(iii) integrating worker's compensation and automobile/health insurance.

(4) By December 1, 1997:

(a) mental health care reform;

(b) long-term care initiatives;

(c) advisability of, and if recommended, formation of a purchasing cooperative for the public

sector; and

(d) advisability of rating health insurance premiums based on lifestyle choices that affect health care expenditures, including the consumption of alcohol or tobacco and other behaviors that increase health risks.

(5) By December 1, 1998:

(a) feasibility of including Medicaid in a purchasing cooperative;

(b) [~~continue~~] continued development of mental health care reforms;

(c) [~~continue~~] continued review of benefit plans; and

(d) study and make recommendations on health care consumer education, information, and advocacy.

(6) By December 1, 1999:

(a) evaluate the purchasing cooperatives;

(b) evaluate the advisability of expanding purchasing cooperative to employers with 50 to 100 employees;

(c) evaluate need for employer/individual mandates; and

(d) evaluate future needs of or for the uninsurable risk pool.

(7) By December 1, 2000, a comprehensive report and review on the implementation and effectiveness of the state's health care reform.

(8) The issues listed in this section are intended only to be study items for the commission. They do not represent a predetermined final outcome of that study. Any implementation of recommendations resulting from the study remain the prerogative of the Legislature.

Section 81. Section **63C-7-211** is amended to read:

**63C-7-211. Annual report to governor and Legislature -- Contents -- Audit by state auditor -- Reimbursement for costs.**

(1) The Utah Communications Agency Network shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.

(2) The state auditor shall at least once in each year audit the books and accounts of the Utah Communications Agency Network or shall contract with an independent certified public accountant for this audit. The audit shall include a review of the procedures adopted under the requirements of Subsection [~~67C-7-210~~] 63C-7-210(2) and a determination as to whether the board has complied with the requirements of Subsection [~~67C-7-210~~] 63C-7-210(2).

(3) The Utah Communications Agency Network shall reimburse the state auditor from available moneys of the Utah Communications Agency Network for the actual and necessary costs of that audit.

Section 82. Section **63C-9-501** is amended to read:

**63C-9-501. Soliciting donations.**

(1) The executive director, under the direction of the board, shall:

(a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and

(b) actively solicit donations from those persons and entities.

(2) (a) Property provided by those entities [~~are~~] is the property of the state and [~~are~~] is under the control of the board.

(b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.

(3) The board shall:

(a) deposit monies donated to the board into the State Capitol Fund established by this part; and

(b) use gifts of money made to the board for the purpose specified by the grantor, if any.

Section 83. Section **63D-1-204** is amended to read:

**63D-1-204. Purpose -- Duties -- Quorum.**

(1) The commission shall:

(a) study Utah's present and future information technology needs;

(b) make recommendations regarding the coordination and governance of the information technology needs for the Executive, Legislative, and Judicial Departments;

(c) solicit and consider recommendations made by the governor, Judiciary, Legislature, and the public regarding information technology;

(d) consider the scope of the Public Service Commission's authority to regulate information technology;

(e) consider issues of economic development with regard to information technology;

(f) (i) receive reports concerning expenditures for information technology and appropriation requests from:

(A) the Executive Department as provided in Subsections 63-38-2(7)(a)(i) and Section [~~63D-3-301~~] 63D-1-301.5; and

(B) the Judicial and Legislative Departments; and

(ii) make recommendations to Executive Appropriations and the appropriate appropriations subcommittees of the Legislature;

(g) review, analyze, and study any issue concerning or related to information technology or practice that is of interest to the commission;

(h) submit to the Legislature before the annual general session its reports and recommendations for information technology projects or legislation; and

(i) if needed, prepare legislation concerning information technology for submission to the Legislature in its annual general session.

(2) Eleven members shall be a quorum for the conduct of business.

(3) The commission is authorized to prepare, publish, and distribute reports of its studies, recommendations, and statements.

Section 84. Section **64-9b-2** is amended to read:

**64-9b-2. Definitions.**

As used in this [~~act~~] chapter:

(1) "Department" means the Department of Corrections.

(2) "Inmate" means any man or woman who is under the jurisdiction of the department and who is assigned to the Utah state prison or to a county jail.

Section 85. Section **64-9b-6** is amended to read:

**64-9b-6. Rules.**

The department is authorized to promulgate rules in accordance with Title 63, Chapter 46a, the Utah Administrative Rulemaking Act, as necessary to carry out the purposes of this [~~act~~] chapter.

Section 86. Section **67-19a-401** is amended to read:

**67-19a-401. Time limits for submission of appeal by aggrieved employee -- Voluntary termination of employment -- Group grievances.**

(1) Subject to the standing requirements contained in Part 3 and the restrictions contained in this part, a career service employee may have a grievance addressed by following the procedures specified in this part.

(2) The employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps 2, 3, or 4 or the time limits specified for those grievance steps, as outlined in Section 67-19a-402.

(3) Any writing made pursuant to Subsection (2) must be submitted to the administrator.

(4) (a) Unless the employee meets the requirements for excusable neglect established by rule, if the employee fails to process the grievance to the next step within the time limits established in this part, he has waived his right to process the grievance or to obtain judicial review of the grievance.

(b) Unless the employee meets the requirements for excusable neglect established by rule, if the employee fails to process the grievance to the next step within the time limits established in this part, the grievance is considered to be settled based on the decision made at the last step.

(5) (a) Unless the employee meets the requirements for excusable neglect established by rule, an employee may submit a grievance for review under this chapter only if the employee submits the grievance:

(i) within 20 working days after the event giving rise to the grievance; or

(ii) within 20 working days after the employee has knowledge of the event giving rise to the grievance.

(b) Notwithstanding Subsection [~~(4)~~] (5)(a), an employee may not submit a grievance more than one year after the event giving rise to the grievance.

(6) A person who has voluntarily terminated his employment with the state may not submit a grievance after he has terminated his employment.

(7) (a) When several employees allege the same grievance, they may submit a group grievance by following the procedures and requirements of this chapter.

(b) In submitting a group grievance, each aggrieved employee shall sign the complaint.

(c) The administrator and board may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.

Section 87. Section **70A-2a-534** is amended to read:

**70A-2a-534. Other remedies.**

In addition to the rights and remedies provided for lease agreements and lease disputes in this chapter, a consumer, dealer, lessee, lessor, and manufacturer of assistive technology as defined in Section 70A-2-802 may exercise rights and seek remedies pursuant to any lease agreement under Title 70A, Chapter 2, Part 8, Assistive Technology Warranty Act, as limited by Subsections 70A-2-805(4) and [~~70A-5-807~~] 70A-2-807(4).

Section 88. Section **72-7-106** is amended to read:

**72-7-106. Gates on B system county highways.**

(1) The county executive of any county may provide for the erection and maintenance of gates on the B system county highways in order to avoid the necessity of building highway fences.

(2) The person for whose immediate benefit the gates are erected or maintained shall in all cases bear the expense.

(3) Nothing contained in Section 72-7-105 shall be construed to prohibit any person from placing any unlocked, nonrestrictive gate across any B system county highway, or maintaining the same, with the approval of the county executive of that county.

(4) A gate may not be allowed on any B system county highways except those gates allowed by the county executive in accordance with the provisions of this section. If the expense of the erection and maintenance of the allowed gates is not paid or if any lock or other device is placed upon the gates so as to make them restrictive, the county executive of that county shall notify the responsible party that their approval is terminated and the gate shall be considered to be an

obstruction pursuant to Section 72-7-105.

(5) The placement or maintenance of gates with the consent of the county executive across B system county highways for the statutory period of time does not constitute or establish an abandonment by the county and does not establish an easement on behalf of the person establishing the gate.

(6) A person who commits any of the following acts is guilty of a class B misdemeanor and is liable for any and all damages suffered by any party as a result of the acts:

(a) leave open any gate, erected or maintained under this section;

(b) unnecessarily drive over the ground adjoining the highway on which [~~the~~] a gate is erected;

(c) place any lock or other restrictive device on a gate; or

(d) violate any rules or regulations of any county legislative body relating to the gates within the county.

(7) The provisions of this section relating to maintenance and removal of gates over B system county highways applies retrospectively to all gates in existence on April 1, 1976.

Section 89. Section **72-7-204** is amended to read:

**72-7-204. Issuance of licenses -- Fees -- Duration -- Renewal -- Disposition of proceeds.**

(1) The department has the sole authority to issue licenses for the establishment, maintenance, and operation of junkyards within the limits defined in Section [~~27-7-203~~] 72-7-203, and shall charge a $10 license fee payable annually in advance.

(2) All licenses issued under this section expire on the first day of January following the date of issue. Licenses may be renewed from year to year upon payment of the requisite fee.

(3) Proceeds from the license fee shall be deposited with the state treasurer and credited to the Transportation Fund.

Section 90. Section **72-7-401** is amended to read:

**72-7-401. Application of size, weight, and load limitations for vehicles -- Exceptions.**

(1) (a) Except as provided in Subsection (2), the maximum size, weight, and load limitations on vehicles under this part apply to all highways throughout the state.

(b) Local authorities may not alter the limitations except as expressly provided under Sections 41-6-17 and 72-7-408.

(2) Except as specifically made applicable, the size, weight, and load limitations in this chapter do not apply to:

(a) fire-fighting apparatus;

(b) highway construction and maintenance equipment being operated at the site of maintenance or at a construction project as authorized by a highway authority;

(c) implements of husbandry incidentally moved on a highway while engaged in an agricultural operation or incidentally moved for repair or servicing, subject to the provisions of Section 72-7-407;

(d) vehicles transporting logs or poles from forest to sawmill:

(i) when required to move upon a highway other than the national system of interstate and defense highways;

(ii) if the gross vehicle weight does not exceed 80,000 pounds; and

(iii) the vehicle or combination of vehicles are in compliance with Subsections 72-7-404(1) and (2)(a); and

(e) tow trucks or towing vehicles under emergency conditions when:

(i) it becomes necessary to move a vehicle, combination of vehicles, special mobile equipment, or objects to the nearest safe area for parking or temporary storage;

(ii) no other alternative is available; and

(iii) the movement is for the safety of the traveling public.

(3) (a) Except when operating on the national system of interstate and defense highways, a motor vehicle carrying livestock as defined in Section 4-1-8, or a motor vehicle carrying raw grain if the grain is being transported by the farmer from his farm to market prior to bagging, weighing, or processing, may exceed by up to 2,000 pounds the tandem axle weight limitations specified under Section 72-7-404 without obtaining an overweight permit under Section 72-7-406.

(b) Subsection (3)(a) is an exception to Sections 72-7-404 and 72-7-406.

Section 91. Section **72-7-402** is amended to read:

**72-7-402. Limitations as to vehicle width, height, length, and load extensions.**

(1) (a) Except as provided by statute, all state or federally approved safety devices and any other lawful appurtenant devices, including refrigeration units, hitches, air line connections, and load securing devices related to the safe operation of a vehicle are excluded for purposes of measuring the width and length of a vehicle under the provisions of this part, if the devices are not designed or used for carrying cargo.

(b) Load-induced tire bulge is excluded for purposes of measuring the width of vehicles under the provisions of this part.

(2) A vehicle unladen or with a load may not exceed a width of 8-1/2 feet.

(3) A vehicle unladen or with a load may not exceed a height of 14 feet.

(4) (a) (i) A single-unit vehicle, unladen or with a load, may not exceed a length of 45 feet including front and rear bumpers.

(ii) In this section, a truck tractor coupled to one or more semitrailers or trailers is not considered a single-unit vehicle.

(b) (i) Except as provided under Subsection (4)(b)(iii), a semitrailer, unladen or with a load, may not exceed a length of 48 feet excluding refrigeration units, hitches, air line connections, and safety appurtenances.

(ii) There is no overall length limitation on a truck tractor and semitrailer combination when the semitrailer length is 48 feet or less.

(iii) A semitrailer that exceeds a length of 48 feet but does not exceed a length of 53 feet may operate on a route designated by the department or within one mile of that route.

(c) (i) Two trailers coupled together, unladen or with a load, may not exceed an overall length of 61 feet, measured from the front of the first trailer to the rear of the second trailer.

(ii) There is no overall length limitation on a truck tractor and double trailer combination when the trailers coupled together measure 61 feet or less.

(d) All other combinations of vehicles, unladen or with a load, when coupled together, may not exceed a total length of 65 feet, except the length limitations do not apply to combinations of vehicles operated at night by a public utility when required for emergency repair of public service

facilities or properties, or when operated under a permit under Section 72-7-406.

(5) (a) Subject to Subsection (4), a vehicle or combination of vehicles may not carry any load extending more than three feet beyond the front of the body of the vehicle or more than six feet beyond the rear of the bed or body of the vehicle.

(b) A passenger vehicle may not carry any load extending beyond the line of the fenders on the left side of the vehicle nor extending more than six inches beyond the line of the fenders on the right side of the vehicle.

(6) Any exception to this section must be authorized by a permit as provided under Section 72-7-406.

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the department shall make rules designating routes where a semitrailer that exceeds a length of 48 feet but that does not exceed a length of 53 feet may operate as provided under Subsection (4)(b)(iii).

(8) Any person who violates this section is guilty of a class B misdemeanor.

Section 92. Section **72-7-404** is amended to read:

**72-7-404. Maximum gross weight limitation for vehicles -- Bridge formula for weight limitations -- Minimum mandatory fines.**

(1) (a) As used in this section:

(i) "Axle load" means the total load on all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart.

(ii) "Tandem axle" means two or more axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(b) The tire load rating shall be marked on the tire sidewall. A tire, wheel, or axle may not carry a greater weight than the manufacturer's rating.

(2) (a) A vehicle may not be operated or moved on any highway in the state with:

(i) a gross weight in excess of 10,500 pounds on one wheel;

(ii) a single axle load in excess of 20,000 pounds; or

(iii) a tandem axle load in excess of 34,000 pounds.

(b) Subject to the limitations of Subsection (3), the gross vehicle weight of any vehicle or

combination of vehicles may not exceed 80,000 pounds.

(3) (a) Subject to the limitations in Subsection (2), no group of two or more consecutive axles between the first and last axle of a vehicle or combination of vehicles and no vehicle or combination of vehicles may carry a gross weight in excess of the weight provided by the following bridge formula, except as provided in Subsection (3)(b):

$$W = 500 \{LN/(N-1) + 12N+36\}$$

(i) W = overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds.

(ii) L = distance in feet between the extreme of any group of two or more consecutive axles. When the distance in feet includes a fraction of a foot of one inch or more the next larger number of feet shall be used.

(iii) N = number of axles in the group under consideration.

(b) Two consecutive sets of tandem axles may carry a gross weight of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more.

(4) Any exception to this section must be authorized by an overweight permit as provided in Section 72-7-406.

(5) (a) Any person who violates this section is guilty of a class B misdemeanor except that, notwithstanding Sections 76-3-301 and 76-3-302, the violator shall pay the largest minimum mandatory fine of either:

(i) $50 plus the sum of the overweight axle fines calculated under Subsection (5)(b); or

(ii) $50 plus the gross vehicle weight fine calculated under Subsection (5)(b).

(b) The fine for each axle and a gross vehicle weight violation shall be calculated according to the following schedule:

| Number of Pounds Overweight | Axle Fine (Cents per Pound for Each Overweight Axle) | Gross Vehicle Weight Fine (Cents per Pound) |
|---|---|---|
| 1 - 2,000 | 0 | 0 |

| | | |
|---|---|---|
| 2,001 - 5,000 | 4 | 5 |
| 5,001 - 8,000 | 5 | 5 |
| 8,001 - 12,000 | 6 | 5 |
| 12,001 - 16,000 | 7 | 5 |
| 16,001 - 20,000 | 9 | 5 |
| 20,001 - 25,000 | 11 | 5 |
| 25,001 or more | 13 | 5 |

Section 93. Section **72-7-502** is amended to read:

**72-7-502. Definitions.**

As used in this part:

(1) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:

(a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;

(b) transient or temporary activities;

(c) activities not visible from the main-traveled way;

(d) activities conducted in a building principally used as a residence; and

(e) railroad tracks and minor sidings.

(2) "Commercial or industrial zone" means only:

(a) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(b) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;

(c) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:

(i) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and

(ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or

(d) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.

(3) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.

(4) "Comprehensive local zoning ordinances or regulations" means a municipality's comprehensive plan required by Section 10-9-301, the municipal zoning plan authorized by Section 10-9-401, and the county master plan authorized by Sections 17-27-301 and 17-27-401. Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.

(5) "Directional signs" means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.

(6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.

(b) "Erect" does not include any activities defined in Subsection (a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.

(7) "Highway service zone" means a highway service area where the primary use of the land

is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.

(8) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of:

(a) places of interest within the state; or

(b) any other information that the department considers desirable.

(9) "Interchange or intersection" means those areas and their approaches where traffic is channeled off or onto an interstate route, excluding the deacceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.

(10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

(11) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an existing sign structure safe and in a state suitable for use, including signs destroyed by vandalism or an act of God.

(12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes, acceleration lanes, deacceleration lanes, and feeder systems, exclusive of frontage roads and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each direction.

(13) "Official signs and notices" means signs and notices erected and maintained by public agencies within their territorial or zoning jurisdictions for the purpose of carrying out official duties or responsibilities in accordance with direction or authorization contained in federal, state, or local law.

(14) "Off-premise signs" means signs located in areas zoned industrial, commercial, or H-1 and in areas determined by the department to be unzoned industrial or commercial.

(15) "On-premise signs" means signs used to advertise the major activities conducted on the property where the sign is located.

(16) "Outdoor advertising" means any outdoor advertising structure or outdoor structure used in combination with an outdoor advertising sign or outdoor sign.

(17) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured perpendicular from the edge of a controlled highway right-of-way.

(18) "Outdoor advertising structure" or "outdoor structure" means any sign structure,

including any necessary devices, supports, appurtenances, and lighting that is part of or supports an outdoor sign.

(19) "Point of widening" means the point of the gore or the point where the intersecting lane begins to parallel the other lanes of traffic, but the point of widening may never be greater than 2,640 feet from the center line of the intersecting highway of the interchange or intersection at grade.

(20) "Relocation" includes the removal of a sign from one situs together with the erection of a new sign upon another situs in a commercial or industrial zoned area as a substitute.

(21) "Relocation and replacement" means allowing all outdoor advertising signs or permits the right to maintain outdoor advertising along the interstate, federal aid primary highway existing as of June 1, 1991, and national highway system highways to be maintained in a commercial or industrial zoned area to accommodate the displacement, remodeling, or widening of the highway systems.

(22) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this [~~act~~] part and that is located in a commercial or industrial area.

(23) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.

(24) "Scenic or natural area" means an area determined by the department to have aesthetic value.

(25) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

(26) (a) "Unzoned commercial or industrial area" means:

(i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;

(ii) the lands along the highway for a distance of 600 feet immediately adjacent to those activities; and

(iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the

highway do not have scenic or aesthetic value.

(b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.

(c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of 12 months.

(27) "Urbanized county" means a county with a population of at least 125,000 persons.

Section 94. Section **72-7-505** is amended to read:

**72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor -- Limit on implementation.**

(1) (a) Except as provided in Subsection (2), a sign face within the state may not exceed the following limits:

(i) maximum area - 1,000 square feet;

(ii) maximum length - 60 feet; and

(iii) maximum height - 25 feet.

(b) No more than two facings visible and readable from the same direction on the main-traveled way may be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed the maximum allowed square footage.

(c) Two or more advertising messages on a sign face and double-faced, back-to-back, stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces enjoy common ownership.

(d) A changeable message sign is permitted if the interval between message changes is not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.

(2) (a) An outdoor sign structure located inside the unincorporated area of a nonurbanized county may have the maximum height allowed by the county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided

for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

(b) An outdoor sign structure located inside an incorporated municipality or urbanized county may have the maximum height allowed by the municipality or urbanized county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

(3) Except as provided in Section 72-7-509:

(a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign adjacent to an interstate highway or limited access primary highway, except that signs may be erected closer than 500 feet if the signs on the same side of the interstate highway or limited access primary highway are not simultaneously visible.

(b) Signs may not be located within 500 feet of any of the following which are adjacent to the highway, unless the signs are in an incorporated area:

(i) public parks;

(ii) public forests;

(iii) public playgrounds;

(iv) areas designated as scenic areas by the department or other state agency having and exercising this authority; or

(v) cemeteries.

(c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate highway or limited access highway on the primary system within 500 feet of an interchange, or intersection at grade, or rest area measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.

(B) Interchange and intersection distance limitations shall be measured separately for each direction of travel. A measurement for each direction of travel may not control or affect any other

direction of travel.

(ii) A sign may be placed closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way, if:

(A) the sign is at least 500 feet but not more than 2,640 feet from the nearest point of the intersecting highway of the interchange; or

(B) the sign is replacing an existing outdoor advertising use or structure which is being removed or displaced to accommodate the widening, construction, or reconstruction of an interstate, federal aid primary highway existing as of June 1, 1991, or national highway system highway, and it is located in a commercial or industrial zoned area inside an urbanized county or an incorporated municipality.

(d) The location of signs situated on nonlimited access primary highways in commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the primary highway shall not exceed the following minimum spacing criteria:

(i) Where the distance between centerlines of intersecting streets, roads, or highways is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted between the intersecting streets or highways.

(ii) Where the distance between centerlines of intersecting streets, roads, or highways is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.

(e) All outdoor advertising shall be erected and maintained within the outdoor advertising corridor.

(4) Subsection (3)(c)(ii) may not be implemented until:

(a) the Utah-Federal Agreement for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system is modified to allow the sign placement specified in Subsection (3)(c)(ii); and

(b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state and the United States Secretary of Transportation.

Section 95. Section **72-7-510** is amended to read:

**72-7-510. Existing outdoor advertising not in conformity with part -- Procedure -- Eminent domain -- Compensation -- Relocation.**

(1) As used in this section, "nonconforming sign" means a sign that has been erected in a zone or area other than commercial or industrial or where outdoor advertising is not permitted under this part.

(2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent domain, any existing outdoor advertising and all property rights pertaining to the outdoor advertising which were lawfully in existence on May 9, 1967, and which by reason of this part become nonconforming.

(b) If the department, or any town, city, county, governmental entity, public utility, or any agency or the United States Department of Transportation under this part, prevents the maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be discontinued, the sign in question shall be considered acquired by the entity and just compensation will become immediately due and payable.

(c) Eminent domain shall be exercised in accordance with the provision of Title 78, Chapter 34, Eminent Domain.

(3) (a) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same, including the right of the landowner upon whose land a sign is located, acquired through the processes of eminent domain.

(b) For the purposes of this part, just compensation shall include the consideration of damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign company's interest, which remaining properties, together with the properties actually condemned, constituted an economic unit.

(c) The department is empowered to remove signs found in violation of Section 72-7-508 without payment of any compensation.

(4) Except as specifically provided in this section or Section 72-7-513, this part may not be construed to permit a person to place or maintain any outdoor advertising adjacent to any interstate or primary highway system which is prohibited by law or by any town, city, or county ordinance.

Any town, city, county, governmental entity, or public utility which requires the removal, relocation, alteration, change, or termination of outdoor advertising shall pay just compensation as defined in this part and in Title 78, Chapter 34, Eminent Domain.

(5) Except as provided in Section 72-7-508, no sign shall be required to be removed by the department nor sign maintenance as described in this section be discontinued unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under 23 U.S.C., Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated and are immediately available to this state.

(6) (a) If any outdoor advertising use, structure, or permit may not be continued because of the widening, construction, or reconstruction along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, the owner shall have the option to relocate and remodel the use, structure, or permit to another location:

(i) on the same property;

(ii) on adjacent property;

(iii) on the same highway within 5280 feet of the previous location, which may be extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either side of the same highway; or

(iv) mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located.

(b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.

(c) The county or municipality in which the use or structure is located shall, if necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance.

(d) The relocated and remodeled use or structure may be:

(i) erected to a height and angle to make it clearly visible to traffic on the main-traveled way

of the highway to which it is relocated or remodeled;

(ii) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part;

(iii) relocated to a comparable vehicular traffic count.

(7) (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a) shall pay the costs related to the relocation, remodeling, or acquisition.

(b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).

Section 96. Section **72-7-515** is amended to read:

**72-7-515. Utah-Federal Agreement -- Severability clause.**

(1) As used in this section, "Utah-Federal Agreement" means the agreement relating to outdoor advertising that is described under Section 72-7-501, and it includes any modifications to the agreement that are signed on behalf of both the state and the United States Secretary of Transportation.

(2) The provisions of this [~~act~~] part are subject to and shall be superseded by conflicting provisions of the Utah-Federal Agreement.

(3) If any provision of this part or its application to any person or circumstance is found to be unconstitutional, or in conflict with or superseded by the Utah-Federal Agreement, the remainder of this [~~act~~] part and the application of the provision to other persons or circumstances shall not be affected by it.

Section 97. Section **72-12-109** is amended to read:

**72-12-109. Wage and hour regulations unaffected by ride-sharing.**

The fact that an employee participates in any kind of ride-sharing arrangement does not [~~effect~~] affect the application of any laws requiring payment of a minimum wage or overtime pay or otherwise regulating the hours a person may work.

Section 98. Section **73-15-5** is amended to read:

**73-15-5. Transfer of records and data to division -- Establishment of reporting and**

**recordkeeping procedures.**

All records and data collected by the department of meteorology of the state school of mines and mineral industries of the University of Utah since [~~the enactment of Sections 73-15-1 and 73-15-2~~] March 14, 1953, shall be transferred to the Division of Water Resources, there to be a permanent record. The Division of Water Resources shall establish forms and/or criteria for reporting

data and record keeping and cause that a permanent record is kept of all pertinent data related to cloud-seeding projects, cloud-seeding research projects, or research related to other factors that may be affected by cloud-seeding activities.

Section 99. Section **75-2-610** is amended to read:

**75-2-610. Marital deduction formulas -- Wills.**

For estates of decedents dying after December 31, 1981, where a decedent's will executed before September 13, 1981, contains a formula expressly providing that the decedent's spouse is to receive the maximum amount of property qualifying for the marital deduction allowable by federal law, this formula shall be construed as referring to the unlimited marital deduction allowable by federal law as amended by [~~U.S.C. Sec. 26,~~] Section 403(a)[~~,~~] of the Economic Recovery Tax Act of 1981.

Section 100. Section **76-6-404.5** is amended to read:

**76-6-404.5. Wrongful appropriation -- Penalties.**

(1) A person commits wrongful appropriation if he obtains or exercises unauthorized control over the property of another, without the consent of the owner or legal custodian and with intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner or legal custodian of possession of the property.

(2) The consent of the owner or legal custodian of the property to its control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

(3) Wrongful appropriation is punishable one degree lower than theft, as provided in Section 76-6-412, so that a violation which would have been:

(a) a second degree felony under Section 76-6-412 if it had been theft is a third degree felony

if it is wrongful appropriation;

(b) a third degree felony under Section 76-6-412 if it had been theft is a class A misdemeanor if it is wrongful appropriation;

(c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B misdemeanor if it is wrongful appropriation; and

(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C misdemeanor if it is wrongful appropriation[~~; and~~].

[~~(e) an act of unauthorized control of motor vehicles, trailers, or semitrailers which does not constitute theft is punishable under Section 41-1a-1311.~~]

Section 101. Section **77-18-9** is amended to read:

**77-18-9. Definitions.**

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Certificate of eligibility" means a document issued by the division stating that the criminal record which is the subject of a petition for expungement is eligible for expungement.

(3) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(4) "Division" means the Law Enforcement Criminal Investigations and Technical Services Division of the Department of Public Safety established in Section [~~52-10-103~~] 53-10-103.

(5) "Expungement" means the sealing or destruction of a criminal record, including records of the investigation, arrest, detention, or conviction of the petitioner.

(6) "Jurisdiction" means an area of authority.

(7) "Petitioner" means a person seeking expungement under this chapter.

(8) Second degree forcible felony includes:

(a) aggravated assault, if the person intentionally causes serious bodily injury;

(b) aggravated assault by a prisoner;

(c) aggravated assault on school premises;

(d) intentional child abuse;

(e) criminally negligent automobile homicide;

(f) reckless child abuse homicide;

(g) mayhem;

(h) manslaughter;

(i) kidnaping;

(j) forcible sexual abuse;

(k) robbery;

(l) felony fleeing causing death or serious bodily injury; or

(m) delivery of an explosive to a common carrier.

Section 102. Section **77-32a-2** is amended to read:

**77-32a-2. Costs -- What constitute.**

Costs shall be limited to expenses specially incurred by the state or any political subdivision in investigating, searching for, apprehending, and prosecuting the defendant, including attorney fees of counsel assigned to represent the defendant [~~pursuant to Section 77-32-2~~], interpreter fees, and investigators' fees. Costs cannot include expenses inherent in providing a constitutionally guaranteed trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Costs cannot include attorneys' fees for prosecuting attorneys.

Section 103. Section **78-5-101** is amended to read:

**78-5-101. Creation of justice court -- Not of record.**

Under Article VIII, Section 1, Utah Constitution, there is created a court not of record known as the justice court. The judges of this court are justice court judges. [~~Except for those municipalities listed in Subsection 10-3-923(4), a municipality or county may not establish a justice court between July 1, 1997, and July 1, 1998.~~]

Section 104. Section **78-5-102** is amended to read:

**78-5-102. Offices of justice court judges.**

(1) Justice court judges holding office in:

(a) county precincts are county justice court judges; and

(b) cities or towns are municipal justice court judges.

(2) With the concurrence of the governing bodies of both the county and municipality, a justice court judge may hold both the offices of county and municipal justice court judge.

(3) The county legislative body may establish a single precinct or divide the county into multiple precincts to create county justice courts for public convenience.

(4) (a) The governing body may assign as many justice court judges to a court as required for efficient judicial administration.

(b) If more than one judge is assigned to a court, any citations, informations, or complaints within that court shall be assigned to the judges at random.

(5) A municipality or county may contract with any other municipality or municipalities within the county under Title 11, Chapter 13, Interlocal Cooperation Act, to establish a justice court. A justice court established under Title 11, Chapter 13, shall meet the requirements for certification under Section 78-5-139. A justice court established under Title 11, Chapter 13, shall have territorial jurisdiction as if established separately.

[~~(6) Counties have the same rights and restraints as provided for municipalities with respect to assuming responsibility for the jurisdiction of justice courts provided in Section 10-3-923.~~]

Section 105. Section **78-5-103** is amended to read:

**78-5-103. Territorial jurisdiction -- Voting.**

(1) [~~Except as provided in Section 10-3-923, the~~] The territorial jurisdiction of county justice courts extends to the limits of the precinct for which the justice court is created and includes all cities or towns within the precinct, except cities where a municipal justice court exists.

(2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

(3) The territorial jurisdiction of county and municipal justice courts functioning as magistrates extends beyond the boundaries in Subsections (1) and (2):

(a) as set forth in Section 78-7-17.5; and

(b) to the extent necessary to carry out magisterial functions under Subsection 77-7-23(2) regarding jailed persons.

(4) For election of county justice court judges, all registered voters in the county justice court precinct may vote at the judge's retention election.

Section 106. Section **78-14a-101** is amended to read:

**78-14a-101. Definitions.**

As used in this chapter, "therapist" means:

(1) a psychiatrist licensed to practice medicine under Section 58-67-301, Utah Medical Practice Act or under Section 58-68-301, Utah Osteopathic Medical Practice Act;

(2) a psychologist licensed to practice psychology under Section 58-61-301;

(3) a marriage and family therapist licensed to practice marriage and family therapy under Section 58-60-304;

(4) a social worker licensed to practice social work under Section 58-60-204; and

(5) a psychiatric and mental health nurse specialist licensed to practice advanced psychiatric nursing under Title 58, Chapter [~~31~~] 31b.

Section 107. Section **78-30-3.5** is amended to read:

**78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.**

(1) (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) The court may, at any time, authorize temporary placement of a child in a potential adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the evaluation is otherwise requested by the court. The prospective adoptive parent described in this Subsection (c) shall, however, obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) The requirements of Subsection (1)(a) are satisfied by a previous preplacement adoptive evaluation conducted within three years prior to placement of the child, or an annual updated adoptive evaluation conducted after that three-year period or within one year after finalization of a previous adoption.

(2) The preplacement adoptive evaluation shall include:

(a) criminal history record information regarding each prospective adoptive parent and any other adult living in the prospective home, received from the Criminal Investigations and Technical Services Division of the Department of Public Safety, in accordance with Section 53-10-108, no earlier than 18 months immediately preceding placement of the child;

(b) a report from the Department of Human Services containing all information regarding reports and investigation of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding placement of the child, pursuant to waivers executed by those parties; and

(c) an evaluation conducted by an expert in family relations approved by the court or a certified social worker, clinical social worker, marriage and family therapist, psychologist, professional counselor, or other court-determined expert in family relations, who is licensed to practice under the laws of this state. The evaluation shall be in a form approved by the Department of Human Services. Neither the Department of Human Services nor any of its divisions may proscribe who qualifies as an expert in family relations or who may conduct evaluations pursuant to this Subsection (2).

(3) [~~(a)~~] A copy of the preplacement adoptive evaluation shall be filed with the court.

(4) (a) Except as provided in Subsections (b) and (c), a postplacement evaluation shall be conducted and submitted to the court prior to the final hearing in an adoption proceeding. The postplacement evaluation shall include:

(i) verification of the allegations of fact contained in the petition for adoption;

(ii) an evaluation of the progress of the child's placement in the adoptive home; and

(iii) a recommendation regarding whether the adoption is in the best interest of the child.

(b) The exemptions from and requirements for evaluations, described in Subsections (1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.

(c) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless it determines that it is in the best interest of the child to require the postplacement evaluation.

(5) If the person or agency conducting the evaluation disapproves the adoptive placement, either in the preplacement or postplacement adoptive evaluation, the court may dismiss the petition. However, upon request of a prospective adoptive parent, the court shall order that an additional preplacement or postplacement adoptive evaluation be conducted, and hold a hearing on the suitability of the adoption, including testimony of interested parties.

(6) Prior to finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement and postplacement adoptive studies required by this section.

Section 108. Section **78-45f-202** is amended to read:

**78-45f-202. Procedure when exercising jurisdiction over nonresident.**

A tribunal of this state exercising personal jurisdiction over a nonresident under Section 78-45f-201 may apply Section 78-45f-316 to receive evidence from another state, and Section [~~78-45-318~~] 78-45f-318 to obtain discovery through a tribunal of another state. In all other respects, Parts 3, 4, 5, 6, and 7 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.

Section 109. Section **78-46-1** is amended to read:

**78-46-1. Title.**

This [~~act shall be~~] chapter is known [~~and may be cited~~] as the "Jury Selection and Service Act."

Section 110. **Repealer.**

This act repeals:

Section **53-3-107, Driver license renewal station pilot program -- Kiosks -- Funding -- Reporting on program -- Sunset date.**

Section **53-4-101, Short title.**

Section **63-55b-6501, Repeal date - Section 65A-8-6.6.**