

Representative Blake D. Chard proposes to substitute the following bill:

**REMOVING BARRIERS TO ELECTRONIC
GOVERNMENT SERVICES DELIVERY**

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Blake D. Chard

AN ACT RELATING TO PROVIDING GOVERNMENT SERVICES ELECTRONICALLY;
AMENDING CODE SECTIONS TO REMOVE STATUTORY BARRIERS TO FACILITATE
THE PROVISION OF GOVERNMENT SERVICES ELECTRONICALLY; AND MAKING
CONFORMING AND TECHNICAL AMENDMENTS.

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

AMENDS:

13-1-6, as enacted by Chapter 322, Laws of Utah 1983

13-14-102, as last amended by Chapter 339, Laws of Utah 1998

13-14-302, as enacted by Chapter 277, Laws of Utah 1996

13-14-304, as enacted by Chapter 277, Laws of Utah 1996

17A-2-531, as last amended by Chapter 365, Laws of Utah 1999

17A-2-723, as renumbered and amended by Chapter 186, Laws of Utah 1990

17A-3-208, as last amended by Chapter 270, Laws of Utah 1998

17A-3-308, as renumbered and amended by Chapter 186, Laws of Utah 1990

23-19-11, as last amended by Chapter 145, Laws of Utah 1996

23-19-11.5, as enacted by Chapter 120, Laws of Utah 1995

26-1-5, as enacted by Chapter 126, Laws of Utah 1981

26-2-3, as last amended by Chapter 202, Laws of Utah 1995

26-2-4, as last amended by Chapter 202, Laws of Utah 1995

26-2-10, as last amended by Chapter 202, Laws of Utah 1995

- 26 **26-2-16**, as last amended by Chapter 202, Laws of Utah 1995
- 27 **26-2-18**, as last amended by Chapter 202, Laws of Utah 1995
- 28 **26-2-23**, as last amended by Chapter 202, Laws of Utah 1995
- 29 **26-2-28**, as last amended by Chapter 202, Laws of Utah 1995
- 30 **26-3-7**, as last amended by Chapter 201, Laws of Utah 1996
- 31 **26-4-12**, as last amended by Chapter 38, Laws of Utah 1993
- 32 **26-6-20**, as enacted by Chapter 126, Laws of Utah 1981
- 33 **26-6a-2**, as last amended by Chapter 137, Laws of Utah 1999
- 34 **26-6b-4**, as enacted by Chapter 211, Laws of Utah 1996
- 35 **26-8a-103**, as renumbered and amended by Chapter 141, Laws of Utah 1999
- 36 **26-8a-414**, as enacted by Chapter 141, Laws of Utah 1999
- 37 **26-15a-106**, as enacted by Chapter 345, Laws of Utah 1998
- 38 **26-21-9**, as last amended by Chapter 114, Laws of Utah 1990
- 39 **26-21-20**, as last amended by Chapter 209, Laws of Utah 1997
- 40 **26-39-105.5**, as last amended by Chapter 77, Laws of Utah 1999
- 41 **34-32-1**, as enacted by Chapter 85, Laws of Utah 1969
- 42 **41-1a-116**, as last amended by Chapter 314, Laws of Utah 1995
- 43 **41-1a-512**, as last amended by Chapter 221, Laws of Utah 1993
- 44 **41-3-105**, as last amended by Chapter 282, Laws of Utah 1998
- 45 **41-3-803**, as enacted by Chapter 167, Laws of Utah 1993
- 46 **53-7-305**, as renumbered and amended by Chapter 234, Laws of Utah 1993
- 47 **53A-14-104**, as enacted by Chapter 2, Laws of Utah 1988
- 48 **53A-20-101**, as last amended by Chapter 51, Laws of Utah 1998
- 49 **57-11-5**, as last amended by Chapter 199, Laws of Utah 1990
- 50 **57-11-11**, as enacted by Chapter 158, Laws of Utah 1973
- 51 **57-11-12**, as enacted by Chapter 158, Laws of Utah 1973
- 52 **57-19-6**, as last amended by Chapter 199, Laws of Utah 1990
- 53 **57-19-9**, as last amended by Chapter 199, Laws of Utah 1990
- 54 **59-1-503**, as last amended by Chapter 51, Laws of Utah 1991
- 55 **59-1-504**, as last amended by Chapter 161, Laws of Utah 1987
- 56 **59-2-212**, as last amended by Chapter 3, Laws of Utah 1988

- 57 **59-2-214**, as enacted by Chapter 4, Laws of Utah 1987
- 58 **59-2-306**, as last amended by Chapter 237, Laws of Utah 1992
- 59 **59-2-307**, as last amended by Chapter 14, Laws of Utah 1994
- 60 **59-2-311**, as last amended by Chapter 271, Laws of Utah 1995
- 61 **59-2-322**, as last amended by Chapter 148, Laws of Utah 1987
- 62 **59-2-325**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 63 **59-2-326**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 64 **59-2-329**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 65 **59-2-508**, as last amended by Chapter 235, Laws of Utah 1992
- 66 **59-2-1002**, as repealed and reenacted by Chapter 3, Laws of Utah 1988
- 67 **59-2-1011**, as repealed and reenacted by Chapter 3, Laws of Utah 1988
- 68 **59-2-1101**, as last amended by Chapter 227, Laws of Utah 1993
- 69 **59-2-1102**, as repealed and reenacted by Chapter 3, Laws of Utah 1988
- 70 **59-2-1109**, as last amended by Chapter 87, Laws of Utah 1996
- 71 **59-2-1302**, as last amended by Chapter 207, Laws of Utah 1999
- 72 **59-2-1306**, as repealed and reenacted by Chapter 3, Laws of Utah 1988
- 73 **59-2-1307**, as last amended by Chapter 360, Laws of Utah 1997
- 74 **59-7-518**, as renumbered and amended by Chapter 169, Laws of Utah 1993
- 75 **59-7-519**, as renumbered and amended by Chapter 169, Laws of Utah 1993
- 76 **59-7-521**, as renumbered and amended by Chapter 169, Laws of Utah 1993
- 77 **59-10-524**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 78 **59-10-529**, as last amended by Chapter 299, Laws of Utah 1998
- 79 **59-12-107**, as last amended by Chapter 210, Laws of Utah 1999
- 80 **59-12-111**, as last amended by Chapter 1, Laws of Utah 1993, Second Special Session
- 81 **59-13-202**, as last amended by Chapter 161, Laws of Utah 1987
- 82 **59-13-301**, as last amended by Chapter 3, Laws of Utah 1997, First Special Session
- 83 **59-13-313**, as last amended by Chapter 299, Laws of Utah 1998
- 84 **59-13-316**, as last amended by Chapter 271, Laws of Utah 1997
- 85 **61-2-7.1**, as enacted by Chapter 165, Laws of Utah 1991
- 86 **61-2-7.2**, as enacted by Chapter 165, Laws of Utah 1991
- 87 **61-2-8**, as last amended by Chapter 182, Laws of Utah 1988

- 88 **61-2a-5**, as last amended by Chapters 225 and 227, Laws of Utah 1989
- 89 **61-2b-6**, as last amended by Chapter 117, Laws of Utah 1999
- 90 **61-2b-18**, as last amended by Chapter 117, Laws of Utah 1999
- 91 **61-2b-26**, as last amended by Chapter 117, Laws of Utah 1999
- 92 **61-2b-27**, as last amended by Chapter 117, Laws of Utah 1999
- 93 **63-56-5**, as last amended by Chapters 89 and 252, Laws of Utah 1997
- 94 **72-1-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

95 ENACTS:

- 96 **26-1-35**, Utah Code Annotated 1953
- 97 **53-7-107**, Utah Code Annotated 1953
- 98 **78-7-34**, Utah Code Annotated 1953

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

100 Section 1. Section **13-1-6** is amended to read:

101 **13-1-6. Rules and regulations.**

102 (1) The executive director shall prescribe rules and procedures for the management and
103 operation of the department, the conduct of its employees, and the custody, use, and preservation
104 of its records, papers, books, documents, and property.

105 (2) The department and its divisions, in contemplation, formulation, and passage of rules
106 pursuant to Subsection (1), shall acknowledge and consider the facilitation of commerce in all its
107 forms, including reliable electronic commerce, for the benefit of both consumers and businesses.

108 Section 2. Section **13-14-102** is amended to read:

109 **13-14-102. Definitions.**

110 As used in this chapter:

111 (1) "Board" means the Utah Motor Vehicle Franchise Advisory Board created in Section
112 13-14-103.

113 (2) "Dealership" means a site or location in this state:

114 (a) at which a franchisee conducts the business of a new motor vehicle dealer; and

115 (b) that is identified as a new motor vehicle dealer's principal place of business for
116 licensing purposes under Section 41-3-204.

117 (3) "Department" means the Department of Commerce.

118 (4) "Executive director" means the executive director of the Department of Commerce.

119 (5) "Franchise" or "franchise agreement" means a written agreement, for a definite or
120 indefinite period, in which:

121 (a) a person grants to another person a license to use a trade name, trademark, service
122 mark, or related characteristic; and

123 (b) a community of interest exists in the marketing of new motor vehicles, new motor
124 vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

125 (6) "Franchisee" means a person with whom a franchisor has agreed or permitted, in
126 writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured,
127 produced, represented, or distributed by the franchisor.

128 (7) "Franchisor" means a person who has, in writing or in practice, agreed with or permits
129 a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced,
130 represented, or distributed by the franchisor, and includes:

131 (a) the manufacturer or distributor of the new motor vehicles;

132 (b) an intermediate distributor; and

133 (c) an agent, officer, or field or area representative of the franchisor.

134 (8) "Line-make" means the motor vehicles that are offered for sale, lease, or distribution
135 under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer
136 of the motor vehicle.

137 (9) "Motor home" means a self-propelled vehicle, primarily designed as a temporary
138 dwelling for travel, recreational, or vacation use.

139 (10) "Motor vehicle" means:

140 (a) a travel trailer;

141 (b) a motor vehicle as defined in Section 41-3-102;

142 (c) a semitrailer as defined in Section 41-1a-102;

143 (d) a trailer as defined in Section 41-1a-102; and

144 (e) a recreational vehicle.

145 (11) "New motor vehicle" has the same meaning as defined in Section 41-3-102.

146 (12) "New motor vehicle dealer" is a person who is licensed under Subsection
147 41-3-202(1)(a).

148 (13) "Notice" or "notify" includes both traditional written communications and all reliable
149 forms of electronic communication unless expressly prohibited by statute or rule.

150 ~~[(13)]~~ (14) "Recreational vehicle" means a vehicular unit other than a mobile home,
151 primarily designed as a temporary dwelling for travel, recreational, or vacation use, which is either
152 self-propelled or pulled by another vehicle. "Recreational vehicle" includes a travel trailer, a
153 camping trailer, a motor home, a fifth wheel trailer, and a van.

154 ~~[(14)]~~ (15) (a) "Relevant market area," except with respect to recreational vehicles, means:

155 (i) the county in which a dealership is to be established or relocated; and

156 (ii) the area within a ten aeronautical miles radius from the site of the new or relocated
157 dealership.

158 (b) "Relevant market area," with respect to recreational vehicles, means:

159 (i) the county in which the dealership is to be established or relocated; and

160 (ii) the area within a 35 aeronautical miles radius from the site of the new or relocated
161 dealership.

162 ~~[(15)]~~ (16) "Sale, transfer, or assignment" means any disposition of a franchise or an
163 interest in a franchise, with or without consideration, including a bequest, inheritance, gift,
164 exchange, lease, or license.

165 (17) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes
166 any reliable form of communication.

167 ~~[(16)]~~ (18) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
168 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
169 vacation use that does not require a special highway movement permit when drawn by a
170 self-propelled motor vehicle.

171 (19) "Written," "write," "in writing," or other variations of those terms shall include all
172 reliable forms of electronic communication.

173 Section 3. Section **13-14-302** is amended to read:

174 **13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.**

175 (1) (a) Except as provided in Subsection (2), a franchisor shall comply with Subsection

176 (1)(b) if the franchisor seeks to:

177 (i) enter into a franchise establishing a motor vehicle dealership within a relevant market
178 area where the same line-make is represented by another franchisee; or

179 (ii) relocate an existing motor vehicle dealership.

180 (b) (i) If a franchisor seeks to take an action listed Subsection (1)(a), prior to taking the

181 action, the franchisor shall in writing notify the board and each franchisee in that line-make in the
182 relevant market area that the franchisor intends to take an action described in Subsection (1)(a).

183 (ii) The notice required by Subsection (1)(b)(i) shall:

184 (A) specify the good cause on which it intends to rely for the action; and

185 (B) be delivered by registered or certified mail or by any form of reliable electronic
186 communication through which receipt is verifiable.

187 (c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that
188 is required to receive notice under Subsection (1)(b) may protest to the board the establishing or
189 relocating of the dealership. When a protest is filed, the board shall inform the franchisor that:

190 (i) a timely protest has been filed;

191 (ii) a hearing is required;

192 (iii) the franchisor may not establish or relocate the proposed dealership until the board
193 has held a hearing; and

194 (iv) the franchisor may not establish or relocate a proposed dealership if the board
195 determines that there is not good cause for permitting the establishment or relocation of the
196 dealership.

197 (d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to
198 expedite the disposition of the issue.

199 (2) Subsection (1) does not apply to a relocation that is:

200 (a) less than one aeronautical mile from the existing location of the franchisee's dealership;

201 and

202 (b) within the same county.

203 (3) For purposes of this section:

204 (a) relocation of an existing franchisee's dealership in excess of one mile from its existing
205 location is considered the establishment of an additional franchise in the line-make of the
206 relocating franchise; and

207 (b) the reopening in a relevant market area of a dealership that has not been in operation
208 for one year or more is considered the establishment of an additional motor vehicle dealership.

209 Section 4. Section **13-14-304** is amended to read:

210 **13-14-304. Hearing regarding termination, relocation, or establishment of franchises.**

211 (1) (a) Within ten days of receiving an application from a franchisee under Subsection

212 13-14-301(3) challenging its franchisor's right to terminate or not continue a franchise, or an
213 application under Subsection 13-14-302(1) challenging the establishment or relocation of a
214 franchise, the board shall:

215 (i) enter an order designating the time and place for the hearing; and
216 (ii) send a copy of the order by certified or registered mail, with return receipt requested,
217 ~~[a copy of the order]~~ or by any form of reliable electronic communication through which receipt
218 is verifiable to:

219 (A) the applicant;
220 (B) the franchisor; and
221 (C) if the application involves the establishment of a new franchise or the relocation of an
222 existing dealership, to all franchisees in the relevant market area engaged in the business of
223 offering to sell or lease the same line-make.

224 (b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee
225 at the place where the franchisee's business is conducted.

226 (2) Any person who can establish to the board an interest in the application may intervene
227 as a party to the hearing, whether or not that person receives notice.

228 (3) Any person may appear and testify on the question of the public interest in the
229 termination or noncontinuation of a franchise or in the establishment of an additional franchise.

230 (4) (a) Any hearing ordered under Subsection (1) shall be conducted no later than 120 days
231 after the application for hearing is filed. A final decision on the challenge shall be made by the
232 board no later than 30 days after the hearing.

233 (b) Failure to comply with the time requirements of Subsection (4)(a) is considered a
234 determination that the franchisor acted with good cause or, in the case of a protest of a proposed
235 establishment or relocation of a dealer, that good cause exists for permitting the proposed
236 additional or relocated new motor vehicle dealer, unless:

237 (i) the delay is caused by acts of the franchisor or the additional or relocating franchisee;
238 or

239 (ii) the delay is waived by the parties.

240 (5) The franchisor has the burden of proof to establish that under the provisions of this
241 chapter it should be granted permission to:

242 (a) terminate or not continue the franchise;

243 (b) enter into a franchise agreement establishing an additional franchise; or

244 (c) relocate the dealership of an existing franchisee.

245 Section 5. Section **17A-2-531** is amended to read:

246 **17A-2-531. Bids for construction -- Contracts -- Payment and performance bonds**
247 **-- Retainage.**

248 (1) As used in this section, the word "sealed" does not preclude acceptance of
249 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
250 sealed and submitted.

251 ~~[(+)]~~ (2) After adopting a plan and making an estimate of the cost of any drainage canal
252 or canals, drains, drain ditches, and works, the board of supervisors shall give notice by publication
253 for at least 20 days in at least one newspaper published or having a general circulation in each of
254 the counties comprising the district, and in any other publication they ~~[deem]~~ consider advisable,
255 calling for bids for the construction of such work or of any portion of it. If less than the whole
256 work is advertised, then the portion so advertised shall be particularly described in ~~[such]~~ the
257 notice. ~~[Such]~~ The notice shall state:

258 (a) that plans and specifications can be seen at the office of the board of supervisors;

259 (b) that the board of supervisors will receive sealed proposals for the work;

260 (c) that the contract will be let to the lowest responsible bidder; and

261 (d) the time and place appointed for opening bids. The bids shall be opened in public, and
262 as soon as convenient thereafter the supervisors shall let the work, either in portions or as a whole,
263 to the lowest responsible bidder, or they may reject any or all bids. Contracts for the purchase of
264 material shall be awarded to the lowest responsible bidder. Any person or persons to whom a
265 contract is awarded shall provide the board with bonds under Sections 14-1-18 and 63-56-38. The
266 work shall be done under the direction and to the satisfaction of the engineer, and subject to the
267 approval of the board of supervisors. This section does not apply in the case of any contract with
268 the United States.

269 ~~[(2)]~~ (3) If any payment on a contract with a private contractor for the construction of
270 works under this section is retained or withheld, it shall be retained or withheld and released as
271 provided in Section 13-8-5.

272 Section 6. Section **17A-2-723** is amended to read:

273 **17A-2-723. Construction -- Notice -- Awarding contracts -- Contractor's bonds.**

274 (1) As used in this section, the word "sealed" does not preclude acceptance of
275 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
276 sealed and submitted.

277 (2) After adopting a plan for the construction of canals, reservoirs, and works, the board
278 of directors shall give notice thereof by publication in the county in which the principal office of
279 the district is located at least once not less than ten days prior to the expiration of the period in
280 which bids shall be received, and [~~such~~] the other notice as they may [~~deem~~] consider advisable
281 calling for bids for the furnishing of material or construction of said work or any portion thereof.

282 (3) If less than the whole work is advertised, then the portion so advertised must be
283 particularly described in [~~such~~] the notice; said notice shall set forth that plans and specifications,
284 or specifications alone where there are no plans, may be seen at the office of the board, and that
285 the board will receive sealed proposals therefor, and that the contract will be let to the lowest
286 responsible bidder, stating the time and the place for opening the proposal which at said time and
287 place shall be opened in public, and as soon as convenient thereafter the board shall let said work,
288 either in portions or as a whole, or award and order for materials, to the lowest responsible bidder,
289 or it may reject any or all bids, and thereupon readvertise for proposals, or proceed to construct the
290 work under its own superintendence.

291 (4) Contracts for the purchase of material shall be awarded to the lowest responsible bidder
292 unless all bids are rejected or the board determines to readvertise for bids.

293 (5) The person or persons to whom a contract may be awarded shall enter into a bond, with
294 good and sufficient sureties, to be approved by the board, payable to said district for not less than
295 25% of the amount of the contract price and conditioned for the faithful performance of said
296 contract, but no such bond need be required by the board where materials are contracted for the
297 bond requirement.

298 (6) The work shall be done under the direction and to the satisfaction of the engineer in
299 charge, and be approved by the board, and shall be paid for out of the general fund account;
300 provided, that the provisions of this section shall not apply in the case of any contract between the
301 district and the United States.

302 (7) Nothing herein contained shall be construed to prohibit the district from purchasing
303 material or doing any work required by it without advertising for bids and without the letting of
304 a contract where the estimated cost of [~~such~~] the work or [~~such~~] the material does not exceed

305 \$30,000 or in cases of emergencies the board of directors may let contracts for the work required
306 in the emergency without advertising for bids or may cause [~~such~~] the work to be done by the
307 district itself.

308 Section 7. Section **17A-3-208** is amended to read:

309 **17A-3-208. Contract required for improvement -- Bidding requirements --**
310 **Exceptions.**

311 (1) As used in this section, the word "sealed" does not preclude acceptance of
312 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
313 sealed and submitted.

314 [~~(1)~~] (2) (a) Except as otherwise provided in this section, improvements in a special
315 improvement district shall be made only under contract duly let to the lowest responsible bidder
316 for the kind of service or material or form of construction which may be desired. The
317 improvements may be divided into parts, and separate contracts let for each part, or several parts
318 may be combined in the same contract. A contract may be let on a unit basis. A contract shall not
319 be let until a notice to contractors that sealed bids for the construction of the improvements will
320 be received by the governing body at a specified time and place, and this notice has been published
321 at least one time in a newspaper having general circulation in the county at least 15 days before
322 the date specified for the receipt of bids.

323 (b) If by inadvertence or oversight, the notice is not published or is not published for a
324 sufficient period of time prior to the receipt of bids, the governing body, however, may still
325 proceed to let a contract for the improvements if at the time specified for the receipt of bids it has
326 received not less than three sealed and bona fide bids from contractors.

327 (c) If, under the construction contract, periodic payments for work performed are to be
328 made by the issuance of interim warrants, this fact shall be disclosed in the notice to contractors.
329 The notice to contractors may be published simultaneously with the notice of intention.

330 [~~(2)~~] (3) The governing body, or its designated agent, shall at the time specified in the
331 notice, open, examine, and publicly declare the bids. From these bids, the governing body may
332 award a contract to the lowest, responsible bidder if that party's bid is responsive to the request for
333 proposal or invitation to bid; but the governing body shall not be obligated or required to award
334 a contract to any bidder and may reject any or all bids. In the event no bids are received or no
335 responsive or acceptable bids are received after one public invitation to bid, the governing body

336 may take any of the following actions:

337 (a) publicly rebid the project using the original plans, specifications, cost estimates, and
338 contract documents;

339 (b) negotiate a contract privately using the original project plans, specifications, cost
340 estimates, and contract documents;

341 (c) publicly rebid the project after revising the original plans, specifications, cost estimates,
342 or contract documents;

343 (d) cancel the project;

344 (e) abandon or dissolve the improvement district; or

345 (f) perform the project work with the governing entity's work forces and be reimbursed for
346 this work out of the special assessments levied.

347 [~~(3)~~] (4) A contract need not be let for any improvement or part of any improvement the
348 cost of which or the making of which is donated or contributed by any individual, corporation, the
349 county, a municipality, the state of Utah, the United States, or any political subdivision of the state
350 of Utah or of the United States. These donations or contributions may be accepted by the
351 governing entity, but no assessments shall be levied against the property in the district for the
352 amount of the donations or contributions.

353 [~~(4)~~] (5) A contract need not be let as provided in this section where the improvements
354 consist of the furnishing of utility services or maintenance of improvements. This work may be
355 done by the governing entity itself. Assessments may be levied for the actual cost incurred by the
356 governing entity for the furnishing of these services or maintenance, or in case the work is done
357 by the governing entity, to reimburse the governing entity for the reasonable cost of supplying the
358 services or maintenance.

359 [~~(5)~~] (6) A contract need not be let as provided in this section where any labor, materials,
360 or equipment to make any of the improvements are supplied by the governing entity. Assessments
361 may be levied to reimburse the governing entity for the reasonable cost of supplying such labor,
362 materials or equipment. The provisions of Sections 17-15-3 and 72-6-108 shall not apply to the
363 improvements to be placed in a special improvement district created under this part.

364 Section 8. Section **17A-3-308** is amended to read:

365 **17A-3-308. Contracting for improvements -- Bids, publication, and notice --**
366 **Improvements for which contracts need not be let.**

367 (1) As used in this section, the word "sealed" does not preclude acceptance of
368 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
369 sealed and submitted.

370 ~~[(1)]~~ (2)(a) Except as otherwise provided in this section, improvements in a special
371 improvement district shall be made only under contract duly let to the lowest responsible bidder
372 for the kind of service or material or form of construction which may be determined upon. The
373 improvements may be divided into parts and separate contracts let for each part or several such
374 parts may be combined in the same contract. A contract may be let on a unit basis. A contract
375 shall not be let until a notice to contractors that sealed bids for the construction of the
376 improvements will be received by the governing body at a specified time and place and such notice
377 has been published at least one time in a newspaper having general circulation in the municipality
378 at least 15 days before the date specified for the receipt of bids~~[-provided, if]~~.

379 (b) If by inadvertence or oversight, the notice is not published or is not published for a
380 sufficient period of time prior to the receipt of bids, the governing body may still proceed to let a
381 contract for ~~[such]~~ the improvements if at the time specified for the receipt of bids it has received
382 not less than three sealed and bona fide bids from contractors.

383 (c) The notice to contractors may be published simultaneously with the notice of intention.

384 (d) The governing body shall in open session at the time specified in the notice, open,
385 examine and publicly declare the bids and may reject any or all bids when ~~[deemed]~~ considered
386 for the public good and, at such or a later meeting, shall reject all bids other than the lowest and
387 best bid of a responsible bidder.

388 (e) If the price bid by the lowest and best responsible bidder exceeds the estimated costs
389 as determined by the engineer of the municipality, the governing body may nevertheless award a
390 contract for the price so bid.

391 (f) The governing body may in any case refuse to award a contract and may obtain new
392 bids after giving a new notice to contractors or may determine to abandon the district or not to
393 make some of the improvements proposed to be made.

394 ~~[(2)]~~ (3) A contract need not be let for any improvement or part of any improvement the
395 cost of which or the making of which is donated or contributed by any individual, corporation, the
396 municipality, ~~[the]~~ this state ~~[of Utah]~~, or the United States or any political subdivision of ~~[the]~~ this
397 state ~~[of Utah]~~ or of the United States. All such donations or contributions may be accepted by the

398 municipality, but no assessments shall be levied against the property in the district for the amount
399 of such donations or contributions.

400 [~~(3)~~] (4) A contract need not be let as provided in this section where the improvements
401 consist of the furnishing of utility services or maintenance of improvements. [~~Such~~] The work
402 may be done by the municipality itself. Assessments may be levied for the actual cost incurred by
403 the municipality for the furnishing of [~~such~~] the services or maintenance or, in case the work is
404 done by the municipality, to reimburse the municipality for the reasonable cost of supplying [~~such~~]
405 the services or maintenance.

406 [~~(4)~~] (5) A contract need not be let as provided in this section where any labor, materials
407 or equipment to make any of the improvements are supplied by the municipality. Assessments
408 may be levied to reimburse the municipality for the reasonable cost of supplying [~~such~~] the labor,
409 materials, or equipment.

410 Section 9. Section **23-19-11** is amended to read:

411 **23-19-11. Age restriction -- Proof of hunter education required.**

412 (1) The division may not issue a hunting license or permit to any person born after
413 December 31, 1965, unless proof is presented to the division or one of its authorized wildlife
414 license agents that the person has passed a division approved hunter education course offered by
415 a state, province, or country.

416 (2) For purposes of this section, "proof" means:

417 (a) a certificate of completion of a hunter education course;

418 (b) a preceding year's hunting license or permit issued by a state, province, or country with
419 the applicant's hunter education number noted on the hunting license or permit; or

420 (c) verification of completion of a hunter education course pursuant to Subsections (3) and
421 (4).

422 (3) If an applicant for a nonresident hunting license or permit is not able to present a
423 hunting license, permit, or a certificate of completion as provided in Subsections (1) and (2), the
424 division may contact another state, province, or country to verify the completion of a hunter
425 education course so that a nonresident hunting license or permit may be issued.

426 (4) [~~(a)~~] If an applicant for a resident or nonresident hunting license or permit has
427 completed a hunter education course in Utah but is not able to present a hunting license, permit,
428 or a certificate of completion as provided in Subsections (1) and (2), the division may research the

429 division's hunter education records to verify that the applicant has completed the hunter education
430 course.

431 (5) (a) If an applicant for a resident or nonresident hunting license has completed a hunter
432 education course and is applying for a hunting permit or license through the division's drawings,
433 Internet site, or other electronic means authorized by the division, the applicant's hunter education
434 number and the name of the state, province, or country that issued the number may constitute proof
435 of completion of a hunter education course under this section.

436 (b) The division may research the hunter education number to verify that the applicant has
437 completed a division approved hunter education course.

438 [~~(b)~~] (6) Upon issuance of the hunting license or permit, the division shall indicate the
439 applicant's hunter education number on the face of the hunting license or permit.

440 [~~(5)~~] (7) The division may charge a fee for any service provided in Subsection (3) or (4).

441 Section 10. Section **23-19-11.5** is amended to read:

442 **23-19-11.5. Age restriction -- Proof of furharvester education required.**

443 (1) (a) A resident born after December 31, 1984, may not purchase a resident furbearer
444 license unless the applicant presents:

445 (i) a certificate of completion of a division approved furharvester education course; or

446 (ii) an immediately preceding year's furbearer license with the furharvester education
447 number noted on the furbearer license.

448 (b) Upon issuance of the resident furbearer license, the division or authorized wildlife
449 license agent shall indicate the applicant's furharvester education number on the face of the
450 furbearer license.

451 (2) [~~(a)~~] If an applicant for a resident furbearer license has completed a furharvester
452 education course in Utah but is not able to present a furbearer license or a certificate of completion
453 as provided in Subsection (1), the division may research the division's furharvester education
454 records to verify that the applicant has completed a furharvester education course in Utah.

455 (3) (a) If an applicant for a resident furbearer license has completed a furharvester
456 education course and is applying for a furbearer license through the division's Internet site or other
457 electronic means authorized by the division, the applicant's Utah furharvester education number
458 may constitute proof of completion of a furharvester education course under this section.

459 (b) The division may research the furharvester education number to verify that the

460 applicant has completed a division approved furharvester education course.

461 [~~(b)~~] (4) The division may charge a fee for the service specified in Subsection [~~(a)~~] (2).

462 Section 11. Section **26-1-5** is amended to read:

463 **26-1-5. Rules of department.**

464 (1) Except in areas regulated by statutory committees created by this title, the department
465 shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this
466 title.

467 (2) Rules shall have the force and effect of law and may deal with matters which materially
468 affect the security of health or the preservation and improvement of public health in the state, and
469 any matters as to which jurisdiction is conferred upon the department by this title.

470 (3) Every rule adopted by the department pursuant to this section, or a committee
471 established under Section 26-1-7 or 26-1-7.5, shall be subject to the Utah Administrative
472 Rulemaking Act, [~~shall become effective at the time provided in the Utah Administrative~~
473 ~~Rulemaking Act, and shall be signed]~~ and may not become effective until approved by the
474 executive director.

475 (4) At the time a rule adopted by the department or a committee established by Section
476 26-1-7 or 26-1-7.5, is filed with the state archivist it shall also be filed with the legislative research
477 director.

478 (5) If, at the next general session of the legislature following the filing of a rule with the
479 legislative research director, the legislature passes a bill disapproving such rule, the rule shall be
480 null and void.

481 (6) The department or a committee created under Section 26-1-7 or 26-1-7.5, shall not
482 adopt a rule identical to a rule disapproved under Subsection (5) of this section, before the
483 beginning of the next general session of the legislature following the general session at which the
484 rule was disapproved.

485 Section 12. Section **26-1-35** is enacted to read:

486 **26-1-35. Content and form of certificates and reports.**

487 (1) Certificates, certifications, forms, reports, other documents and records, and the form
488 of communication between persons required by this title shall be prepared in the form prescribed
489 by department rule.

490 (2) Certificates, certifications, forms, reports, or other documents and records, and

491 communications between persons required by this title may be signed, filed, verified, registered,
492 and stored by photographic, electronic, or other means as prescribed by department rule.

493 Section 13. Section **26-2-3** is amended to read:

494 **26-2-3. Department duties and authority.**

495 (1) The department shall:

496 (a) provide offices properly equipped for the preservation of vital records made or received
497 under this chapter;

498 (b) establish a statewide vital records system for the registration, collection, preservation,
499 amendment, and certification of vital records and other similar documents required by this chapter
500 and activities related to them, including the tabulation, analysis, and publication of vital statistics;

501 (c) prescribe forms for certificates, certification, reports, and other documents and records
502 necessary to establish and maintain a statewide system of vital records;

503 (d) prepare an annual compilation, analysis, and publication of statistics derived from vital
504 records; and

505 (e) appoint a state registrar to direct the statewide system of vital records.

506 (2) The department may:

507 (a) divide the state from time to time into registration districts; and

508 (b) appoint local registrars for registration districts who under the direction and
509 supervision of the state registrar shall perform all duties required of them by this chapter and
510 department rules.

511 Section 14. Section **26-2-4** is amended to read:

512 **26-2-4. Content and form of certificates and reports.**

513 (1) To promote and maintain nationwide uniformity in the vital records system, the forms
514 of certificates [~~and~~], certification, reports, and other documents and records required by this
515 chapter or the rules implementing this chapter shall include as a minimum the items recommended
516 by the federal agency responsible for national vital statistics, subject to approval, additions, and
517 modifications by the department.

518 (2) [~~Each certificate, report, and other document~~] Certificates, certifications, forms,
519 reports, other documents and records, and the form of communications between persons required
520 by this chapter shall be prepared in the format prescribed by department rule.

521 (3) All vital records shall include the date of filing.

522 (4) [~~Information required in certificates~~] Certificates, certifications, forms, [records, or]
523 reports, other documents and records, and communications between persons required by this
524 chapter may be signed, filed, verified, registered, and stored by photographic, electronic, or other
525 means as prescribed by department rule.

526 Section 15. Section **26-2-10** is amended to read:

527 **26-2-10. Supplementary certificate of birth.**

528 (1) Any person born in this state who is legitimized by the subsequent marriage of his
529 natural parents, or whose parentage has been determined by any U.S. state court or Canadian
530 provincial court having jurisdiction, or who has been legally adopted under the law of this or any
531 other state or any province of Canada, may request the state registrar to register a supplementary
532 certificate of birth on the basis of that status.

533 (2) The application for registration of a supplementary certificate may be made by the
534 person requesting registration, if he is of legal age, by a legal representative, or by any agency
535 authorized to receive children for placement or adoption under the laws of this or any other state.

536 (3) (a) The state registrar shall require that an applicant submit identification and proof
537 according to department rules.

538 (b) In the case of an adopted person, that proof may be established by order of the court
539 in which the adoption proceedings were held.

540 (4) (a) After the supplementary certificate is registered, any information disclosed from
541 the record shall be from the supplementary certificate.

542 (b) Access to the original certificate and to the [~~documents filed~~] evidence submitted in
543 support of the supplementary certificate are not open to inspection except upon the order of a Utah
544 district court or as provided under Section 78-30-18.

545 Section 16. Section **26-2-16** is amended to read:

546 **26-2-16. Death certificate -- Filing by funeral director -- Medical certification --**
547 **Records of funeral director -- Information filed with local registrar.**

548 (1) The funeral director or person acting as funeral director shall [~~obtain and~~] file a
549 certificate of death prior to any disposition of a dead body or dead fetus. Personal and statistical
550 information shall be obtained from the available persons best qualified to provide it. The names
551 and addresses of persons providing the information shall be included. The [~~certificate shall then~~
552 ~~be presented~~] funeral director or person acting as funeral director shall present the certificate to the

553 attending physician, if any, or to the medical examiner [~~for completion of~~] who shall certify the
554 cause of death and other information required on the certificate. [~~The date and place of burial shall~~
555 ~~be stated over the signature and address of the funeral director or person acting as funeral director.~~
556 ~~The completed certificate shall then be filed~~] The funeral director, or person acting as funeral
557 director, shall:

558 (a) provide the address of the funeral director or person acting as funeral director;

559 (b) certify the date and place of burial; and

560 (c) file the certificate with the state or local registrar.

561 (2) A funeral director, embalmer, or other person who removes from the place of death or
562 transports or is in charge of final disposal of a dead body or dead fetus, shall keep a record
563 identifying the dead body or dead fetus, and containing information pertaining to receipt, removal,
564 and delivery of the dead body or dead fetus as prescribed by department rule.

565 (3) Not later than the tenth day of each month, every funeral director shall send to the local
566 registrar and the department a list of the information required in Subsection (2) for each casket
567 furnished and for funerals performed when no casket was furnished, during the preceding month.
568 The lists shall be [~~on forms provided~~] in the form prescribed by the state registrar.

569 Section 17. Section **26-2-18** is amended to read:

570 **26-2-18. Interments -- Duties of sexton or person in charge -- Record of interments**
571 **-- Information filed with local registrar.**

572 (1) A sexton or person in charge of any premises in which interments are made may not
573 inter or permit the interment of any dead body or dead fetus unless the interment is made by a
574 funeral director licensed under Title 58, Chapter 9, Funeral Services Licensing Act, or by a person
575 holding a burial-transit permit.

576 (2) The sexton or the person in charge of any premises where interments are made shall
577 keep a record of all interments made in the premises under his charge, stating the name of the
578 decedent, place of death, date of burial, and name and address of the funeral director or other
579 person making the interment. This record shall be open to public inspection. A city or county clerk
580 may, at the clerk's option, maintain the interment records on behalf of the sexton or person in
581 charge of any premises in which interments are made.

582 (3) Not later than the tenth day of each month, the sexton, person in charge of the
583 premises, or city or county clerk who maintains the interment records shall send to the local

584 registrar and the department a list of all interments made in the premises during the preceding
585 month. The list shall be [~~on forms provided~~] in the form prescribed by the state registrar.

586 Section 18. Section **26-2-23** is amended to read:

587 **26-2-23. Records required to be kept by health care institutions -- Information filed**
588 **with local registrar and department.**

589 (1) (a) All administrators or other persons in charge of hospitals, nursing homes, or other
590 institutions, public or private, to which persons resort for treatment of diseases, confinements, or
591 are committed by law, shall record all the personal and statistical information about patients of
592 their institutions as required in certificates prescribed by this chapter.

593 (b) This information shall be recorded for collection at the time of admission of the
594 patients and shall be obtained from the patient, if possible, and if not, the information shall be
595 secured in as complete a manner as possible from other persons acquainted with the facts.

596 (2) When a dead body or dead fetus is released or disposed of by an institution, the person
597 in charge of the institution shall keep a record showing the name of the deceased, date of death,
598 name and address of the person to whom the dead body or dead fetus is released, and date of
599 removal from the institution. If final disposal is by the institution, the date, place, manner of
600 disposition, and the name of the person authorizing disposition shall be recorded.

601 (3) Not later than the tenth day of each month, the administrator of each institution shall
602 cause to be sent to the local registrar and the department a list of all births, deaths, fetal deaths, and
603 induced abortions occurring in his institution during the preceding month. The lists shall be [~~on~~
604 ~~forms provided~~] in the form prescribed by the state registrar.

605 Section 19. Section **26-2-28** is amended to read:

606 **26-2-28. Birth certificate for foreign adoptees.**

607 Upon presentation of a court order of adoption and an order establishing the fact, time, and
608 place of birth under Section 26-2-15, the department shall prepare a birth certificate for any person
609 who:

610 (1) was born in a country that is not recognized by the department rule as having an
611 established vital records registration system;

612 (2) was adopted under the laws of this state; and

613 (3) was at the time of adoption considered an alien child for whom the court received
614 [~~written~~] documentary evidence of legal residence under Section 78-30-8.5.

615 Section 20. Section **26-3-7** is amended to read:

616 **26-3-7. Disclosure of health data -- Limitations.**

617 The department may not disclose any identifiable health data unless:

618 (1) one of the following persons has consented to the disclosure:

619 (a) the individual;

620 (b) the next-of-kin if the individual is deceased;

621 (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or

622 (d) a person holding a power of attorney covering such matters on behalf of the individual;

623 (2) the disclosure is to a governmental entity in this or another state or the federal

624 government, provided that:

625 (a) the data will be used for a purpose for which they were collected by the department;

626 and

627 (b) the recipient enters into a written agreement satisfactory to the department agreeing to

628 protect such data in accordance with the requirements of this chapter and department rule and not

629 permit further disclosure without prior approval of the department;

630 (3) the disclosure is to an individual or organization, for a specified period, solely for bona

631 fide research and statistical purposes, determined in accordance with department rules, and the

632 department determines that the data are required for the research and statistical purposes proposed

633 and the requesting individual or organization enters into a written agreement satisfactory to the

634 department to protect the data in accordance with this chapter and department rule and not permit

635 further disclosure without prior approval of the department;

636 (4) the disclosure is to a governmental entity for the purpose of conducting an audit,

637 evaluation, or investigation of the department and such governmental entity agrees not to use those

638 data for making any determination affecting the rights, benefits, or entitlements of any individual

639 to whom the health data relates;

640 (5) the disclosure is of specific medical or epidemiological information to authorized

641 personnel within the department, local health departments, official health agencies in other states,

642 the United States Public Health Service, the Centers for Disease Control and Prevention (CDC),

643 or agencies responsible to enforce quarantine, when necessary to continue patient services or to

644 undertake public health efforts to control communicable, infectious, acute, chronic, or any other

645 disease or health hazard that the department considers to be dangerous or important or that may

646 affect the public health;

647 (6) the disclosure is of specific medical or epidemiological information to a "health care
648 provider" as defined in Section 78-14-3, health care personnel, or public health personnel who has
649 a legitimate need to have access to the information in order to assist the patient or to protect the
650 health of others closely associated with the patient. This Subsection (6) does not create a duty to
651 warn third parties;

652 (7) the disclosure is necessary to obtain payment from an insurer or other third-party payor
653 in order for the department to obtain payment or to coordinate benefits for a patient; or

654 (8) the disclosure is to the subject of the identifiable health data.

655 Section 21. Section **26-4-12** is amended to read:

656 **26-4-12. Order to exhume body -- Procedure.**

657 (1) In case of any death described in Section 26-4-7, when a body is buried without an
658 investigation by the medical examiner as to the cause and manner of death, it shall be the duty of
659 the medical examiner, upon being advised of the fact, to notify the district attorney or county
660 attorney having criminal jurisdiction where the body is buried or death occurred. Upon
661 notification, the district attorney or county attorney having criminal jurisdiction may file an action
662 in the district court to obtain an order to exhume the body. A district judge may order the body
663 exhumed upon an ex parte hearing.

664 (2) (a) A body shall not be exhumed until notice of the order has been served upon the
665 executor or administrator of the deceased's estate, or if no executor or administrator has been
666 appointed, upon the nearest heir of the deceased, determined as if the deceased had died intestate.
667 If the nearest heir of the deceased cannot be located within the jurisdiction, then the next heir in
668 succession within the jurisdiction may be served.

669 (b) The executor, administrator, or heir shall have 24 hours to notify the issuing court of
670 any objection to the order prior to the time the body is exhumed. If no heirs can be located within
671 the jurisdiction within 24 hours, the facts shall be reported to the issuing court which may order
672 that the body be exhumed forthwith.

673 (c) Notification to the executor, administrator, or heir shall specifically state the nature of
674 the action and the fact that objection must be filed with the issuing court within 24 hours of the
675 time of service.

676 (d) In the event an heir files an objection, the court shall set hearing on the matter at the

677 earliest possible time and issue an order on the matter immediately at the conclusion of the hearing.
678 Upon the receipt of notice of objection, the court shall immediately notify the county attorney who
679 requested the order, so that the interest of the state may be represented at the hearing.

680 (e) When there is reason to believe that death occurred in a manner described in Section
681 26-4-7, the district attorney or county attorney having criminal jurisdiction may make a motion that
682 the court, upon ex parte hearing, order the body exhumed forthwith and without notice. Upon a
683 showing of exigent circumstances the court may order the body exhumed forthwith and without
684 notice. In any event, upon motion of the district attorney or county attorney having criminal
685 jurisdiction and upon the personal appearance of the medical examiner, the court for good cause
686 may order the body exhumed forthwith and without notice.

687 (3) An order to exhume a body shall be directed to the medical examiner, commanding
688 him to cause the body to be exhumed, perform the required autopsy, and properly cause the body
689 to be reburied upon completion of the examination.

690 (4) The examination shall be completed and ~~[a return of the order to exhume shall be made~~
691 ~~to the issuing court within ten days. The]~~ the complete autopsy report shall be made to the district
692 attorney or county attorney having criminal jurisdiction for any action the attorney ~~[deems]~~
693 considers appropriate. The district attorney or county attorney shall submit the return of the order
694 to exhume within ten days in the manner prescribed by the issuing court.

695 Section 22. Section **26-6-20** is amended to read:

696 **26-6-20. Serological testing of pregnant or recently delivered women.**

697 (1) Every licensed physician and surgeon attending a pregnant or recently delivered woman
698 for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the
699 woman at the time of first examination or within ~~[10]~~ ten days thereafter. ~~[Such]~~ The blood
700 sample shall be submitted to an approved laboratory for a standard serological test for syphilis. The
701 provisions of this section shall not apply to any female who objects thereto on the grounds that she
702 is a bona fide member of a specified, well recognized religious organization whose teachings are
703 contrary to ~~[such]~~ the tests.

704 (2) Every other person attending a pregnant or recently delivered woman, who is not
705 permitted by law to take blood samples, shall within ten days from the time of first attendance
706 cause a sample of blood to be taken by a licensed physician. ~~[Such]~~ The blood sample shall be
707 submitted to an approved laboratory for a standard serological test for syphilis.

708 (3) An approved laboratory is a laboratory approved by the department according to its
709 rules governing the approval of laboratories for the purpose of this title. In submitting [~~such~~] the
710 sample to the laboratory the physician shall designate whether it is a prenatal test or a test
711 following recent delivery.

712 (4) For the purpose of this chapter, a "standard serological test" means a test for syphilis
713 approved by the department and made at an approved laboratory.

714 (5) [~~Upon a separate form furnished by the department,~~] The laboratory shall transmit a
715 detailed report of the standard serological test, showing the result thereof[, ~~shall be transmitted by~~
716 ~~the laboratory~~] to the physician[, ~~and a copy submitted to the department. The copy submitted to~~
717 ~~the department shall be held in absolute confidence and not open to public inspection, provided~~
718 ~~that it shall be produced as evidence at a trial or proceeding in a court of competent jurisdiction,~~
719 ~~involving issues in which it may be material and relevant, on order of a judge of the court, and~~
720 ~~provided that it may be used in the compilation of aggregate figures and reports, without disclosing~~
721 ~~the identities of the persons involved~~].

722 Section 23. Section **26-6a-2** is amended to read:

723 **26-6a-2. Emergency medical services provider's significant exposure --**

724 **Documentation -- Request for testing -- Refusal or consent.**

725 (1) Whenever an emergency medical services provider has a significant exposure in the
726 process of caring for a patient, he shall document that exposure. That documentation shall be [~~in~~
727 ~~writing, on forms approved~~] on the form prescribed by the department, and in the manner and time
728 designated by the department.

729 (2) (a) Upon notification of a significant exposure, or upon receipt of the documentation
730 described in Subsection (1), the hospital, health care facility, or other facility that receives the
731 patient or individual shall request that he consent to testing of his blood to determine the presence
732 of any disease as defined in Section 26-6a-1. The patient shall be informed that he may refuse to
733 consent to the test and, if he refuses, the fact of his refusal will be forwarded to the designated
734 agent and to the department, and the emergency medical services provider may seek a court order,
735 pursuant to Section 78-29-102, requiring the patient to undergo testing. The designated agent shall
736 forward that information to the emergency medical services provider. The right to refuse a blood
737 test under the circumstances described in this section does not apply to an individual who has been
738 convicted of a crime and is in the custody or under the jurisdiction of the Department of

739 Corrections, or to any person who is otherwise legally required to submit to testing.

740 (b) If consent is given, the facility shall obtain and test, or provide for testing of, the
741 patient's blood to determine the presence of any disease, in accordance with the provisions of this
742 chapter.

743 (c) If consent is not given, the emergency medical services provider may petition the
744 district court for an order requiring the patient to submit to testing, pursuant to Section 78-29-102.

745 Section 24. Section **26-6b-4** is amended to read:

746 **26-6b-4. Required notice -- Representation by counsel -- Conduct of proceedings.**

747 (1) (a) If the individual who is subject to supervision is in custody, the department or the
748 local health department, whichever is the petitioner, shall provide to the individual written notice
749 of commencement of all proceedings and hearings held pursuant to Sections 26-6b-5 through
750 26-6b-7 as soon as practicable, and shall [maif] send the notice to the legal guardian, any
751 immediate adult family members, legal counsel for the parties involved, and any other persons
752 whom the individual or the district court designates. The notice shall advise these persons that a
753 hearing may be held within the time provided by this chapter.

754 (b) If the individual has refused to permit release of information necessary for the
755 provision of notice under this subsection, the extent of notice shall be determined by the district
756 court.

757 (2) (a) If the individual who is subject to supervision is in custody, he shall be afforded an
758 opportunity to be represented by counsel. If neither the individual nor others provide for counsel,
759 the district court shall appoint counsel and allow counsel sufficient time to consult with the
760 individual prior to the hearing. If the individual is indigent, the payment of reasonable attorneys'
761 fees for counsel, as determined by the district court, shall be made by the county in which the
762 individual resides or was found.

763 (b) The individual, the petitioner, and all other persons to whom notice is required to be
764 given shall be afforded an opportunity to appear at the hearings, to testify, and to present and
765 cross-examine witnesses. The district court may, in its discretion, receive the testimony of any
766 other individual.

767 (c) The district court may allow a waiver of the individual's right to appear only for good
768 cause shown, and that cause shall be made a part of the court record.

769 (d) The district court may order that the individual participate in the hearing by telephonic

770 means if the individual's condition poses a health threat to those who physically attend the hearing
771 or to others if the individual is transported to the court.

772 (3) The district court may, in its discretion, order that the individual be moved to a more
773 appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may transfer
774 the proceedings to any other district court within this state where venue is proper, provided that
775 the transfer will not be adverse to the legal interests of the individual.

776 (4) The district court may exclude from the hearing all persons not necessary for the
777 conduct of the proceedings.

778 (5) All hearings shall be conducted in as informal a manner as may be consistent with
779 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the health
780 of the individual or others required to participate in the hearing.

781 (6) The district court shall receive all relevant and material evidence which is offered,
782 subject to Utah Rules of Evidence.

783 Section 25. Section **26-8a-103** is amended to read:

784 **26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.**

785 (1) The State Emergency Medical Services Committee created by Section 26-1-7 shall be
786 composed of the following 16 members appointed by the governor, at least five of whom must
787 reside in a county of the third, fourth, fifth, or sixth class:

788 (a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
789 Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

790 (i) one surgeon who actively provides trauma care at a hospital;

791 (ii) one rural physician involved in emergency medical care;

792 (iii) two physicians who practice in the emergency department of a general acute hospital;

793 and

794 (iv) one pediatrician who practices in the emergency department or critical care unit of a
795 general acute hospital or a children's specialty hospital;

796 (b) one representative from a private ambulance provider;

797 (c) one representative from an ambulance provider that is neither privately owned nor
798 operated by a fire department;

799 (d) two chief officers from fire agencies operated by the following classes of licensed or
800 designated emergency medical services providers: municipality, county, and fire district, provided

801 that no class of medical services providers may have more than one representative under this
802 Subsection (1)(d);

803 (e) one director of a law enforcement agency that provides emergency medical services;

804 (f) one hospital administrator;

805 (g) one emergency care nurse;

806 (h) one paramedic in active field practice;

807 (i) one emergency medical technician in active field practice;

808 (j) one certified emergency medical dispatcher affiliated with an emergency medical
809 dispatch center; and

810 (k) one consumer.

811 (2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year
812 term beginning July 1.

813 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or
814 reappointment, adjust the length of terms to ensure that the terms of committee members are
815 staggered so that approximately half of the committee is appointed every two years.

816 (c) When a vacancy occurs in the membership for any reason, the replacement shall be
817 appointed by the governor for the unexpired term.

818 (3) (a) Each January, the committee shall organize and select one of its members as chair
819 and one member as vice chair. The committee may organize standing or ad hoc subcommittees,
820 which shall operate in accordance with guidelines established by the committee.

821 (b) The chair shall convene a minimum of four meetings per year. The chair may call
822 special meetings. The chair shall call a meeting upon [~~receipt of a written request signed by~~]
823 request of five or more members of the committee.

824 (c) Nine members of the committee constitute a quorum for the transaction of business and
825 the action of a majority of the members present is the action of the committee.

826 (4) (a) Members shall receive no compensation or benefits for their services, but may
827 receive per diem and expenses incurred in the performance of the member's official duties at the
828 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

829 (b) Members may decline to receive per diem and expenses for their service.

830 (5) Administrative services for the committee shall be provided by the department.

831 Section 26. Section **26-8a-414** is amended to read:

832 **26-8a-414. Annexations.**

833 (1) If a licensee is a municipality that desires to provide service to an area that it has
834 annexed, the municipality may apply to the department to amend its license to include the annexed
835 area. Upon receipt of a completed application to amend the license, the department shall [~~issue~~
836 ~~written notice of the municipality's application to~~] notify in writing all other licensed providers
837 who serve any portion of the annexed area of the municipality's application.

838 (2) If the department does not receive an objection from a licensed provider that serves
839 some portion of the annexed area within 30 days of issuing the notice that identifies an adverse
840 impact to the provider or the public, the department shall:

841 (a) review the application to amend the license to determine whether the applicant can
842 adequately provide services to the proposed area and whether the public interest in the areas of
843 cost, quality, and access would be harmed; and

844 (b) if the application meets the requirements of Subsection (2)(a), amend the municipality's
845 license and all other affected licenses to reflect the municipality's new boundaries.

846 (3) If an objection is received under Subsection (2), the municipality shall file a standard
847 application for a license with the department under the provisions of Sections 26-8a-404 through
848 26-8a-409.

849 Section 27. Section **26-15a-106** is amended to read:

850 **26-15a-106. Certified food safety manager.**

851 (1) Before a person may manage a food service establishment as a certified food safety
852 manager, that person shall submit documentation in the format prescribed by the department to the
853 appropriate local health department indicating a passing score on a department-approved
854 examination.

855 (2) To continue to manage a food service establishment, a certified food safety manager
856 shall:

857 (a) successfully complete, every three years, renewal requirements established by
858 department rule which are consistent with original certification requirements; and

859 (b) submit documentation in the format prescribed by the department within 30 days of
860 the completion of renewal requirements to the appropriate local health department.

861 (3) A local health department may deny, revoke, or suspend the authority of a certified
862 food safety manager to manage a food service establishment or require the completion of

863 additional food safety training courses for any one of the following reasons:

864 (a) submitting information required under Subsection (1) or (2) that is false, incomplete,
865 or misleading;

866 (b) repeated violations of department or local health department food safety rules; or

867 (c) operating a food service establishment in a way that causes or creates a health hazard
868 or otherwise threatens the public health, safety, or welfare.

869 (4) A determination of a local health department made pursuant to Subsection (3) may be
870 appealed by a certified food safety manager in the same manner provided for in Subsection
871 26-15a-104(4).

872 (5) No person may use the title "certified food safety manager," or any other similar title,
873 unless the person has satisfied the requirements of this chapter.

874 Section 28. Section **26-21-9** is amended to read:

875 **26-21-9. Application for license -- Information required -- Public records.**

876 (1) An application for license shall be made to the department [~~on a form supplied~~] in a
877 form prescribed by the department. The [~~form and other documents~~] application and other
878 documentation requested by the department as part of the application process shall require such
879 information as the committee determines necessary to ensure compliance with established rules.

880 (2) Information received by the department in reports and inspections shall be public
881 records, except the information shall not be disclosed if it directly or indirectly identifies any
882 individual other than the owner or operator of a health facility (unless disclosure is required by
883 law) or if its disclosure would otherwise constitute an unwarranted invasion of personal privacy.

884 (3) Information received by the department from a health care facility, pertaining to that
885 facility's accreditation by a voluntary accrediting organization, shall be private data except for a
886 summary prepared by the department related to licensure standards.

887 Section 29. Section **26-21-20** is amended to read:

888 **26-21-20. Requirement for hospitals to provide statements of itemized charges to**
889 **patients.**

890 (1) Each hospital, as defined in Section 26-21-2, shall provide a statement of itemized
891 charges to any patient receiving medical care or other services from that hospital.

892 (2) The statement shall be provided to the patient or his personal representative or agent
893 at the hospital's expense, [~~either~~] personally [~~or~~], by mail, or by verifiable electronic delivery at

894 the time any statement is provided to any person or entity for billing purposes. If the statement is
895 not provided to a third party, it shall be provided to the patient as soon as possible and practicable.

896 (3) The statement shall itemize each of the charges actually provided by the hospital to the
897 patient.

898 (4) The statement may not include charges of physicians who bill separately.

899 (5) The requirements of this section do not apply to patients who receive services from a
900 hospital under Title XIX of the Social Security Act.

901 (6) A statement of charges to be paid by a third party and related information provided to
902 a patient pursuant to this section shall be marked in bold: "DUPLICATE: DO NOT PAY" or other
903 appropriate language.

904 Section 30. Section **26-39-105.5** is amended to read:

905 **26-39-105.5. Residential child care certificate.**

906 (1) (a) A residential child care provider of five to eight children shall obtain a Residential
907 Child Care Certificate from the department unless Section 26-39-106 applies.

908 (b) The qualifications for a Residential Child Care Certificate are limited to:

909 (i) the submission of:

910 (A) an application [~~on a form prepared~~] in the form prescribed by the department;

911 (B) a certification and criminal background fee established in accordance with Section
912 26-1-6; and

913 (C) identifying information described in Subsection 26-39-107(1) for each adult person
914 who resides in the provider's home:

915 (I) for processing by the Department of Public Safety to determine whether any such
916 person has been convicted of a crime; and

917 (II) to screen for a substantiated finding of child abuse or neglect pursuant to Section
918 62A-4a-116;

919 (ii) an initial and annual inspection of the provider's home within 90 days of sending an
920 intent to inspect notice to:

921 (A) check the immunization record of each child who receives child care in the provider's
922 home;

923 (B) identify serious sanitation, fire, and health hazards to children; and

924 (C) make appropriate recommendations; and

925 (iii) for new providers, completion of:

926 (A) five hours of department-approved training; and

927 (B) a department-approved CPR and first aid course.

928 (c) If a serious sanitation, fire, or health hazard has been found during an inspection
929 conducted pursuant to Subsection (1)(b)(ii), the department may, at the option of the residential
930 care provider:

931 (i) require corrective action for the serious hazards found and make an unannounced
932 follow up inspection to determine compliance; or

933 (ii) inform the parents of each child in the care of the provider of the results of the
934 department's inspection and the failure of the provider to take corrective action.

935 (d) In addition to an inspection conducted pursuant to Subsection (1)(b)(ii), the department
936 may inspect the home of a residential care provider of five to eight children in response to a
937 complaint of:

938 (i) child abuse or neglect;

939 (ii) serious health hazards in or around the provider's home; or

940 (iii) providing residential child care without the appropriate certificate or license.

941 (2) Notwithstanding this section:

942 (a) a license under Section 26-39-105 is required of a residential child care provider who
943 cares for nine or more children;

944 (b) a certified residential child care provider may not provide care to more than two
945 children under the age of two; and

946 (c) an inspection may be required of a residential child care provider in connection with
947 a federal child care program.

948 (3) With respect to residential child care, the department may only make and enforce rules
949 necessary to implement this section.

950 Section 31. Section ~~34-32-1~~ is amended to read:

951 **34-32-1. Assignments to labor unions -- Effect.**

952 Whenever an employee of any person, firm, school district, private or municipal
953 corporation within ~~[the]~~ this state ~~[of Utah executes and delivers to]~~ desires his employer ~~[an~~
954 ~~instrument in writing whereby such employer is directed]~~ to deduct a sum at the rate not exceeding
955 3% per month from his wages ~~[and to pay the same]~~ for payment to a labor organization or union

956 or any other organization of employees as assignee, upon notification in writing or verifiable
957 electronic means, it shall be the duty of [~~such~~] the employer to make [~~such~~] the deduction and to
958 pay [~~the same monthly or as designated by employee~~] to [~~such~~] the assignee and to continue to do
959 so until otherwise directed [~~by the employee through an instrument in writing~~].

960 Section 32. Section **41-1a-116** is amended to read:

961 **41-1a-116. Records -- Telephone requests for records -- Search fee.**

962 (1) All records of the division are public unless the division determines based upon a
963 written request by the subject of the record that the record is protected.

964 (2) Access to public records is determined by Section 63-2-201.

965 (3) Access to protected records, except as provided in Subsection (4), is determined by
966 Section 63-2-202.

967 (4) In addition to those persons granted access to protected records under Section
968 63-2-202, the division may disclose a protected record to a licensed private investigator with a
969 legitimate business need, a person with a bona fide security interest, or for purposes of safety,
970 product recall, advisory notices, or statistical reports only upon receipt of a signed
971 acknowledgment that the person receiving that protected record may not:

972 (a) disclose information from that record to any other person; or

973 (b) use information from that record for advertising or solicitation purposes.

974 (5) The division may provide protected information to a statistic gathering entity under
975 Subsection (4) only in summary form.

976 (6) A person allowed access to protected records under Subsection (4) may request motor
977 vehicle title or registration information from the division regarding any person, entity, or motor
978 vehicle by submitting [~~in person or by mail~~] a written application on a form provided by the
979 division.

980 (7) If a person regularly requests information for business purposes, the division may by
981 rule allow the information requests to be made by telephone and fees as required under Subsection
982 (8) charged to a division billing account to facilitate division service. The rules shall require that
983 the:

984 (a) division determine if the nature of the business and the volume of requests merit the
985 dissemination of the information by telephone;

986 (b) division determine if the credit rating of the requesting party justifies providing a

987 billing account; and

988 (c) the requestor submit to the division an application that includes names and signatures
989 of persons authorized to request information by telephone and charge the fees to the billing
990 account.

991 (8) (a) The division shall charge a reasonable search fee determined under Section
992 63-38-3.2 for the research of each record requested.

993 (b) Fees may not be charged for furnishing information to persons necessary for their
994 compliance with this chapter.

995 (c) Law enforcement agencies have access to division records free of charge.

996 Section 33. Section **41-1a-512** is amended to read:

997 **41-1a-512. Application for title.**

998 (1) The application for a certificate of title shall include:

999 (a) the signature [~~in ink~~] of each person to be recorded on the certificate as owner;

1000 (b) the name, bona fide residence and mailing address of the owner, or business address
1001 of the owner if the owner is a firm, association, or corporation;

1002 (c) a description of the vehicle, vessel, or outboard motor, including the make, model, type
1003 of body, the model year as specified by the manufacturer, the number of cylinders, the
1004 identification number of the vehicle, vessel, or outboard motor, as applicable, and other
1005 information the division may require;

1006 (d) other information required by the division to enable it to determine whether the owner
1007 is entitled to a certificate of title;

1008 (e) a statement of one lien or encumbrance, if any, upon the vehicle, vessel, or outboard
1009 motor; and

1010 (f) the names and addresses of all persons having any ownership interest in the vehicle,
1011 vessel, or outboard motor and the nature of the ownership interest.

1012 (2) An application for a certificate of title for a new vehicle, vessel, or outboard motor
1013 purchased from a dealer shall be accompanied by a statement by the dealer or a bill of sale showing
1014 any lien retained by the dealer.

1015 Section 34. Section **41-3-105** is amended to read:

1016 **41-3-105. Administrator's powers and duties -- Administrator and investigators to**
1017 **be law enforcement officers.**

1018 (1) The administrator may make rules to carry out the purposes of this chapter and Sections
1019 41-1a-1001 through 41-1a-1007 according to the procedures and requirements of Title 63, Chapter
1020 46a, Utah Administrative Rulemaking Act.

1021 (2) (a) The administrator may employ clerks, deputies, and assistants necessary to
1022 discharge the duties under this chapter and may designate the duties of those clerks, deputies, and
1023 assistants.

1024 (b) The administrator, assistant administrator, and all investigators shall be law
1025 enforcement officers certified by peace officer standards and training as required by Section
1026 53-13-103.

1027 (3) (a) The administrator may investigate any suspected or alleged violation of:

1028 (i) this chapter;

1029 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

1030 (iii) any law concerning motor vehicle fraud; or

1031 (iv) any rule made by the administrator.

1032 (b) The administrator may bring an action in the name of the state against any person to
1033 enjoin a violation found under Subsection (3)(a).

1034 (4) (a) The administrator may prescribe forms to be used for applications for licenses.

1035 (b) The administrator may require information from the applicant concerning the
1036 applicant's fitness to be licensed.

(c) Each application for a license shall contain:

1038
1039 the trade name, if any, under which he intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner,

1041
1042 (iii) if the applicant is a corporation, the name of the corporation, and the name and
residence address of each of its principal officers and directors;

1044
1045
1046 (B) if located outside of any municipality, a general description so that the location can
be determined; and

1048

1049 with the principal place of business; and

1050 (v) if the application is for a new motor vehicle dealer's license, the name of each motor
1051 vehicle the applicant has been enfranchised to sell or exchange, the name and address of the
1052 manufacturer or distributor who has enfranchised the applicant, and the names and addresses of
1053 the individuals who will act as salespersons under authority of the license.

1054 (5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement
1055 Administrator, State of Utah," to authenticate the acts of his office.

1056 (6) (a) The administrator may require that the licensee erect or post signs or devices on his
1057 principal place of business and any other sites, equipment, or locations operated and maintained
1058 by the licensee in conjunction with his business.

1059 (b) The signs or devices shall state the licensee's name, principal place of business, type
1060 and number of licenses, and any other information that the administrator considers necessary to
1061 identify the licensee.

1062 (c) The administrator may make rules in accordance with Title 63, Chapter 46a, Utah
1063 Administrative Rulemaking Act, determining allowable size and shape of signs or devices, their
1064 lettering and other details, and their location.

1065 (7) (a) The administrator shall provide for quarterly meetings of the advisory board and
1066 may call special meetings.

1067 (b) Notices of all meetings shall be [~~mailed~~] sent to each member [~~at his last-known~~
1068 ~~address~~] not fewer than five days prior to the meeting.

1069 (8) The administrator, the officers and inspectors of the division designated by the
1070 commission, and peace officers shall:

1071 (a) make arrests upon view and without warrant for any violation committed in their
1072 presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

1073 (b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is
1074 being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require
1075 the driver of the vehicle to stop, exhibit his driver's license and the registration card issued for the
1076 vehicle and submit to an inspection of the vehicle, the license plates, and registration card;

1077 (c) serve all warrants relating to the enforcement of the laws regulating the operation of
1078 motor vehicles, trailers, and semitrailers;

1079 (d) investigate traffic accidents and secure testimony of witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

1081 **41-3-803** is amended to read:

41-3-803.

1083 (1) A consignor may take possession of his consigned vehicle at any time the consigned
vehicle is in the possession of a consignee, provided that the consignor:

1085
1086 vehicle; and

(b) has paid all outstanding charges owing to the consignee that have been agreed to by

1088
1089 (2) The agreed upon charges under Subsection (1)(b) shall be:

~~[(a) in writing;~~

1091 [~~—~~] (a) stated

1092 [~~—————~~] (b) included with

1093 (3) A consignee who sells a consigned vehicle shall report to the consignor in writing the
exact selling price of the consigned vehicle under either of the following circumstances:

1095
1096 percentage of the selling price upon the sale of the vehicle; or

(b) the consignor and consignee renegotiate in writing the selling price of the vehicle.

1098
1099 (a) the consignee, within seven calendar days of the date of sale, must give written notice
to the consignor that the consigned vehicle has been sold; and

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1102 of receiving payment in full for the consigned vehicle, whichever date is earlier, shall remit the
payment received to the consignor, unless the agreement to purchase the consigned vehicle has

1104
1105 (5) If the agreement to purchase the consigned vehicle has for any reason been rescinded
before the expiration of 21 calendar days of the date of sale, the consignee shall within five

1107
1108 been rescinded.

(6) Vehicles on consignment shall be driven with the consignee's dealer plates. All other

1110

1111 (7) Prior to driving a consigned vehicle on the consignee's dealer plates, the consignee and
1112 the consignor shall execute a written consignment agreement that states:

1113 (a) the party responsible for damage or misuse to a consigned vehicle; and

1114 (b) the permitted uses a consignee may make of a consigned vehicle.

1115 (8) The consignee shall keep the written consignment agreement on file at his principal
1116 place of business.

1117 Section 36. Section **53-7-107** is enacted to read:

1118 **53-7-107. Electronic writing.**

1119 (1) Any writing required or permitted by this chapter may be filed or prepared in an
1120 electronic medium and by electronic transmission subject to the ability of the recipient to accept
1121 and process the electronic writing.

1122 (2) Any writing required by this chapter to be signed that is in an electronic medium shall
1123 be signed by digital signature in accordance with Title 46, Chapter 3, Utah Digital Signature Act.

1124 Section 37. Section **53-7-305** is amended to read:

1125 **53-7-305. Board rulemaking -- Notice.**

1126 (1) (a) The board shall make rules as reasonably necessary for the protection of the health,
1127 welfare, and safety of the public and persons using LPG.

1128 (b) The rules shall be in substantial conformity with the generally accepted standards of
1129 safety concerning LPG, and shall include the following conditions:

1130 (i) the rules relating to safety in the storage, distribution, dispensing, transporting, and use
1131 of LPG in this state and in the manufacture, fabrication, assembly, sale, installation, and use of
1132 LPG systems, containers, apparatus, or appliances shall be reasonable; and

1133 (ii) the rules shall conform as nearly as possible to the standards of the National Fire
1134 Protection Association, relating to the design, construction, installation, and use of systems,
1135 containers, apparatus, appliances, and pertinent equipment for the storage, transportation,
1136 dispensation, and use of LPG.

1137 (2) The board may make rules:

1138 (a) setting minimum general standards covering the design, construction, location,
1139 installation, and operation of equipment for storing, handling, transporting by tank truck or tank
1140 trailer, or using LPG;

1141 (b) specifying the odorization of the gases and the degree of odorization;

(c) governing LPG distributors and installers and the installation of LPG systems,

1143

(d) prescribing maximum container removal rates.

1144

(3) (a) When a proposed rule is filed, the board shall give at least ten days' notice to all

1146

~~mailing~~] _____ a notice of the proposed

1147

on file with the board.

1148

(b) Any person affected by rulemaking under this part may submit written comment on the

1150

(c) A certificate citing the adoption and the effective date of a rule shall be signed by the members comprising a majority of the board.

1151

1153

~~cause to be mailed~~] _____

1154

to each license applicant or licensee, at his current address on file, a notice of the adoption of the rule, including its effective date.

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1157

the member.

Section 38. Section **53A-14-104**

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53A-14-104. Sealed proposals for textbook contracts -- Sample copies -- Price of

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(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually

1163

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[~~—~~] (2)

1165

submit a sealed proposal to the commission.

[~~2~~] (3) Each proposal must be accompanied by sample copies of the textbooks proposed to be furnished and the wholesale price at which the publisher agrees to furnish each textbook

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1169

Section 39. Section _____ is amended to read:

1170

Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards

1172

1173 (1) As used in this section, the word "sealed" does not preclude acceptance of
1174 electronically sealed and submitted bids or proposals in addition to bids or proposals manually
1175 sealed and submitted.

1176 [~~1~~] (2) (a) Prior to the construction of any school or the alteration of any existing school
1177 plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school
1178 board shall advertise for bids on the project at least ten days before the bid due date.

1179 (b) The board shall have the advertisement published in a newspaper having general
1180 circulation throughout the state and in appropriate construction trade publications that offer free
1181 listings.

1182 (c) A similar advertisement is required in a newspaper published or having general
1183 circulation in any city or county that would be affected by the proposed project.

1184 (d) The advertisement shall:

1185 (i) require sealed proposals for the building project in accordance with plans and
1186 specifications furnished by the local school board;

1187 (ii) state where and when the proposals will be opened and shall reserve the right of the
1188 board to reject any and all proposals; and

1189 (iii) require a certified check or bid bond of not less than 5% of the bid to accompany the
1190 bid.

1191 [~~2~~] (3) (a) The board shall meet at the time and place specified in the advertisement and
1192 publicly open and read all received proposals.

1193 (b) If satisfactory bids are received, the board shall award the contract to the lowest
1194 responsible bidder.

1195 (c) If none of the proposals are satisfactory, all shall be rejected.

1196 (d) The board shall again advertise in the manner provided in this section.

1197 (e) If, after advertising a second time no satisfactory bid is received, the board may proceed
1198 under its own direction with the required project.

1199 [~~3~~] (4) (a) The check or bond required under Subsection (1)(d) shall be drawn in favor
1200 of the local school board.

1201 (b) If the successful bidder fails or refuses to enter into the contract and furnish the
1202 additional bonds required under this section, then the bidder's check or bond is forfeited to the
1203 district.

1235 (d) give to each purchaser and potential purchaser a copy of the proposed property report
1236 which the developer has submitted to the division with the original application; and

1237 (e) give to each purchaser the opportunity to rescind the purchase in accordance with this
1238 section. The purchaser must be granted an additional opportunity to rescind upon the issuance of
1239 an approved registration if the division determines that there is a substantial difference in the
1240 disclosures contained in the final property report and those given to the purchaser in the proposed
1241 property report.

1242 (3) Any contract or agreement of disposition for an interest in subdivided lands may be
1243 rescinded by the purchaser without cause by midnight of the fifth calendar day after the execution
1244 of the contract or agreement of disposition. This right of rescission may not be waived by
1245 agreement. The contract or agreement of disposition shall state in boldface type on the signature
1246 page above all signatures: YOU HAVE THE OPTION TO CANCEL YOUR CONTRACT OR
1247 AGREEMENT OF DISPOSITION BY NOTICE TO THE SELLER UNTIL MIDNIGHT OF THE
1248 FIFTH CALENDAR DAY FOLLOWING THE SIGNING OF THE CONTRACT OR
1249 AGREEMENT. WRITTEN NOTICE OF CANCELLATION MUST BE PERSONALLY
1250 DELIVERED OR SENT BY CERTIFIED MAIL, POSTMARKED BY MIDNIGHT OF THE
1251 FIFTH CALENDAR DAY FOLLOWING THE SIGNING OF THE CONTRACT OR
1252 AGREEMENT, TO THE SELLER AT: (Address of Seller).

1253 (4) No person may dispose of any interest in subdivided lands without delivering to the
1254 purchaser an effective, current public offering statement and obtaining a dated, signed receipt for
1255 the public offering statement in a form to be approved by the division from each purchaser. The
1256 subdivider shall retain each receipt for two years from the date of its execution. All receipts shall
1257 be made available for inspection upon request by the division. Failure to comply with this
1258 subsection shall not constitute a cause of action under Section 57-11-17 but shall be grounds for
1259 appropriate action by the division under Sections 57-11-13 and 57-11-14.

1260 Section 41. Section **57-11-11** is amended to read:

1261 **57-11-11. Rules of division -- Filing advertising material -- Injunctions --**
1262 **Intervention by division in suits -- General powers of division.**

1263 (1) The division shall prescribe reasonable rules which shall be adopted, amended, or
1264 repealed only after a public hearing with notice thereof published once in a newspaper or
1265 newspapers with statewide circulation and ~~mailed~~ sent to any nonprofit organization which files

1266 a written request for notice with the division; said notice shall be published and [~~mailed~~] sent not
1267 less than [~~twenty~~] 20 days prior to the hearing. The rules shall include but need not be limited to:

1268 (a) provisions for advertising standards to assure full and fair disclosure;

1269 (b) provisions for escrow or trust agreements, performance bonds, or other means

1270 reasonably necessary to assure that all improvements referred to in the application for registration

1271 and advertising will be completed and that purchasers will receive the interest in land contracted

1272 for. These provisions, however, shall not be required if the city or county in which the subdivision

1273 is located requires similar means of assurance of a nature and in an amount no less adequate than

1274 is required under said rules;

1275 (c) provisions for operating procedures;

1276 (d) provisions for a shortened form of registration in cases where the division determines

1277 that the purposes of this act do not require a subdivision to be registered pursuant to an application

1278 containing all the information required by Section 57-11-6 or do not require that the public offering

1279 statement contain all the information required by Section 57-11-7; and

1280 (e) other rules necessary and proper to accomplish the purpose of this act.

1281 (2) The division by rule or order, after reasonable notice, may require the filing of

1282 advertising material relating to subdivided lands prior to its distribution, provided that the division

1283 must approve or reject any [~~such~~] advertising material within [~~fifteen~~] 15 days from the receipt

1284 thereof or the material shall be [~~deemed~~] considered approved.

1285 (3) If it appears that a person has engaged or is about to engage in an act or practice

1286 constituting a violation of a provision of this act or a rule or order hereunder, the agency, with or

1287 without prior administrative proceedings, may bring an action in the district court of the district

1288 where said person maintains his residence or a place of business or where said act or practice has

1289 occurred or is about to occur, to enjoin the acts or practices and to enforce compliance with this

1290 act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining

1291 orders shall be granted, and a receiver or conservator may be appointed. The division shall not be

1292 required to post a bond in any court proceedings.

1293 (4) The division shall be allowed to intervene in a suit involving subdivided lands, either

1294 as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any

1295 provision of law will be called into question. In any suit by or against a subdivider involving

1296 subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies

1297 of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the
1298 division withholding any approval required by this act.

1299 (5) The division may:

1300 (a) accept registrations filed in other states or with the federal government;

1301 (b) contract with public agencies or qualified private persons in this state or other
1302 jurisdictions to perform investigative functions;

1303 (c) accept grants-in-aid from any source.

1304 (6) The division shall cooperate with similar agencies in other jurisdictions to establish
1305 uniform filing procedures and forms, uniform public offering statements, advertising standards,
1306 rules, and common administrative practices.

1307 Section 42. Section **57-11-12** is amended to read:

1308 **57-11-12. Investigatory powers and proceedings of division.**

1309 (1) The division may:

1310 (a) make necessary public or private investigations within or outside of this state to
1311 determine whether any person has violated or is about to violate this act or any rule or order
1312 hereunder or to aid in the enforcement of this act or in the prescribing of rules and forms
1313 hereunder;

1314 (b) require or permit any person to file a [~~statement in writing, under oath or otherwise as~~
1315 ~~the division determines,]~~ complaint in the form required by the division as to all the facts and
1316 circumstances concerning the matter to be investigated.

1317 (2) For the purpose of any investigation or proceeding under this act, the division or any
1318 officer designated by rule may administer oaths or affirmations, and upon its own motion or upon
1319 request of any party may subpoena witnesses, compel their attendance, take evidence, and require
1320 the production of any matter which is relevant to the investigation, including the existence,
1321 description, nature, custody, condition and location of any books, documents, or other tangible
1322 things and the identity and location of persons having knowledge of relevant facts, or any other
1323 matter reasonably calculated to lead to the discovery of material evidence.

1324 (3) Upon failure to obey a subpoena or to answer questions propounded by the
1325 investigating officer and upon reasonable notice to all persons affected thereby, the division may
1326 apply to any district court for an order compelling compliance.

1327 Section 43. Section **57-19-6** is amended to read:

1328 **57-19-6. Effective date of application.**

1329 (1) An application for registration filed pursuant to Section 57-19-5 is effective upon the
1330 expiration of 30 business days following its filing with the director, unless:

1331 (a) an order denying the application pursuant to Section 57-19-13 is in effect;

1332 (b) a prior effective date has been ordered by the director; or

1333 (c) the director has, prior to that date, notified the applicant of a defect in the registration
1334 application.

1335 (2) An applicant may consent to the delay of effectiveness until the director by order
1336 declares the registration to be effective.

1337 (3) Notwithstanding Section 57-19-4, the division may grant a temporary permit allowing
1338 the developer to begin a sales program while the registration is in process. To obtain a temporary
1339 permit, the developer shall:

1340 (a) submit [~~a formal written request~~] an application to the division for a temporary permit
1341 in the form required by the division;

1342 (b) submit a substantially complete application for registration to the division, including
1343 all appropriate fees and exhibits required under Section 57-19-5, plus a temporary permit fee of
1344 \$100;

1345 (c) provide evidence acceptable to the division that all funds received by the developer or
1346 marketing agent will be placed into an independent escrow with instructions that funds will not
1347 be released until a final registration has been granted;

1348 (d) give to each purchaser and potential purchaser a copy of the proposed property report
1349 that the developer has submitted to the division with the initial application; and

1350 (e) give to each purchaser the opportunity to cancel the purchase in accordance with
1351 Section 57-19-12. The purchaser shall have an additional opportunity to cancel upon the issuance
1352 of an approved registration if the division determines that there is a substantial difference in the
1353 disclosures contained in the final property report and those given to the purchase in the proposed
1354 property report.

1355 Section 44. Section **57-19-9** is amended to read:

1356 **57-19-9. Duration of registration -- Amendment and renewal -- Supplemental**
1357 **disclosure -- Notice of amendment.**

1358 (1) Registration of a project is effective for a period of one year and may, upon application,

1359 be renewed for successive periods of one year each.

1360 (2) A registration may be amended at any time, for any reason, by filing an amended
1361 application for registration, which amended registration shall become effective in the manner
1362 provided in Section 57-19-6.

1363 (3) The written disclosure required to be furnished to prospective purchasers pursuant to
1364 Section 57-19-11 shall be supplemented [~~in writing~~] as often as is necessary to keep the required
1365 information reasonably current. These [~~written~~] supplements shall be filed with the director as
1366 provided in Section 57-19-8.

1367 (4) Every developer shall provide timely [~~written~~] notice sent to the director of any event
1368 which has occurred which may have a material adverse effect on the conduct of the operation of
1369 the project. In addition to this notification, the developer shall, within 30 days of the occurrence
1370 of that event, file an amendment to the registration disclosing the information previously provided.

1371 (5) Each application for renewal of a registration and each supplementary filing as
1372 provided in this section shall be accompanied by a fee of \$200.

1373 Section 45. Section **59-1-503** is amended to read:

1374 **59-1-503. Assessment and payment of amount determined.**

1375 (1) Following a redetermination of a deficiency by the commission, the entire amount
1376 redetermined as the deficiency by the decision of the commission, which has become final, shall
1377 be assessed and shall be paid within 30 days from the date [~~of mailing of~~] the notice and demand
1378 is sent from the commission.

1379 (2) If the taxpayer does not file a petition with the commission within the time prescribed
1380 for filing the petition, the deficiency, notice of which has been [~~mailed~~] sent to the taxpayer shall
1381 be assessed, and shall be paid within 30 days from the date [~~of mailing of~~] the notice and demand
1382 is sent from the commission.

1383 Section 46. Section **59-1-504** is amended to read:

1384 **59-1-504. Time determination final.**

1385 The action of the commission on the taxpayer's petition for redetermination of deficiency
1386 shall be final 30 days after the date [~~of mailing~~] of the commission's notice of agency action is sent.
1387 All tax, interest, and penalties are due 30 days from the date [~~of mailing~~] the commission's
1388 decision or order is sent, unless the taxpayer seeks judicial review.

1389 Section 47. Section **59-2-212** is amended to read:

1390 **59-2-212. Equalization of values -- Hearings.**

1391 (1) The commission shall adjust and equalize the valuation of the taxable property in all
1392 counties of the state for the purpose of taxation; and may order or make an assessment or
1393 reassessment of any property which the commission determines has been overassessed or
1394 underassessed or which has not been assessed.

1395 (2) If the commission intends to make an assessment or reassessment under this section,
1396 the commission shall give at least 15 days written notice ~~[and]~~ of the time and place fixed for the
1397 determination of the assessment ~~[shall be given by the commission by letter deposited in the post~~
1398 ~~office at least 15 days before the date so fixed,]~~ to the owner of the property and to the auditor of
1399 the county in which the property is located. Upon the date so fixed the commission shall assess
1400 or reassess the property and shall notify the county auditor of the assessment made, and every
1401 assessment has the same force and effect as if made by the county assessor before the delivery of
1402 the assessment book to the county treasurer.

1403 (3) The county auditor shall record the assessment upon the assessment books in the same
1404 manner provided under Section 59-2-1011 in the case of a correction made by the county board
1405 of equalization, and no county board of equalization or assessor may change any assessment so
1406 fixed by the commission.

1407 (4) All hearings upon assessments made or ordered by the commission pursuant to this
1408 section shall be held in the county in which the property involved is located.

1409 (5) One or more members of the commission may conduct the hearing, and any assessment
1410 made after a hearing before any number of the members of the commission shall be as valid as if
1411 made after a hearing before the full commission.

1412 Section 48. Section **59-2-214** is amended to read:

1413 **59-2-214. Commission to furnish forms for taxpayers' statements.**

1414 (1) The commission shall furnish the assessor of each county with blank forms of
1415 statements provided under Section 59-2-306, affixing ~~[thereto an affidavit]~~ to the form a statement
1416 substantially as follows to be signed by the party completing the form:

1417 I, ____, do swear that I am a resident of the county of ____, and that my post office address
1418 is ____; that the above list contains a full and correct statement of all property subject to taxation,
1419 which I, or any firm of which I am a member, or any corporation, association, or company of
1420 which I am president, cashier, secretary, or managing agent, owned, claimed, possessed, or

1421 controlled at 12 o'clock [~~m:~~] midnight on the preceding January 1 and which is not already
1422 assessed this year.

1423 (2) The [~~affidavit to the~~] signed statement made on behalf of a firm or corporation shall
1424 state the principal place of business of the firm or corporation, and in other respects shall conform
1425 substantially to the preceding form.

1426 Section 49. Section **59-2-306** is amended to read:

1427 **59-2-306. Statements by taxpayers -- Power of assessors respecting statements.**

1428 (1) The county assessor may request a signed statement [~~in affidavit form~~] from any person
1429 setting forth all the real and personal property assessable by the assessor which is owned,
1430 possessed, managed, or under the control of the person at 12 o'clock noon on January 1. This
1431 statement shall be filed within 30 days after requested by the assessor.

1432 (2) The [~~affidavit~~] signed statement shall include the following:

1433 (a) all property belonging to, claimed by, or in the possession, control, or management of
1434 the person, any firm of which the person is a member, or any corporation of which the person is
1435 president, secretary, cashier, or managing agent;

1436 (b) the county in which the property is located or in which it is taxable; and, if taxable in
1437 the county in which the [~~affidavit~~] signed statement was made, also the city, town, school district,
1438 road district, or other taxing district in which it is located or taxable; and

1439 (c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and
1440 fractional sections of all tracts of land containing more than 640 acres which have been sectionized
1441 by the United States Government, and the improvements on those lands.

1442 (3) Every assessor may subpoena and examine any person in any county in relation to any
1443 [~~affidavit~~] signed statement but may not require that person to appear in any county other than the
1444 county in which the subpoena is served.

1445 Section 50. Section **59-2-307** is amended to read:

1446 **59-2-307. Refusal by taxpayer to file signed statement -- Penalty -- Assessor to**
1447 **estimate value -- Reporting of information to other counties.**

1448 (1) Any person who does not:

1449 (a) file the [~~affidavit~~] signed statement required by Section 59-2-306;

1450 (b) file the [~~affidavit~~] signed statement with respect to name and place of residence; or

1451 (c) appear and testify when requested by the assessor, shall pay a penalty equal to 10% of

1452 the estimated tax due; but not less than \$100 for each failure to file a signed and completed
1453 ~~[affidavit]~~ statement, to be collected in the manner provided by Sections 59-2-1302 and 59-2-1303,
1454 except as otherwise provided for in this section, or by a judicial proceeding brought in the name
1455 of the assessor. All money recovered by any assessor under this section shall be paid into the
1456 county treasury.

1457 (2) (a) The penalty imposed by Subsection (1) may not be waived or reduced by the
1458 assessor, county, county Board of Equalization, or commission except pursuant to a procedure for
1459 the review and approval of reductions and waivers adopted by county ordinance, or by
1460 administrative rule adopted in accordance with Title 63, Chapter 46a, Utah Administrative
1461 Rulemaking Act.

1462 (b) The penalty under Subsection (1)(c) may not be imposed until 30 days after the
1463 taxpayer's receipt of a subsequent certified notice.

1464 (3) (a) If any owner neglects or refuses to file the ~~[affidavit]~~ signed statement within 30
1465 days of the date the first county request was sent as required under Section 59-2-306, the assessor
1466 shall make:

1467 (i) a subsequent request by certified mail for the ~~[affidavit]~~ signed statement. The
1468 subsequent request shall also inform the owner of the consequences of not filing ~~[an affidavit]~~ a
1469 signed statement; and

1470 (ii) a record of the failure to file and an estimate of the value of the property of the owner
1471 based on known facts and circumstances.

1472 (b) The value fixed by the assessor may not be reduced by the county board of equalization
1473 or by the commission.

1474 (4) If the ~~[affidavit]~~ signed statement discloses property in any other county, the assessor
1475 shall file the ~~[affidavit]~~ signed statement and ~~[mail]~~ send a certified copy to the assessor of each
1476 county in which the property is located.

1477 Section 51. Section **59-2-311** is amended to read:

1478 **59-2-311. Completion and delivery of assessment book -- Signed statement required**
1479 **-- Contents of signed statement.**

1480 Prior to May 22 each year, the assessor shall complete and deliver the assessment book to
1481 the county auditor. The assessor shall subscribe ~~[an affidavit]~~ and sign a statement in the
1482 assessment book substantially as follows:

1483 I, _____, the assessor of _____ County, do swear that before May 22, 19____, I made diligent
1484 inquiry and examination, and either personally or by deputy, established the value of all of the
1485 property within the county subject to assessment by me; that the property has been assessed on the
1486 assessment book equally and uniformly according to the best of my judgment, information, and
1487 belief at its fair market value; that I have faithfully complied with all the duties imposed on the
1488 assessor under the revenue laws including the requirements of Section 59-2-303.1; and that I have
1489 not imposed any unjust or double assessments through malice or ill will or otherwise, or allowed
1490 anyone to escape a just and equal assessment through favor or reward, or otherwise.

1491 Section 52. Section **59-2-322** is amended to read:

1492 **59-2-322. Transmittal of statement to commission.**

1493 (1) The county auditor shall, before June 8 of each year, prepare from the assessment book
1494 of that year a statement showing in separate columns:

1495 [(1)] (a) the total value of all property;

1496 [(2)] (b) the value of real estate, including patented mining claims, stated separately;

1497 [(3)] (c) the value of the improvements;

1498 [(4)] (d) the value of personal property exclusive of money; and

1499 [(5)] (e) the number of acres of land and the number of patented mining claims, stated
1500 separately.

1501 (2) As soon as the statement is prepared the county auditor shall transmit the statement [by
1502 mail] to the commission.

1503 Section 53. Section **59-2-325** is amended to read:

1504 **59-2-325. Statement transmitted to commission and state auditor.**

1505 The county auditor shall, before November 1 of each year, prepare from the assessment
1506 rolls of that year a statement showing the amount and value of all property in the county, as
1507 classified by the county assessment rolls, and the value of each class; the total amount of taxes
1508 remitted by the county board of equalization; the state's share of the taxes remitted; the county's
1509 share of the taxes remitted; the rate of county taxes; and any other information requested by the
1510 state auditor. The statement shall be made in duplicate, upon [~~blanks furnished~~] forms provided
1511 by the state auditor, and as soon as prepared shall be transmitted, [~~by mail,~~] one copy to the state
1512 auditor and one copy to the commission.

1513 Section 54. Section **59-2-326** is amended to read:

1514 **59-2-326. Assessment roll delivered to county treasurer.**

1515 Before November 1, the county auditor must deliver the corrected assessment roll to the
1516 county treasurer, together with ~~[an affidavit]~~ a signed statement subscribed by him in a form
1517 substantially as follows:

1518 I, ____ county auditor of the county of ____, do swear that I received the accompanying
1519 assessment roll of the taxable property of the county from the assessor, and that I have corrected
1520 it and made it conform to the requirements of the county board of equalization and commission,
1521 that I have reckoned the respective sums due as taxes and have added up the columns of
1522 valuations, taxes, and acreage as required by law.

1523 Section 55. Section **59-2-329** is amended to read:

1524 **59-2-329. Verification of auditor's statements.**

1525 The county auditor shall verify all statements made by the auditor under the provisions of
1526 this title ~~[by an affidavit attached to the statement]~~ and attach a signed statement of verification.

1527 Section 56. Section **59-2-508** is amended to read:

1528 **59-2-508. Application -- Consent to audit and review -- Purchaser's or lessee's signed**
1529 **statement.**

1530 (1) The owner of land eligible for valuation as land in agricultural use must submit an
1531 application to the county assessor of the county in which the land is located.

1532 (2) Any application for valuation, assessment, and taxation of land in agricultural use shall:

1533 (a) be on a form prescribed by the commission and provided for the use of the applicants
1534 by the county assessor;

1535 (b) provide for the reporting of information pertinent to this part;

1536 (c) be filed prior to March 1 of the tax year in which valuation under this part is requested;
1537 however, any application submitted after January 1 is subject to a \$25 late fee;

1538 (d) be accompanied by the prescribed fees made payable to the county treasurer; and

1539 (e) be recorded by the county recorder.

1540 (3) Once the application for valuation as land in agricultural use has been approved, the
1541 county may elect to either:

1542 (a) require the owner to submit a new application or ~~[an affidavit]~~ a signed statement

1543 verifying that the land qualifies for valuation under this part every five years if requested in writing

1544 by the county assessor; or

1545 (b) require no additional [~~affidavit~~] signed statement or application for valuation as
1546 agricultural land, but require that the assessor be notified when a change in the land use or land
1547 ownership occurs.

1548 (4) A certification by the owner that the facts set forth in the application or signed
1549 statement are true is considered as if made under oath and subject to the same penalties as provided
1550 by law for perjury.

1551 (5) All owners applying for participation under this part and all purchasers or lessees
1552 signing [~~affidavits~~] statements under Subsection (6) are considered to have given their consent to
1553 field audit and review by both the commission and the county assessor. This consent is a condition
1554 to the acceptance of any application or [~~affidavit~~] signed statement.

1555 (6) Any owner of lands eligible for valuation, assessment, and taxation under this part due
1556 to the use of that land by, and the agricultural production qualifications of, a purchaser or lessee,
1557 may qualify those lands by submitting, together with the application under Subsection (2), [~~an~~
1558 ~~affidavit~~] a signed statement from that purchaser or lessee certifying those facts relative to the use
1559 of the land and the purchaser's or lessee's agricultural production of the land which would be
1560 necessary for qualification of those lands under this part.

1561 Section 57. Section **59-2-1002** is amended to read:

1562 **59-2-1002. Change in assessment -- Force and effect -- Additional assessments --**
1563 **Notice to interested persons.**

1564 (1) The county board of equalization shall use all information it may gain from the records
1565 of the county or elsewhere in equalizing the assessment of the property in the county or in
1566 determining any exemptions. The board may require the assessor to enter upon the assessment roll
1567 any taxable property which has not been assessed and any assessment made has the same force and
1568 effect as if made by the assessor before the delivery of the assessment roll to the county treasurer.

1569 (2) During its sessions, the county board of equalization may direct the assessor to:

1570 (a) assess any taxable property which has escaped assessment;

1571 (b) add to the amount, number, or quantity of property when a false or incomplete list has
1572 been rendered; and

1573 (c) make and enter new assessments, at the same time cancelling previous entries, when
1574 any assessment made by the assessor is considered by the board to be incomplete or incorrect.

1575 (3) The clerk of the board of equalization shall [~~notify~~] give written notice to all interested

1576 persons of the day fixed for the investigation of any assessment under consideration by the board
1577 [~~by letter deposited in the post office, postpaid, and addressed to the interested person,]~~ at least 30
1578 days before action is taken.

1579 Section 58. Section **59-2-1011** is amended to read:

1580 **59-2-1011. Record of changes -- Form and contents of signed statement.**

1581 The county auditor shall make a record of all changes, corrections, and orders and before
1582 October 15 shall affix [~~an affidavit~~] a signed statement to the record, subscribed by the auditor, in
1583 a form substantially as follows:

1584 I, _____, do swear that, as county auditor of _____ county, I have kept correct minutes of all
1585 acts of the county board of equalization regarding alterations to the assessment rolls, that all
1586 alterations agreed to or directed to be made have been made and entered on the rolls, and that no
1587 changes or alterations have been made except those authorized by the board or the commission.

1588 Section 59. Section **59-2-1101** is amended to read:

1589 **59-2-1101. Exemption of property devoted to public, religious, or charitable uses --**
1590 **Proportional payments for government-owned property -- Intangibles exempt -- Signed**
1591 **statement required.**

1592 (1) The exemptions authorized by this part may be allowed only if the claimant is the
1593 owner of the property as of January 1 of the year the exemption is claimed, unless the claimant is
1594 a federal, state, or political subdivision entity under Subsection (2)(a), (b), or (c), in which case the
1595 entity shall collect and pay a proportional tax based upon the length of time that the property was
1596 not owned by the entity.

1597 (2) The following property is exempt from taxation:

1598 (a) property exempt under the laws of the United States;

1599 (b) property of the state, school districts, and public libraries;

1600 (c) property of counties, cities, towns, special districts, and all other political subdivisions
1601 of the state, except as provided in Title 11, Chapter 13, the Interlocal Cooperation Act;

1602 (d) property owned by a nonprofit entity which is used exclusively for religious, charitable,
1603 or educational purposes;

1604 (e) places of burial not held or used for private or corporate benefit;

1605 (f) farm equipment and machinery; and

1606 (g) intangible property.

1607 (3) (a) The owner who receives exempt status for property, if required by the commission,
1608 shall file [~~an affidavit~~] a signed statement, on or before March 1 each year, certifying the use to
1609 which the property has been placed during the past year. The [~~affidavit~~] signed statement shall
1610 contain the following information in summary form:

- 1611 (i) identity of [~~affiant~~] the individual who signed the statement;
- 1612 (ii) the basis of the [~~affiant's~~] signer's knowledge of the use of the property;
- 1613 (iii) authority to make the [~~affidavit~~] signed statement on behalf of the owner;
- 1614 (iv) county where property is located; and
- 1615 (v) nature of use of the property.

1616 (b) If the [~~affidavit~~] signed statement is not filed within the time limits prescribed by the
1617 county board of equalization, the exempt status may, after notice and hearing, be revoked and the
1618 property then placed on the tax rolls.

1619 (4) The county legislative body may adopt rules to effectuate the exemptions provided in
1620 this part.

1621 Section 60. Section **59-2-1102** is amended to read:

1622 **59-2-1102. Determination of exemptions by board of equalization -- Appeal.**

1623 (1) The county board of equalization may, after giving notice in a manner prescribed by
1624 rule, determine whether certain property within the county is exempt from taxation. The decision
1625 of the county board of equalization shall be in writing and shall include a statement of facts and
1626 the statutory basis for its decision. A copy of the decision shall be [~~mailed~~] sent on or before May
1627 15 to the person or organization applying for the exemption.

1628 (2) The board shall notify an exempt property owner who has previously received an
1629 exemption but failed to file the annual [~~affidavit~~] statement as required under Section 59-2-1101
1630 of the board's intent to revoke the exemption on or before April 1.

1631 (3) No reduction may be made in the value of property and no exemption may be granted
1632 unless the party affected or the party's agent makes and files with the board a written application
1633 for the reduction or exemption, verified by [~~oath~~] signed statement, and appears before the board
1634 and shows facts upon which it is claimed the reduction should be made, or exemption granted.
1635 The board may waive the application or personal appearance requirements.

1636 (4) Before the board grants any application for exemption or reduction, it may examine
1637 on oath the person or agent making the application. No reduction may be made or exemption

1638 granted unless the person or the agent making the application attends and answers all questions
1639 pertinent to the inquiry.

1640 (5) Upon the hearing of the application the board may subpoena any witnesses, and hear
1641 and take any evidence in relation to the pending subject.

1642 (6) The county board of equalization shall hold hearings and render a written decision to
1643 determine any exemption on or before May 1 in each year.

1644 (7) Any property owner dissatisfied with the decision of the county board of equalization
1645 regarding any exemption may appeal to the commission under Section 59-2-1006.

1646 Section 61. Section **59-2-1109** is amended to read:

1647 **59-2-1109. Indigent persons -- Tax relief, deferral, or abatement -- Application.**

1648 (1) No person under the age of 65 years is eligible for tax relief, deferral, or abatement
1649 provided for poor people under Sections 59-2-1107 and 59-2-1108 unless:

1650 (a) the county legislative body finds that extreme hardship would prevail if the grants were
1651 not made; or

1652 (b) the person is disabled.

1653 (2) An application for the exemption shall be filed on or before September 1 with the
1654 county legislative body of the county in which the property is located. The application shall set
1655 forth adequate facts to support the person's eligibility to receive the exemption.

1656 (a) The application shall include [~~an affidavit~~] a signed statement setting forth the
1657 eligibility of the applicant for the exemption.

1658 (b) Both husband and wife shall sign the application if they seek an exemption on a
1659 residence in which they both reside and which they own as joint tenants.

1660 (3) For purposes of this section:

1661 (a) A poor person is any person:

1662 (i) whose total household income as defined in Section 59-2-1202 is less than the
1663 maximum household income certified to a homeowner's credit under Subsection 59-2-1208 (1);

1664 (ii) who resides for not less than ten months of each year in the residence for which the tax
1665 relief, deferral, or abatement is requested; and

1666 (iii) who is unable to meet the tax assessed on the person's residential property as the tax
1667 becomes due.

1668 (b) "Residence" includes a mobile home as defined under Section 59-2-601.

1669 (4) The commission shall adopt rules to implement this section.

1670 (5) Any poor person may qualify for the deferral of taxes under Section 59-2-1108, or if
1671 the person meets the requisites of this section, for the abatement of taxes under Section 59-2-1107,
1672 or both.

1673 Section 62. Section **59-2-1302** is amended to read:

1674 **59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes on**
1675 **personal property -- Unpaid tax on uniform fee is a lien -- Delinquency interest -- Rate.**

1676 (1) After the assessor assesses taxes or uniform fees on personal property, the assessor or,
1677 if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall:

1678 (a) list the personal property tax or uniform fee as provided in Subsection (3) with the real
1679 property of the owner in the manner required by law if the assessor or treasurer, as the case may
1680 be, determines that the real property is sufficient to secure the payment of the personal property
1681 taxes or uniform fees;

1682 (b) immediately collect the taxes or uniform fees due on the personal property; or

1683 (c) on or before the day on which the tax or uniform fee on personal property is due, obtain
1684 from the taxpayer a bond that is:

1685 (i) payable to the county in an amount equal to the amount of the tax or uniform fee due,
1686 plus 20% of the amount of the tax or uniform fee due; and

1687 (ii) conditioned for the payment of the tax or uniform fee on or before November 30.

1688 (2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal
1689 property listed with the real property is a lien upon the owner's real property as of 12 o'clock noon
1690 of January 1 of each year.

1691 (b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal
1692 property not listed with the real property is a lien upon the owner's personal property as of 12
1693 o'clock noon of January 1 of each year.

1694 (3) The assessor or treasurer, as the case may be, shall make the listing under this section:

1695 (a) on the record of assessment of the real property; or

1696 (b) by entering a reference showing the record of the assessment of the personal property
1697 on the record of assessment of the real property.

1698 (4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent if
1699 the tax or uniform fee is not paid within 30 days after the day on which the tax notice or the

1700 combined [~~affidavit~~] signed statement and tax notice due under Section 59-2-306 is mailed.

1701 (b) Delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from the
1702 date of delinquency until the day on which the delinquent tax or uniform fee is paid at a rate that
1703 is 600 basis points above the "Federal Discount Rate" as of the preceding January 1.

1704 Section 63. Section **59-2-1306** is amended to read:

1705 **59-2-1306. Collection after taxpayer moves from county -- Evidence of tax due --**
1706 **Costs of collection.**

1707 (1) If any person moves from one county to another after being assessed on personal
1708 property, the county in which the person was assessed may sue for and collect the tax in the name
1709 of the county where the assessment was made.

1710 (2) At the trial, a certified copy of the assessment from the county where the assessment
1711 was made, with [~~an affidavit~~] a signed statement attached that the tax has not been paid, describing
1712 it as on the assessment book or delinquent list, is prima facie evidence that the tax and the interest
1713 are due, and entitles the county to judgment, unless the defendant proves that the tax was paid.

1714 (3) The county treasurer shall be credited and the county auditor shall allow the expenses
1715 of collecting the tax and permit a deduction from the amount collected, not to exceed [~~one-third~~]
1716 1/3 of the amount of the tax collected.

1717 Section 64. Section **59-2-1307** is amended to read:

1718 **59-2-1307. Entries of tax payments made on rail cars or state-assessed commercial**
1719 **vehicles.**

1720 (1) The commission, upon apportionment of the property of rail car companies and
1721 state-assessed commercial vehicles, shall proceed to collect the taxes from the owners of the
1722 property, and shall [~~furnish~~] send to each owner[~~, by mail postage prepaid, a~~] notice of the amount
1723 of the tax assessed against it, when and where payable, when delinquent, and the penalty provided
1724 by law.

1725 (a) The commission shall remit taxes collected from owners of state-assessed commercial
1726 vehicles to each county treasurer at least quarterly.

1727 (b) On or before the first Monday in January following in each year, the commission shall
1728 remit to the state treasurer all other taxes collected and due the state, and to each county the taxes
1729 collected and due to it and to the various taxing entities included in the county. The state treasurer
1730 and the treasurers of the several taxing entities shall make proper entries in their records of the

1731 receipt of the taxes.

1732 (2) All railroads doing business in this state shall furnish the commission with any
1733 information required by the commission, within the knowledge of the railroad companies, which
1734 will aid the commission in the collection of taxes from rail car companies.

1735 Section 65. Section **59-7-518** is amended to read:

1736 **59-7-518. Sufficiency of notice.**

1737 Any notice required to be [~~mailed~~] sent to a taxpayer under the provisions of this chapter,
1738 if [~~mailed~~] sent to it at its last-known address as shown on the records of the commission, shall be
1739 sufficient for the purposes of this chapter.

1740 Section 66. Section **59-7-519** is amended to read:

1741 **59-7-519. Period of limitation for making assessments -- Change, correction, or**
1742 **amendment of federal income tax -- Duty of corporation to notify state.**

1743 (1) Except as provided in Section 59-7-520, the amount of taxes imposed by this chapter
1744 shall be assessed within three years after the return was filed, and no proceeding in the court
1745 without assessment for the collection of such taxes shall be begun after the expiration of such
1746 period.

1747 (2) In the case of a deficiency attributable to the application of a net loss carryback, this
1748 deficiency may be assessed at any time before the expiration of the period within which a
1749 deficiency for the taxable year of the net loss which results in the carryback may be assessed.

1750 (3) If the amount of federal taxable income for any year of any corporation as returned to
1751 the United States treasury department is changed or corrected by the commissioner of internal
1752 revenue or other officer of the United States or other competent authority, or where a renegotiation
1753 of a contract or subcontract with the United States results in a change of federal taxable income,
1754 that taxpayer shall report [~~such~~] the change or corrected net income within 90 days after the final
1755 determination of [~~such~~] the change or correction as required to the commission and shall concede
1756 the accuracy of [~~such~~] the determination or state wherein it is erroneous. Any corporation filing
1757 an amended return with [~~such~~] the department shall also file, within 90 days thereafter, an amended
1758 return with the commission which shall contain [~~such~~] the information as it shall require.

1759 (4) If a corporation fails to report a change or correction by the commissioner of internal
1760 revenue, other officer of the United States, or other competent authority or fails to file an amended
1761 return, any deficiency resulting from [~~such~~] the adjustments may be assessed and collected within

1762 three years after said change, correction, or amended return is reported to or filed with the federal
1763 government.

1764 (5) If any corporation agrees with the commissioner of internal revenue for an extension,
1765 or renewals thereof, of the period for proposing and assessing deficiencies in federal income tax
1766 for any year, the period for ~~[mailing]~~ sending notices of proposed Utah tax deficiencies for such
1767 year shall be three years after the return was filed or six months after the date of the expiration of
1768 the agreed period for assessing deficiencies in federal income tax, whichever period expires the
1769 later.

1770 Section 67. Section **59-7-521** is amended to read:

1771 **59-7-521. Suspension of running of statute of limitations.**

1772 The running of the statute of limitations provided in Section 59-7-519 or 59-7-520, on the
1773 making of assessments and the beginning of a proceeding for collection by warrant and levy, or
1774 a proceeding in court for collection, in respect of any deficiency, shall (after ~~[the mailing of]~~ a
1775 notice is sent under Section 59-7-517) be suspended for the period during which the commission
1776 is prohibited from making the assessment or beginning proceedings for collection and for 60 days
1777 thereafter.

1778 Section 68. Section **59-10-524** is amended to read:

1779 **59-10-524. Notice of deficiency.**

1780 (1) If the commission determines that there is a deficiency in respect of the tax imposed
1781 by this chapter, it shall send notice of ~~[such]~~ the deficiency to the taxpayer ~~[in the manner and with~~
1782 ~~the content provided in Subsection (2)]~~ at the taxpayer's last-known address.

1783 (2) The notice of deficiency shall set forth the details of the deficiency and the manner of
1784 its computation. ~~[It shall be mailed, postage prepaid, to the taxpayer at his last known address.]~~

1785 (3) In the case of a joint return filed by husband and wife, ~~[such]~~ the notice of deficiency
1786 may be a single joint notice, except that in any case where the commission has been notified in
1787 writing by either spouse that separate residences have been established, then in lieu of the single
1788 joint notice, a duplicate ~~[original]~~ of the joint notice shall be sent to each spouse at last-known
1789 address.

1790 Section 69. Section **59-10-529** is amended to read:

1791 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

1792 (1) In cases where there has been an overpayment of any tax imposed by this chapter, the

1793 amount of overpayment is credited as follows:

1794 (a) against any income tax then due from the taxpayer;

1795 (b) against:

1796 (i) the amount of any judgment against the taxpayer, including one ordering the payment
1797 of a fine or of restitution to a victim under Section 76-3-201, obtained through due process of law
1798 by any entity of state government; or

1799 (ii) any child support obligation which is delinquent, as determined by the Office of
1800 Recovery Services in the Department of Human Services and after notice and an opportunity for
1801 an adjudicative proceeding, as provided in Subsection (2);

1802 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to
1803 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent
1804 jurisdiction has not approved an alternative form of payment. This bail may be applied to any fine
1805 or forfeiture which is due and related to a warrant which is outstanding on or after February 16,
1806 1984, and in accordance with Subsections (3) and (4).

1807 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services has
1808 ~~mailed~~ sent written notice to the taxpayer's last-known address or the address on file under
1809 Section 62A-11-304.4, stating:

1810 (i) the amount of child support that is past-due as of the date of the notice or other
1811 specified date;

1812 (ii) that any overpayment shall be applied to reduce the amount of past-due child support
1813 specified in the notice; and

1814 (iii) that the taxpayer may contest the amount of past-due child support specified in the
1815 notice by filing a written request for an adjudicative proceeding with the office within 15 days of
1816 the notice being sent.

1817 (b) If an overpayment of tax is credited against a past-due child support obligation in
1818 accordance with Subsection (1)(b)(ii) in noncash assistance cases, the Office of Recovery Services
1819 shall inform the obligee parent in advance if it will first use any portion of the overpayment to
1820 satisfy unreimbursed cash assistance or foster care maintenance payments which have been
1821 provided to that family.

1822 (c) The Department of Human Services shall establish rules to implement this subsection,
1823 including procedures, in accordance with the other provisions of this section, to ensure prompt

1824 reimbursement to the taxpayer of any amount of an overpayment of taxes which was credited
1825 against a child support obligation in error, and to ensure prompt distribution of properly credited
1826 funds to the obligee parent.

1827 (3) Subsection (1)(c) may be exercised only if:

1828 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear,
1829 or otherwise satisfy the terms of a citation, summons, or court order; and

1830 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
1831 ~~mailed~~ sent to the person's current address on file with the commission.

1832 (4) (a) The commission shall deliver the overpayment applied as bail to the court that
1833 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or
1834 commission warrant of payment on behalf of the payees and deposit the monies in the court
1835 treasury.

1836 (b) The court receiving the overpayment applied as bail shall order withdrawal of the
1837 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the taxpayer
1838 is not required and if the dollar amount of the overpayment represents the full dollar amount of
1839 bail. In all other cases, the court receiving the overpayment applied as bail is not required to order
1840 the withdrawal of the warrant of arrest of the taxpayer during the 40-day period, and the taxpayer
1841 may be arrested on the warrant. However, the bail amount shall be reduced by the amount of tax
1842 overpayment received by the court.

1843 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to resolve
1844 the warrant within 40 days after the ~~mailing~~ notice was sent under that subsection, the
1845 overpayment applied as bail is forfeited and notice of the forfeiture shall be mailed to the taxpayer
1846 at the current address on file with the commission. The court may then issue another warrant or
1847 allow the original warrant to remain in force if:

1848 (i) the taxpayer has not complied with an order of the court;

1849 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a personal
1850 appearance is required; or

1851 (iii) the taxpayer has paid partial but not full bail in a case for which a personal appearance
1852 is not required.

1853 (5) If the alleged violations named in the warrant are later resolved in favor of the
1854 taxpayer, the bail amount shall be remitted to the taxpayer.

1855 (6) Any balance shall be refunded immediately to the taxpayer.

1856 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld from
1857 wages exceeds the actual tax due, a refund or credit may not be made or allowed unless the
1858 taxpayer or his legal representative files with the commission a tax return claiming the refund or
1859 credit:

1860 (i) within three years from the due date of the return, plus the period of any extension of
1861 time for filing the return provided for in Subsection (7)(c); or

1862 (ii) within two years from the date the tax was paid, whichever period is later.

1863 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit of
1864 tax which has not been deducted and withheld from income is due, a credit or refund may not be
1865 allowed or made after three years from the time the tax was paid, unless, before the expiration of
1866 the period, a claim is filed by the taxpayer or his legal representative.

1867 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to
1868 file a claim under Subsection (7)(a)(i) if:

1869 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

1870 (ii) the commission and the taxpayer sign a written agreement:

1871 (A) authorizing the extension; and

1872 (B) providing for the length of the extension.

1873 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission shall
1874 extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

1875 (i) the three-year period under Subsection (7)(b) has not expired; and

1876 (ii) the commission and the taxpayer sign a written agreement:

1877 (A) authorizing the extension; and

1878 (B) providing for the length of the extension.

1879 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines
1880 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described in
1881 this section which are outstanding on or after February 16, 1984.

1882 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the tax
1883 to which the credit relates, the excess is considered an overpayment.

1884 (10) A claim for credit or refund of an overpayment which is attributable to the application
1885 to the taxpayer of a net operating loss carryback shall be filed within three years from the time the

1886 return was due for the taxable year of the loss.

1887 (11) If there has been an overpayment of the tax which is required to be deducted and
1888 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent that
1889 the amount of overpayment was not deducted and withheld by the employer.

1890 (12) If there is no tax liability for a period in which an amount is paid as income tax, the
1891 amount is an overpayment.

1892 (13) If an income tax is assessed or collected after the expiration of the applicable period
1893 of limitation, that amount is an overpayment.

1894 (14) (a) If a taxpayer is required to report a change or correction in federal taxable income
1895 reported on his federal income tax return, or to report a change or correction which is treated in
1896 the same manner as if it were an overpayment for federal income tax purposes, or to file an
1897 amended return with the commission, a claim for credit or refund of any resulting overpayment
1898 of tax shall be filed by the taxpayer within two years from the date the notice of the change,
1899 correction, or amended return was required to be filed with the commission.

1900 (b) If the report or amended return is not filed within 90 days, interest on any resulting
1901 refund or credit ceases to accrue after the 90-day period.

1902 (c) The amount of the credit or refund may not exceed the amount of the reduction in tax
1903 attributable to the federal change, correction, or items amended on the taxpayer's amended federal
1904 income tax return.

1905 (d) Except as specifically provided, this section does not affect the amount or the time
1906 within which a claim for credit or refund may be filed.

1907 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

1908 (16) The amount of the credit or refund may not exceed the tax paid during the three years
1909 immediately preceding the filing of the claim, or if no claim is filed, then during the three years
1910 immediately preceding the allowance of the credit or refund.

1911 (17) In the case of an overpayment of tax by the employer under the withholding
1912 provisions of this chapter, a refund or credit shall be made to the employer only to the extent that
1913 the amount of the overpayment was not deducted and withheld from wages under the provisions
1914 of this chapter.

1915 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission may
1916 make payment to the duly appointed executor or administrator of the taxpayer's estate. If there is

1917 no executor or administrator, payment may be made to those persons who establish entitlement to
1918 inherit the property of the decedent in the proportions set out in Title 75, Uniform Probate Code.

1919 (19) Where an overpayment relates to adjustments to net income referred to in Subsection
1920 59-10-536(3)(c), credit may be allowed or a refund paid any time before the expiration of the
1921 period within which a deficiency may be assessed.

1922 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and
1923 in the manner prescribed in Section 59-1-402.

1924 Section 70. Section **59-12-107** is amended to read:

1925 **59-12-107. Collection, remittance, and payment of tax by vendors and consumers --**
1926 **Returns -- Direct payment by purchaser of vehicle -- Other liability for collection -- Credits**
1927 **-- Deposit and sale of security -- Penalties.**

1928 (1) (a) Each vendor shall pay or collect and remit the sales and use taxes imposed by this
1929 chapter if within this state the vendor:

1930 (i) has or utilizes an office, distribution house, sales house, warehouse, service enterprise,
1931 or other place of business;

1932 (ii) maintains a stock of goods;

1933 (iii) engages in regular or systematic solicitation of sale of tangible personal property,
1934 whether or not accepted in this state, by the distribution of catalogs, periodicals, advertising flyers,
1935 or other advertising by means of print, radio, or television, or by mail, telegraphy, telephone,
1936 computer data base, optic, microwave, or other communication system for the purpose of selling,
1937 at retail, tangible personal property;

1938 (iv) regularly engages in the delivery of property in this state other than by common carrier
1939 or United States mail; or

1940 (v) regularly engages in any activity in connection with the leasing or servicing of property
1941 located within this state.

1942 (b) If none of the conditions listed under Subsection (1)(a) exist, the vendor is not
1943 responsible for the collection of the use tax but each person storing, using, or consuming tangible
1944 personal property is responsible for remitting the use tax.

1945 (c) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that is
1946 located at the premises of a printer's facility with which the retailer has contracted for printing and
1947 that consists of the final printed product, property that becomes a part of the final printed product,

1948 or copy from which the printed product is produced, shall not result in the retailer being considered
1949 to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or
1950 other place of business, or to maintain a stock of goods, within this state.

1951 (2) (a) Each vendor shall collect the sales or use tax from the purchaser.

1952 (b) A vendor may not collect as tax an amount, without regard to fractional parts of one
1953 cent, in excess of the tax computed at the rates prescribed by this chapter.

1954 (c) (i) Each vendor shall:

1955 (A) give the purchaser a receipt for the use tax collected; or

1956 (B) bill the use tax as a separate item and declare the name of this state and the vendor's
1957 use tax license number on the invoice for the sale.

1958 (ii) The receipt or invoice is prima facie evidence that the vendor has collected the use tax
1959 and relieves the purchaser of the liability for reporting the use tax to the commission as a
1960 consumer.

1961 (d) A vendor is not required to maintain a separate account for the tax collected, but is
1962 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

1963 (e) Taxes collected by a vendor pursuant to this chapter shall be held in trust for the benefit
1964 of the state and for payment to the commission in the manner and at the time provided for in this
1965 chapter.

1966 (f) If any vendor, during any reporting period, collects as a tax an amount in excess of the
1967 lawful state and local percentage of total taxable sales allowed under this part and Part 2, the
1968 vendor shall remit to the commission the full amount of the tax imposed under this part and Part
1969 2 plus any excess.

1970 (g) If the accounting methods regularly employed by the vendor in the transaction of the
1971 vendor's business are such that reports of sales made during a calendar month or quarterly period
1972 will impose unnecessary hardships, the commission may accept reports at intervals that will, in its
1973 opinion, better suit the convenience of the taxpayer or vendor and will not jeopardize collection
1974 of the tax.

1975 (3) Each person storing, using, or consuming tangible personal property under Subsection
1976 59-12-103(1) is liable for the use tax imposed under this chapter.

1977 (4) (a) Except as provided in Subsection (5) and in Section 59-12-108, the sales or use tax
1978 imposed by this chapter is due and payable to the commission quarterly on or before the last day

1979 of the month next succeeding each calendar quarterly period.

1980 (b) Each vendor shall, on or before the last day of the month next succeeding each calendar
1981 quarterly period, file with the commission a return for the preceding quarterly period. The vendor
1982 shall remit with the return the amount of the tax required under this chapter to be collected or paid
1983 for the period covered by the return.

1984 (c) Each return shall contain information and be in a form the commission prescribes by
1985 rule.

1986 (d) The sales tax as computed in the return shall be based upon the total nonexempt sales
1987 made during the period, including both cash and charge sales.

1988 (e) The use tax as computed in the return shall be based upon the total amount of sales or
1989 purchases for storage, use, or other consumption in this state made during the period, including
1990 both by cash and by charge.

1991 (f) The commission may by rule extend the time for making returns and paying the taxes.
1992 No extension may be for more than 90 days.

1993 (g) The commission may require returns and payment of the tax to be made for other than
1994 quarterly periods if it considers it necessary in order to ensure the payment of the tax imposed by
1995 this chapter.

1996 (5) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser
1997 shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or
1998 registration under the laws of this state. The commission shall collect the tax when the vehicle is
1999 titled or registered.

2000 (6) If any sale of tangible personal property or any other taxable item or service under
2001 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not responsible
2002 for the collection or payment of the tax imposed on the sale if the retailer represents that the
2003 personal property is purchased by the retailer for resale and the personal property thereafter is not
2004 resold. Instead, the retailer is solely liable for the tax.

2005 (7) If any sale of property or service subject to the tax is made to a person prepaying sales
2006 or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a contractor or
2007 subcontractor of that person, the person to whom such payment or consideration is payable is not
2008 responsible for the collection or payment of the sales or use tax if the person prepaying the sales
2009 or use tax represents that the amount prepaid as sales or use tax has not been fully credited against

2010 sales or use tax due and payable under the rules promulgated by the commission. Instead, the
2011 person prepaying the sales or use tax is solely liable for the tax.

2012 (8) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account
2013 determined to be worthless and actually charged off for income tax purposes or on the portion of
2014 the purchase price remaining unpaid at the time of a repossession made under the terms of a
2015 conditional sales contract.

2016 (9) (a) The commission may require any person subject to the tax imposed under this
2017 chapter to deposit with it security as the commission determines, if the commission considers it
2018 necessary to ensure compliance with this chapter.

2019 (b) The commission may sell the security at public sale if it becomes necessary to do so
2020 in order to recover any tax, interest, or penalty due.

2021 (c) The commission shall serve notice of the sale upon the person who deposited the
2022 securities [~~either personally or by mail. If the notice is by mail, notice~~]. Notice sent to the
2023 last-known address as it appears in the records of the commission is sufficient for the purposes of
2024 this requirement.

2025 (d) The commission shall return to the person who deposited the security any amount of
2026 the sale proceeds that exceed the amounts due under this chapter.

2027 (10) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full amount
2028 of tax required by this chapter. A violation of this section is punishable as provided in Section
2029 59-1-401.

2030 (b) Each person who fails to pay any tax to the state or any amount of tax required to be
2031 paid to the state, except amounts determined to be due by the commission under Sections
2032 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any return
2033 as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in
2034 Section 59-12-110.

2035 (c) For purposes of prosecution under this section, each quarterly tax period in which a
2036 vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
2037 tax required to be remitted, constitutes a separate offense.

2038 Section 71. Section **59-12-111** is amended to read:

2039 **59-12-111. Licensee to keep records -- Failure to make return -- Penalties.**

2040 (1) Each person engaging or continuing in any business in this state for the transaction of

2041 which a license is required under this chapter shall:

2042 (a) keep and preserve suitable records of all sales made by the person and other books or
2043 accounts necessary to determine the amount of tax for the collection of which the person is liable
2044 under this chapter in a form prescribed by the commission;

2045 (b) keep and preserve for a period of three years all such books, invoices, and other
2046 records; and

2047 (c) open such records for examination at any time by the commission or its duly authorized
2048 agent.

2049 (2) If no return is made by any person required to make returns as provided in this chapter,
2050 the commission shall give written notices [~~by mail postpaid~~] to [~~such~~] the person to make [~~such~~]
2051 the return within a reasonable time to be designated by the commission or, alternatively, the
2052 commission may make an estimate for the period or periods or any part thereof in respect to which
2053 [~~such~~] the person failed to make a return, based upon any information in its possession or that may
2054 come into its possession of the total sales subject to the tax imposed by this chapter. Upon the
2055 basis of this estimate the commission may compute and determine the amount of tax required to
2056 be paid to the state. [~~Such~~] The return shall be prima facie correct for the purposes of this chapter
2057 and the amount of the tax due thereon shall be subject to the penalties and interest as provided in
2058 Sections 59-1-401 and 59-1-402. Promptly thereafter the commission shall give to [~~such~~] the
2059 person written notice [~~by mail postpaid~~] of [~~such~~] the estimate, determination, penalty, and
2060 interest.

2061 [~~(2)~~] (3) If any person not holding a sales tax license under Section 59-12-106 or a valid
2062 use tax registration certificate makes a purchase of tangible personal property for storage, use, or
2063 other consumption in this state and fails to file a return or pay the tax due within 170 days from
2064 the time the return is due, this person shall pay a penalty as provided in Section 59-1-401 plus
2065 interest at the rate and in the manner prescribed in Section 59-1-402 and all other penalties and
2066 interest as provided by this title.

2067 Section 72. Section **59-13-202** is amended to read:

2068 **59-13-202. Refund of tax for agricultural uses on income and corporate franchise**
2069 **tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules**
2070 **permitted to enforce part -- Penalties.**

2071 (1) Any person who purchases and uses any motor fuel within the state for the purpose of

2072 operating or propelling stationary farm engines and self-propelled farm machinery used for
2073 nonhighway agricultural uses, and who has paid the tax on the motor fuel as provided by this part,
2074 is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

2075 (2) Every person desiring a nonhighway agricultural use refund under this part shall claim
2076 the refundable credit on the state income tax return or corporate franchise tax return. A person not
2077 subject to filing a Utah income tax return or corporate franchise tax return shall obtain a permit
2078 and file claims on a calendar year basis. Any person claiming a refundable motor fuel tax credit
2079 is required to furnish any or all of the information outlined in this section upon request of the
2080 commission. Credit is allowed only on purchases on which tax is paid during the taxable year
2081 covered by the tax return.

2082 (3) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be
2083 filed containing:

2084 (a) the name of applicant;

2085 (b) the applicant's address;

2086 (c) location and number of acres owned and operated, location and number of acres rented
2087 and operated, the latter of which shall be verified by ~~[affidavit]~~ a signed statement from the legal
2088 owner;

2089 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2090 (e) make, size, type of fuel used, and power rating of each piece of equipment using fuel.

2091 If the applicant is an operator of self-propelled or tractor-pulled farm machinery with which the
2092 applicant works for hire doing custom jobs for other farmers, the application shall include
2093 information the commission requires and shall all be contained in, and be considered part of, the
2094 original application. The applicant shall also file with the application a certificate from the county
2095 assessor showing each piece of equipment using fuel. This original application and all information
2096 contained in it constitutes a permanent file with the commission in the name of the applicant.

2097 (4) Any person claiming the right to a refund of motor fuel tax paid shall file a claim with
2098 the commission by April 15 of each year for the refund for the previous calendar year. The claim
2099 shall state the name and address of the claimant, the number of gallons of motor fuel purchased
2100 for nonhighway agricultural uses, and the amount paid for the motor fuel. The applicant shall
2101 ~~[support the claim by submitting]~~ retain the original invoice ~~[or copy of the original invoice]~~ to
2102 support the claim. No more than one claim for a tax refund may be filed annually by each user of

2103 motor fuel purchased for nonhighway agricultural uses.

2104 (5) Upon commission approval of the claim for a refund, the Division of Finance shall pay
2105 the amount found due to the claimant. The total amount of claims for refunds shall be paid from
2106 motor fuel taxes.

2107 (6) The commission may promulgate rules to enforce this part, and may refuse to accept
2108 as evidence of purchase or payment any instruments which show alteration or which fail to indicate
2109 the quantity of the purchase, the price of the motor fuel, a statement that it is purchased for
2110 purposes other than transportation, and the date of purchase and delivery. If the commission is not
2111 satisfied with the evidence submitted in connection with the claim, it may reject the claim or
2112 require additional evidence.

2113 (7) Any person aggrieved by the decision of the commission with respect to a credit or
2114 refund may file a request for agency action, requesting a hearing before the commission.

2115 (8) Any person who makes any false claim, report, or statement, either as claimant, agent,
2116 or creditor, with intent to defraud or secure a refund to which the claimant is not entitled, is subject
2117 to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the
2118 filing of a complaint for alleged violations of this part. In addition to these penalties, the person
2119 may not receive any refund as a claimant or as a creditor of a claimant for refund for a period of
2120 five years.

2121 (9) Refunds to which taxpayers are entitled under this part shall be paid from the
2122 Transportation Fund.

2123 Section 73. Section **59-13-301** is amended to read:

2124 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and**
2125 **credited to Transportation Fund.**

2126 (1) (a) Except as provided in Subsections (2) and (3) and Section 59-13-304, a tax is
2127 imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:

2128 (i) removal of undyed diesel fuel from any refinery;

2129 (ii) removal of undyed diesel fuel from any terminal;

2130 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
2131 warehousing;

2132 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this
2133 part unless the tax has been collected under this section;

- 2134 (v) any untaxed special fuel blended with undyed diesel fuel; or
2135 (vi) use of untaxed special fuel, other than a clean special fuel.
- 2136 (b) The tax imposed under this section shall only be imposed once upon any special fuel.
- 2137 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
2138 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the
2139 public highways of the state, but this exemption applies only in those cases where the purchasers
2140 or the users of special fuel establish to the satisfaction of the commission that the special fuel was
2141 used for purposes other than to operate a motor vehicle upon the public highways of the state; or
2142 (ii) is sold to this state or any of its political subdivisions.
- 2143 (b) No special fuel tax is imposed on undyed diesel fuel which:
2144 (i) is sold to the United States government or any of its instrumentalities or to this state
2145 or any of its political subdivisions;
2146 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
2147 commission is made within 180 days after exportation;
2148 (iii) is used in a vehicle off-highway;
2149 (iv) is used to operate a power take-off unit of a vehicle;
2150 (v) is used for off-highway agricultural uses;
2151 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle upon
2152 the highways of the state; or
2153 (vii) is used in machinery and equipment not registered and not required to be registered
2154 for highway use.
- 2155 (3) No tax is imposed or collected on special fuel if it is:
2156 (a) purchased for business use in machinery and equipment not registered and not required
2157 to be registered for highway use; and
2158 (b) used pursuant to the conditions of a state implementation plan approved under Title
2159 19, Chapter 2, Air Conservation Act.
- 2160 (4) Upon request of a buyer meeting the requirements under Subsection (3), the Division
2161 of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 2162 (5) The special fuel tax shall be paid by the supplier.
- 2163 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
2164 59-13-303 and 59-13-305 to obtain a special fuel permit and file special fuel tax reports.

2165 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
2166 which are delivered into vehicles and for which special fuel tax liability is reported.

2167 (7) (a) All revenue received by the commission from taxes and license fees under this part
2168 shall be deposited daily with the state treasurer and credited to the Transportation Fund.

2169 (b) An appropriation from the Transportation Fund shall be made to the commission to
2170 cover expenses incurred in the administration and enforcement of this part and the collection of
2171 the special fuel tax.

2172 (8) The commission may either collect no tax on special fuel exported from the state or,
2173 upon application, refund the tax paid.

2174 (9) (a) The United States government or any of its instrumentalities, this state, or a political
2175 subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of
2176 special fuel and has paid the tax on the special fuel as provided in this section is entitled to a
2177 refund of the tax and may file with the commission for a quarterly refund in a manner prescribed
2178 by the commission.

2179 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2180 commission shall make rules governing the application and refund provided for in Subsection
2181 (9)(a).

2182 (10) (a) The purchaser shall pay the tax on diesel fuel purchased for uses under
2183 Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as
2184 provided in Subsections (9) and (10).

2185 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2186 commission shall make rules governing the application and refund for off-highway and
2187 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

2188 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
2189 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

2190 Section 74. Section **59-13-313** is amended to read:

2191 **59-13-313. Commission to enforce the laws -- Estimations of tax -- Penalties -- Notice**
2192 **of determinations -- Information sharing with other states -- Assessment procedures.**

2193 (1) (a) The commission is charged with the enforcement of this part and may prescribe
2194 rules relating to administration and enforcement of this part.

2195 (b) The commission may coordinate with state and federal agencies in the enforcement of

2196 this part.

2197 (c) Enforcement procedures may include checking diesel fuel dye compliance of storage
2198 facilities and tanks of vehicles, in a manner consistent with state and federal law.

2199 (2) (a) If the commission has reason to question the report filed or the amount of special
2200 fuel tax paid to the state by any user or supplier, it may compute and determine the amount to be
2201 paid based upon the best information available to it.

2202 (b) Any added amount of special fuel tax determined to be due under this section shall
2203 have added to it a penalty as provided under Section 59-1-401, and shall bear interest at the rate
2204 and in the manner prescribed in Section 59-1-402.

2205 (c) The commission shall give to the user or supplier written notice of its determination.
2206 The notice may be served personally or ~~[by mail when addressed]~~ sent to the user or supplier at
2207 the user or supplier's last-known address as it appears in the records of the commission.

2208 (3) The commission may, upon the duly received request of the officials to whom the
2209 enforcement of the special fuel laws of any other state are entrusted, forward to those officials any
2210 information which the commission may have in its possession relative to the delivery, removal,
2211 production, manufacture, refining, compounding, receipt, sale, use, transportation, or shipment of
2212 special fuel by any person.

2213 (4) (a) Except as provided in Subsections (4)(c) through (f), the commission shall assess
2214 the amount of taxes imposed under this part, and any penalties and interest, within three years after
2215 a taxpayer files a return.

2216 (b) Except as provided in Subsections (4)(c) through (f), if the commission does not make
2217 an assessment under Subsection (4)(a) within three years, the commission may not commence a
2218 proceeding for the collection of the taxes after the expiration of the three-year period.

2219 (c) Notwithstanding Subsections (4)(a) and (b), the commission may make an assessment
2220 or commence a proceeding to collect a tax at any time if a deficiency is due to:

2221 (i) fraud; or

2222 (ii) failure to file a return.

2223 (d) Notwithstanding Subsections (4)(a) and (b), beginning on July 1, 1998, the commission
2224 may extend the period to make an assessment or to commence a proceeding to collect the tax under
2225 this part if:

2226 (i) the three-year period under this Subsection (4) has not expired; and

2227 (ii) the commission and the taxpayer sign a written agreement:

2228 (A) authorizing the extension; and

2229 (B) providing for the length of the extension.

2230 (e) If the commission delays an audit at the request of a taxpayer, the commission may

2231 make an assessment as provided in Subsection (4)(f) if:

2232 (i) the taxpayer subsequently refuses to agree to an extension request by the commission;

2233 and

2234 (ii) the three-year period under this Subsection (4) expires before the commission

2235 completes the audit.

2236 (f) An assessment under Subsection (4)(e) shall be:

2237 (i) for the time period for which the commission could not make an assessment because

2238 of the expiration of the three-year period; and

2239 (ii) in an amount equal to the difference between:

2240 (A) the commission's estimate of the amount of taxes the taxpayer would have been

2241 assessed for the time period described in Subsection (4)(f)(i); and

2242 (B) the amount of taxes the taxpayer actually paid for the time period described in

2243 Subsection (4)(f)(i).

2244 Section 75. Section **59-13-316** is amended to read:

2245 **59-13-316. Neglect or refusal to report -- Estimations -- Penalties -- Notice to user or**
2246 **supplier.**

2247 (1) If any user or supplier neglects or refuses to make a report required by this part, the
2248 commission shall make an estimate based on the best information available to it, for the months
2249 in which the user or supplier failed to make a report, or for the amount of special fuel sold or used
2250 by the user or supplier subject to the special fuel tax.

2251 (2) On the basis of the estimate, the commission shall compute and determine the amount
2252 required to be paid to the state, adding to this sum a penalty as provided under Section 59-1-401,
2253 and interest at the rate and in the manner prescribed in Section 59-1-402.

2254 (3) The commission shall give to the user or supplier written notice of the estimate [~~and~~
2255 ~~determination personally, or by mail when addressed to the user or supplier at the user or supplier's~~
2256 ~~last-known address~~]. The notice may be served personally or sent to the user or supplier at the user
2257 or supplier's last-known address as it appears in the records of the commission.

2258 Section 76. Section **61-2-7.1** is amended to read:

2259 **61-2-7.1. Change of address -- Failure to notify.**

2260 Each licensee or certificate holder shall ~~[notify]~~ send the division ~~[in writing]~~ a signed
2261 statement notifying the division of any change of principal business location or home street address
2262 within ten business days of the change. In providing an address to the division a physical location
2263 or street address must be provided. Failure to notify the division of a change of business location
2264 is separate grounds for disciplinary action against the licensee or certificate holder. A licensee or
2265 certificate holder will be considered to have received any notification which has been ~~[mailed]~~ sent
2266 to the last address furnished to the division by the licensee.

2267 Section 77. Section **61-2-7.2** is amended to read:

2268 **61-2-7.2. Reporting requirements.**

2269 ~~[The following must be reported in writing to the division]~~ Principal brokers, associate
2270 brokers, and sales agents shall send the division a signed statement notifying the division of the
2271 following within ten business days:

2272 (1) conviction of any criminal offense; or

2273 (2) filing a personal or brokerage bankruptcy.

2274 Section 78. Section **61-2-8** is amended to read:

2275 **61-2-8. Discharge of associate broker or sales agent by principal broker -- Notice.**

2276 If an associate broker or sales agent is discharged by a principal broker, the principal broker
2277 shall, within three days, ~~[notify]~~ send the division ~~[in writing]~~ a signed statement notifying the
2278 division of the discharge. The principal broker shall address a communication to the last-known
2279 residence address of that associate broker or sales agent advising him that notice of his termination
2280 has been delivered or ~~[mailed]~~ sent to the division. It is unlawful for any associate broker or sales
2281 agent to perform any of the acts under this chapter, directly or indirectly, from and after the date
2282 of receipt of the termination notice until affiliation with a principal broker has been established.

2283 Section 79. Section **61-2a-5** is amended to read:

2284 **61-2a-5. Notice to division -- Judgment against real estate licensee -- Fraud,**
2285 **misrepresentation, or deceit -- Verified petition for order directing payment from fund --**
2286 **Limitations and procedure.**

2287 (1) A person may bring a claim against the Real Estate Education, Research, and Recovery
2288 Fund only if he ~~[provides written notice]~~ sends a signed notification to the Division of Real Estate

2289 at the time he files an action against a real estate licensee alleging fraud, misrepresentation, or
2290 deceit. Within 30 days of receipt of the notice, the division shall have an unconditional right to
2291 intervene in the action. If the person making a claim against the fund obtains a final judgment in
2292 a court of competent jurisdiction in this state against the licensee based upon fraud,
2293 misrepresentation, or deceit in any real estate transaction, the person making the claim may, upon
2294 termination of all proceedings including appeals, file a verified petition in the court where the
2295 judgment was entered for an order directing payment from the Real Estate Education, Research,
2296 and Recovery Fund for the uncollected actual damages included in the judgment and unpaid.
2297 Recovery from the fund may not include punitive damages, attorney's fees, interest, or court costs.
2298 Regardless of the number of claimants or parcels of real estate involved in a transaction, the
2299 liability of the fund may not exceed \$10,000 for a single transaction and \$50,000 for any one
2300 licensee.

2301 (2) A copy of the petition shall be served upon the Division of Real Estate of the
2302 Department of Commerce, and an affidavit of the service shall be filed with the court.

2303 (3) The court shall conduct a hearing on the petition within 30 days after service. The
2304 petitioner shall recover from the fund only if he shows all of the following:

2305 (a) He is not the spouse of the judgment debtor or the personal representative of the
2306 spouse.

2307 (b) He has complied with this chapter.

2308 (c) He has obtained a final judgment in the manner prescribed under this section,
2309 indicating the amount of the judgment awarded.

2310 (d) He has proved the amount still owing on the judgment at the date of the petition.

2311 (e) He has had a writ of execution issued upon the judgment, and the officer executing the
2312 writ has made a return showing that no property subject to execution in satisfaction of the
2313 judgment could be found. If execution is levied against the property of the judgment debtor, the
2314 petitioner shall show that the amount realized was insufficient to satisfy the judgment, and shall
2315 indicate the amount realized and the balance remaining on the judgment after application of the
2316 amount realized.

2317 (f) He has made reasonable searches and inquiries to ascertain whether the judgment
2318 debtor has any interest in property, real or personal, that may satisfy the judgment, and he has
2319 exercised reasonable diligence to secure payment of the judgment from the assets of the judgment

2320 debtor.

2321 (4) If the petitioner satisfies the court that it is not practicable for him to comply with one
2322 or more of the requirements enumerated in Subsections (3) (e) and (f), the court may waive those
2323 requirements.

2324 (5) A judgment that is the basis for a claim against the fund may not have been discharged
2325 in bankruptcy. In the case of a bankruptcy proceeding that is still open or that is commenced
2326 during the pendency of the claim, the claimant shall obtain an order from the bankruptcy court
2327 declaring the judgment and debt to be nondischargeable.

2328 Section 80. Section **61-2b-6** is amended to read:

2329 **61-2b-6. Duties and powers of division.**

2330 (1) The division shall have the following powers and duties:

2331 (a) The division shall:

2332 (i) receive applications for licensing as a state-licensed appraiser;

2333 (ii) establish appropriate administrative procedures for the processing of licensing
2334 applications;

2335 (iii) issue licenses to qualified applicants pursuant to the provisions of this chapter; and

2336 (iv) maintain a registry of the names and addresses of individuals who are currently
2337 licensed as state-licensed appraisers under this chapter.

2338 (b) The division shall:

2339 (i) receive applications for certification as a state-certified general appraiser or
2340 state-certified residential appraiser under this chapter;

2341 (ii) establish appropriate administrative procedures for the processing of certification
2342 applications;

2343 (iii) issue certificates to qualified applicants pursuant to the provisions of this chapter; and

2344 (iv) maintain a registry of the names and addresses of individuals who are currently
2345 registered, licensed, or certified under this chapter.

2346 (c) The division shall hold public hearings under the direction of the board.

2347 (d) (i) The division shall, at its option, solicit bids and enter into contracts with one or
2348 more educational testing services or organizations for the preparation of a bank of questions and
2349 answers approved by the board for licensing and certification examinations; and

2350 (ii) administer or contract for the administration of licensing and certification examinations

2351 as may be required to carry out its responsibilities under this chapter.

2352 (e) The division shall provide administrative assistance to the board by providing to the
2353 board the facilities, equipment, supplies, and personnel that are required to enable the board to
2354 carry out its responsibilities under this chapter.

2355 (f) The division shall assist the board in upgrading and improving the quality of the
2356 education and examinations required under this chapter.

2357 (g) The division shall assist the board in improving the quality of the continuing education
2358 available to persons registered, licensed, and certified under this chapter.

2359 (h) The division shall assist the board with respect to the proper interpretation or
2360 explanation of the Uniform Standards of Professional Appraisal Practice as required by Section
2361 61-2b-27 when an interpretation or explanation becomes necessary in the enforcement of this
2362 chapter.

2363 (i) The division shall collect all registration, licensing, and certification fees required or
2364 permitted by this chapter.

2365 (j) The division may:

2366 (i) investigate complaints against persons registered, licensed, or certified under this
2367 chapter;

2368 (ii) subpoena witnesses and the production of books, documents, records, and other papers;

2369 (iii) administer oaths; and

2370 (iv) take testimony and receive evidence concerning all matters within its jurisdiction.

2371 (k) The division may promote research and conduct studies relating to the profession of
2372 real estate appraising and sponsor real estate appraisal educational activities.

2373 (l) The division shall adopt, with the concurrence of the board, rules for the administration
2374 of this chapter pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, that are
2375 not inconsistent with the provisions of this chapter or the constitution and laws of this state or of
2376 the United States.

2377 (m) The division shall employ an appropriate staff to investigate allegations that persons
2378 registered, licensed, or certified under this chapter failed to comply with the terms and provisions
2379 of this chapter.

2380 (n) The division may employ such other professional, clerical, and technical staff as may
2381 be necessary to properly administer the work of the division under this chapter.

2382 (2) (a) The division shall register expert witnesses who are not otherwise registered,
2383 licensed, or certified under this chapter to appear in all administrative and judicial tax proceedings
2384 to provide evidence related to the valuation of real property that is assessed by the tax commission,
2385 provided that the:

2386 (i) registration is limited to a specific proceeding;

2387 (ii) registration is valid until the proceeding becomes final;

2388 (iii) applicant pays a registration fee to the division;

2389 (iv) applicant provides the applicant's name, address, occupation, and professional
2390 credentials; and

2391 (v) applicant [~~signs~~] provides a [~~sworn~~] notarized statement that:

2392 (A) the applicant is competent to render an appraisal and to testify as an expert witness in
2393 the proceeding; and

2394 (B) the appraisal and testimony to be offered shall be in accordance with the Uniform
2395 Standards of Professional Appraisal Practice adopted by the board.

2396 (b) The provisions of Subsection (2)(a) shall be effective for all administrative and judicial
2397 property tax proceedings related to the valuation of real property that is assessed by the tax
2398 commission, including those filed but which are not final as of May 3, 1994.

2399 (3) The division shall be immune from any civil action or criminal prosecution for
2400 initiating or assisting in any lawful investigation of the actions of or participating in any
2401 disciplinary proceeding concerning a person registered, licensed, or certified pursuant to this
2402 chapter if the action is taken without malicious intent and in the reasonable belief that the action
2403 was taken pursuant to the powers and duties vested in the members of the division under this
2404 chapter.

2405 Section 81. Section **61-2b-18** is amended to read:

2406 **61-2b-18. Application for certification, registration, or licensure.**

2407 (1) Applications for original certification, registration as an expert witness, or licensure
2408 and renewal of certification, registration, or licensure shall be [~~made in writing~~] sent to the division
2409 on forms approved by the division.

2410 (2) The payment of the appropriate fee, as fixed by the division with the concurrence of
2411 the board in accordance with Section 63-38-3.2, must accompany all applications for original
2412 certification, registration as an expert witness, or licensure and renewal of certification,

2413 registration, or licensure.

2414 (3) (a) At the time of filing an application for original certification, registration as an
2415 expert witness, or licensure or for renewal of certification, registration, or licensure, each applicant
2416 shall sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice and
2417 the ethical rules to be observed by an appraiser that are established under Section 61-2b-27 for
2418 certified, registered, or licensed appraisers under this chapter.

2419 (b) Each applicant shall also certify that he understands the types of misconduct, as set
2420 forth in this chapter, for which disciplinary proceedings may be initiated against persons certified,
2421 registered, or licensed under this chapter.

2422 Section 82. Section **61-2b-26** is amended to read:

2423 **61-2b-26. Principal place of business -- Display of documents.**

2424 (1) Each person registered, licensed, or certified under this chapter shall designate and
2425 maintain a principal place of business and shall conspicuously display his registration, license, or
2426 certification.

2427 (2) Upon any change of his principal business location or home address, a person
2428 registered, licensed, or certified under this chapter shall promptly [~~give notice in writing to~~] send
2429 the division a signed statement notifying the division of any change within ten business days of
2430 the change.

2431 (3) A nonresident registrant, licensee, or certificate holder is not required to maintain a
2432 place of business in this state if he maintains an active place of business in his state of domicile.

2433 Section 83. Section **61-2b-27** is amended to read:

2434 **61-2b-27. Professional conduct -- Uniform standards.**

2435 (1) (a) Each person registered, licensed, or certified under this chapter must comply with
2436 generally accepted standards of professional appraisal practice and generally accepted ethical rules
2437 to be observed by a real estate appraiser.

2438 (b) Generally accepted standards of professional appraisal practice are currently evidenced
2439 by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal
2440 Foundation.

2441 (c) After a public hearing held in accordance with the provisions of Title 63, Chapter 46a,
2442 Utah Administrative Rulemaking Act, the board shall adopt and may make modifications of or
2443 additions to the Uniform Standards of Professional Appraisal Practice as the board considers

2444 appropriate to comply with the Financial Institutions Reform, Recovery, and Enforcement Act of
2445 1989.

2446 (2) If the Appraisal Standards Board of the Appraisal Foundation modifies the Uniform
2447 Standards of Professional Appraisal Practice, issues supplemental appraisal standards which it
2448 considers appropriate for residential real estate appraisers or for general real estate appraisers, or
2449 issues ethical rules to be observed by a real estate appraiser and requests the board to consider the
2450 adoption of the modified or supplemental standards or ethical rules, the board shall schedule a
2451 public hearing pursuant to the provisions of Title 63, Chapter 46a, Utah Administrative
2452 Rulemaking Act, for the purpose of deciding whether or not it should require the modified or
2453 supplemental standards or the ethical rules to be observed by persons registered, licensed, or
2454 certified under this chapter.

2455 (3) If, after the notice and public hearing the board finds that the modified or supplemental
2456 standards or the ethical rules issued by the Appraisal Standards Board of the Appraisal Foundation
2457 are appropriate for persons registered, licensed, or certified under this chapter, the board shall
2458 recommend rules requiring all persons registered, licensed, or certified under this chapter to
2459 observe the modified or supplemental standards or the ethical rules.

2460 (4) A copy of each such rule adopted by the division shall be [~~mailed~~] sent to the business
2461 address of each person currently registered, licensed, or certified under this chapter.

2462 Section 84. Section ~~63-56-5~~ is amended to read:

2463 **63-56-5. Definitions.**

2464 As used in this chapter:

2465 (1) "Architect-engineer services" are those professional services within the scope of the
2466 practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in
2467 Section 58-22-102.

2468 (2) "Business" means any corporation, partnership, individual, sole proprietorship, joint
2469 stock company, joint venture, or any other private legal entity.

2470 (3) "Change order" means a written order signed by the procurement officer, directing the
2471 contractor to suspend work or make changes, which the appropriate clauses of the contract
2472 authorize the procurement officer to order without the consent of the contractor or any written
2473 alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity,
2474 or other provisions of any contract accomplished by mutual action of the parties to the contract.

2475 (4) (a) "Construction" means the process of building, renovation, alteration, improvement,
2476 or repair of any public building or public work.

2477 (b) "Construction" does not mean the routine operation, routine repair, or routine
2478 maintenance of existing structures, buildings, or real property.

2479 (5) (a) "Construction Manager/General Contractor" means any contractor who enters into
2480 a contract for the management of a construction project when that contract allows the contractor
2481 to subcontract for additional labor and materials that were not included in the contractor's cost
2482 proposal submitted at the time of the procurement of the Construction Manager/General
2483 Contractor's services.

2484 (b) "Construction Manager/General Contractor" does not mean a contractor whose only
2485 subcontract work not included in the contractor's cost proposal submitted as part of the
2486 procurement of construction is to meet subcontracted portions of change orders approved within
2487 the scope of the project.

2488 (6) "Contract" means any state agreement for the procurement or disposal of supplies,
2489 services, or construction.

2490 (7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more than
2491 one public procurement unit, or by a public procurement unit with an external procurement unit.

2492 (8) "Cost-reimbursement contract" means a contract under which a contractor is
2493 reimbursed for costs which are allowed and allocated in accordance with the contract terms and
2494 the provisions of this chapter, and a fee, if any.

2495 (9) (a) "Design-build" means the procurement of architect-engineer services and
2496 construction by the use of a single contract with the design-build provider.

2497 (b) This method of design and construction can include the design-build provider
2498 supplying the site as part of the contract.

2499 (10) "Established catalogue price" means the price included in a catalogue, price list,
2500 schedule, or other form that:

2501 (a) is regularly maintained by a manufacturer or contractor;

2502 (b) is either published or otherwise available for inspection by customers; and

2503 (c) states prices at which sales are currently or were last made to a significant number of
2504 any category of buyers or buyers constituting the general buying public for the supplies or services
2505 involved.

2506 (11) "External procurement unit" means any buying organization not located in this state
2507 which, if located in this state, would qualify as a public procurement unit. An agency of the United
2508 States is an external procurement unit.

2509 (12) "Grant" means the furnishing by the state or by any other public or private source
2510 assistance, whether financial or otherwise, to any person to support a program authorized by law.
2511 It does not include an award whose primary purpose is to procure an end product, whether in the
2512 form of supplies, services, or construction. A contract resulting from the award is not a grant but
2513 a procurement contract.

2514 (13) "Invitation for bids" means all documents, whether attached or incorporated by
2515 reference, utilized for soliciting bids.

2516 (14) "Local public procurement unit" means any political subdivision or institution of
2517 higher education of the state or public agency of any subdivision, public authority, educational,
2518 health, or other institution, and to the extent provided by law, any other entity which expends
2519 public funds for the procurement of supplies, services, and construction, but not counties,
2520 municipalities, political subdivisions created by counties or municipalities under the Interlocal
2521 Cooperation Act, the Utah Housing Finance Agency, the Utah Technology Finance Corporation,
2522 or the Legislature and its staff offices. It includes two or more local public procurement units
2523 acting under legislation which authorizes intergovernmental cooperation.

2524 (15) "Person" means any business, individual, union, committee, club, other organization,
2525 or group of individuals, not including a state agency or a local public procurement unit.

2526 (16) "Policy board" means the procurement policy board created by Section 63-56-6.

2527 (17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference
2528 under the requirements of this chapter.

2529 (18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to
2530 purchase, or otherwise acquiring any supplies, services, or construction. It also includes all
2531 functions that pertain to the obtaining of any supply, service, or construction, including description
2532 of requirements, selection, and solicitation of sources, preparation, and award of a contract, and
2533 all phases of contract administration.

2534 (19) "Procurement officer" means any person or board duly authorized to enter into and
2535 administer contracts and make written determinations with respect thereto. It also includes an
2536 authorized representative acting within the limits of authority.

2537 (20) "Public procurement unit" means either a local public procurement unit or a state
2538 public procurement unit.

2539 (21) "Purchase description" means the words used in a solicitation to describe the supplies,
2540 services, or construction to be purchased, and includes specifications attached to or made a part
2541 of the solicitation.

2542 (22) "Purchasing agency" means any state agency other than the Division of Purchasing
2543 and General Services that is authorized by this chapter or its implementing regulations, or by
2544 delegation from the chief procurement officer, to enter into contracts.

2545 (23) "Request for proposals" means all documents, whether attached or incorporated by
2546 reference, used for soliciting proposals.

2547 (24) "Responsible bidder or offeror" means a person who has the capability in all respects
2548 to perform fully the contract requirements and who has the integrity and reliability which will
2549 assure good faith performance.

2550 (25) "Responsive bidder" means a person who has submitted a bid which conforms in all
2551 material respects to the invitation for bids.

2552 (26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or
2553 proposals in addition to bids or proposals manually sealed and submitted.

2554 [~~(26)~~] (27) "Services" means the furnishing of labor, time, or effort by a contractor, not
2555 involving the delivery of a specific end product other than reports which are merely incidental to
2556 the required performance. It does not include employment agreements or collective bargaining
2557 agreements.

2558 [~~(27)~~] (28) "Specification" means any description of the physical or functional
2559 characteristics, or of the nature of a supply, service, or construction item. It may include a
2560 description of any requirement for inspecting, testing, or preparing a supply, service, or
2561 construction item for delivery.

2562 [~~(28)~~] (29) "State agency" means any department, division, commission, council, board,
2563 bureau, committee, institution, government corporation, or other establishment or official of this
2564 state.

2565 [~~(29)~~] (30) "State public procurement unit" means the Division of Purchasing and General
2566 Services and any other purchasing agency of this state.

2567 [~~(30)~~] (31) "Supplies" means all property, including equipment, materials, and printing.

2568 [~~31~~] (32) "Using agency" means any state agency which utilizes any supplies, services,
2569 or construction procured under this chapter.

2570 Section 85. Section **72-1-102** is amended to read:

2571 **72-1-102. Definitions.**

2572 As used in this title:

2573 (1) "Commission" means the Transportation Commission created under Section 72-1-301.

2574 (2) "Construction" means the construction, reconstruction, replacement, and improvement
2575 of the highways, including the acquisition of rights-of-way and material sites.

2576 (3) "Department" means the Department of Transportation created in Section 72-1-201.

2577 (4) "Executive director" means the executive director of the department appointed under
2578 Section 72-1-202.

2579 (5) "Farm tractor" has the meaning set forth in Section 41-1a-102.

2580 (6) "Federal aid primary highway" means that portion of connected main highways located
2581 within this state officially designated by the department and approved by the United States
2582 Secretary of Transportation under Title 23, Highways, U.S.C.

2583 (7) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel,
2584 culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the
2585 public, or made public in an action for the partition of real property, including the entire area
2586 within the right-of-way.

2587 (8) "Highway authority" means the department or the legislative, executive, or governing
2588 body of a county or municipality.

2589 (9) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

2590 (10) "Interstate system" means any highway officially designated by the department and
2591 included as part of the national interstate and defense highways, as provided in the Federal Aid
2592 Highway Act of 1956 and any supplemental acts or amendments.

2593 (11) "Limited-access facility" means a highway especially designated for through traffic,
2594 and over, from, or to which neither owners nor occupants of abutting lands nor other persons have
2595 any right or easement, or have only a limited right or easement of access, light, air, or view.

2596 (12) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

2597 (13) "Municipality" has the same meaning set forth in Section 10-1-104.

2598 (14) "National highway systems highways" means that portion of connected main

2599 highways located within this state officially designated by the department and approved by the
2600 United States Secretary of Transportation under Title 23, Highways, U.S.C.

2601 (15) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and
2602 maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected
2603 for compliance with state and federal laws as specified in Section 72-9-501.

2604 (b) "Port-of-entry" includes inspection and checking stations and weigh stations.

2605 (16) "Port-of-entry agent" means a person employed at a port-of-entry to perform the
2606 duties specified in Section 72-9-501.

2607 (17) "Right-of-way" means real property or an interest in real property, usually in a strip,
2608 acquired for or devoted to a highway.

2609 (18) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or
2610 proposals in addition to bids or proposals manually sealed and submitted.

2611 [~~18~~] (19) "Semitrailer" has the meaning set forth in Section 41-1a-102.

2612 [~~19~~] (20) "SR" means state route and has the same meaning as state highway as defined
2613 in this section.

2614 [~~20~~] (21) "State highway" means those highways designated as state highways in Title
2615 72, Chapter 4, Designation of State Highways.

2616 [~~21~~] (22) "State highway purposes" has the meaning set forth in Section 72-5-102.

2617 [~~22~~] (23) "State transportation systems" means all streets, alleys, roads, highways, and
2618 thoroughfares of any kind, including connected structures, airports, and all other modes and forms
2619 of conveyance used by the public.

2620 [~~23~~] (24) "Trailer" has the meaning set forth in Section 41-1a-102.

2621 [~~24~~] (25) "Truck tractor" has the meaning set forth in Section 41-1a-102.

2622 [~~25~~] (26) "UDOT" means the Utah Department of Transportation.

2623 [~~26~~] (27) "Vehicle" has the same meaning set forth in Section 41-1a-102.

2624 Section 86. Section **78-7-34** is enacted to read:

2625 **78-7-34. Electronic writing.**

2626 (1) Except as restricted by the Constitution of the United States or of this state, any writing
2627 required or permitted by this code to be filed with or prepared by a court may be filed or prepared
2628 in an electronic medium and by electronic transmission subject to the ability of the recipient to
2629 accept and process the electronic writing.

2630 (2) Any writing required to be signed that is filed with or prepared by a court in an
2631 electronic medium or by electronic transmission shall be signed by digital signature in accordance
2632 with Title 46, Chapter 3, Utah Digital Signature Act.