

1 **WORKERS' COMPENSATION FUND**

2 **AMENDMENTS**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: John E. Swallow**

6 AN ACT RELATING TO WORKERS' COMPENSATION; AMENDING DEFINITION OF
7 WORKERS' COMPENSATION PRODUCTS AND SERVICES; AMENDING THE NAME OF
8 THE WORKERS' COMPENSATION FUND OF UTAH; AND MAKING TECHNICAL
9 CHANGES.

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

11 AMENDS:

12 **11-8-3**, as last amended by Chapter 299, Laws of Utah 1995

13 **31A-1-105**, as last amended by Chapter 131, Laws of Utah 1999

14 **31A-19a-401**, as renumbered and amended by Chapter 130, Laws of Utah 1999

15 **31A-21-101**, as last amended by Chapter 10, Laws of Utah 1988, Second Special Session

16 **31A-22-309**, as last amended by Chapter 4, Laws of Utah 1994

17 **31A-22-1001**, as last amended by Chapter 204, Laws of Utah 1986

18 **31A-26-103**, as last amended by Chapter 375, Laws of Utah 1997

19 **31A-33-101**, as last amended by Chapter 107, Laws of Utah 1998

20 **31A-33-102**, as last amended by Chapter 375, Laws of Utah 1997

21 **31A-33-103**, as last amended by Chapter 204, Laws of Utah 1997

22 **34A-2-102**, as renumbered and amended by Chapter 375, Laws of Utah 1997

23 **34A-2-107**, as last amended by Chapter 10 and renumbered and amended by Chapter 375,
24 Laws of Utah 1997

25 **34A-2-201**, as last amended by Chapter 55, Laws of Utah 1999

26 **34A-2-203**, as renumbered and amended by Chapter 375, Laws of Utah 1997

27 **34A-2-211**, as last amended by Chapter 13, Laws of Utah 1998

- 28 **34A-2-406**, as renumbered and amended by Chapter 375, Laws of Utah 1997
- 29 **51-5-4**, as last amended by Chapter 127, Laws of Utah 1993
- 30 **51-7-2**, as repealed and reenacted by Chapter 285, Laws of Utah 1992
- 31 **51-7-4**, as last amended by Chapter 263, Laws of Utah 1995
- 32 **59-9-101**, as last amended by Chapter 375, Laws of Utah 1997
- 33 **59-9-101.1**, as last amended by Chapter 21, Laws of Utah 1999
- 34 **63-5b-102**, as last amended by Chapters 82 and 375, Laws of Utah 1997
- 35 **63-38a-102**, as enacted by Chapter 259, Laws of Utah 1992
- 36 **63-95-102**, as last amended by Chapter 76, Laws of Utah 1999
- 37 **67-4-2**, as last amended by Chapter 14, Laws of Utah 1998

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

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

40 **11-8-3. Department of Environmental Quality to negotiate loans for sewage facilities.**

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

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

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

49 **31A-1-105. Presumption of jurisdiction.**

50 (1) Any insurer, including the Workers' Compensation Fund [~~of Utah~~] created under
51 Chapter 33, that provides coverage of a resident of this state, property located in this state, or a
52 business activity conducted in this state, or that engages in any activity described in Subsections
53 31A-15-102(2)(a) through (h), is:

- 54 (a) doing an insurance business in this state; and
 - 55 (b) subject to the jurisdiction of the insurance commissioner and the courts of this state
- 56 under Sections 31A-2-309 and 31A-2-310 to the extent of that coverage or activity.

57 (2) Any person doing or purporting to do an insurance business in this state as defined in
58 Section 31A-1-301 is subject to the jurisdiction of the insurance commissioner and this title, unless

59 the insurer can establish that the exemptions of Section 31A-1-103 apply.

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

62 Section 3. Section **31A-19a-401** is amended to read:

63 **31A-19a-401. Scope of part.**

64 (1) This part applies to workers' compensation insurance and employers' liability insurance
65 written in connection with it.

66 (2) All insurers writing workers' compensation coverage, including the Workers'
67 Compensation Fund [~~of Utah~~] created under Chapter 33, are subject to this part.

68 Section 4. Section **31A-21-101** is amended to read:

69 **31A-21-101. Scope of Title 31A, Chapters 21 and 22.**

70 (1) Except as provided in Subsections (2) through (6), this chapter and Chapter 22 apply
71 to all insurance policies, applications, and certificates:

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

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

74 (c) on persons residing in this state when the policy is issued; and

75 (d) on business operations in this state.

76 (2) This chapter and Chapter 22 do not apply to:

77 (a) the exemptions provided in Section 31A-1-103;

78 (b) insurance policies procured under Sections 31A-15-103 and 31A-15-104;

79 (c) an insurance policy on business operations in this state if the contract is negotiated
80 primarily outside this state and if the operations in this state are incidental or subordinate to
81 operations outside this state, except that insurance required by a Utah statute must conform to the
82 statutory requirements; or

83 (d) other exemptions provided in this title.

84 (3) Sections 31A-21-102, 31A-21-103, 31A-21-104, Subsections 31A-21-107 (1) and (3),
85 and Sections 31A-21-306, 31A-21-308, 31A-21-312, and 31A-21-314 apply to ocean marine and
86 inland marine insurance. Section 31A-21-201 applies to inland marine insurance that is written
87 according to manual rules or rating plans.

88 (4) Group or blanket policies are subject to this chapter and Chapter 22, except:

89 (a) group or blanket policies outside the scope of this title under Subsection 31A-1-103

90 (3) (h); and

91 (b) other exemptions provided under Subsection (5).

92 (5) The commissioner may by rule exempt any class of insurance contract or class of
93 insurer from any or all of the provisions of this chapter and Chapter 22 if the interests of the Utah
94 insureds, creditors, or the public would not be harmed by the exemption.

95 (6) Workers' compensation insurance, including that written by the Workers'
96 Compensation Fund [~~of Utah~~] created under Chapter 33, is subject to this chapter and Chapter 22.

97 (7) Unless clearly inapplicable, any provision of this chapter or Chapter 22 applicable to
98 either a policy or a contract is applicable to both.

99 Section 5. Section **31A-22-309** is amended to read:

100 **31A-22-309. Limitations, exclusions, and conditions to personal injury protection.**

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

105 (a) death;

106 (b) dismemberment;

107 (c) permanent disability or permanent impairment based upon objective findings;

108 (d) permanent disfigurement; or

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

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

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

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

118 (iii) to any injured person, if the person's conduct contributed to his injury:

119 (A) by intentionally causing injury to himself; or

120 (B) while committing a felony;

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

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

125 (vi) for any injury resulting from the radioactive, toxic, explosive, or other hazardous
126 properties of nuclear materials.

127 (b) The provisions of this subsection do not limit the exclusions which may be contained
128 in other types of coverage.

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

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

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

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

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

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

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

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

150 (6) Every policy providing personal injury protection coverage is subject to the following:

151 (a) that where the insured under the policy is or would be held legally liable for the

152 personal injuries sustained by any person to whom benefits required under personal injury
153 protection have been paid by another insurer, including the Workers' Compensation Fund [of Utah]
154 created under Chapter 33, the insurer of the person who would be held legally liable shall
155 reimburse the other insurer for the payment, but not in excess of the amount of damages
156 recoverable; and

157 (b) that the issue of liability for that reimbursement and its amount shall be decided by
158 mandatory, binding arbitration between the insurers.

159 Section 6. Section **31A-22-1001** is amended to read:

160 **31A-22-1001. Obligation to write workers' compensation insurance.**

161 The Workers' Compensation Fund [of Utah] created under Chapter 33, shall write all
162 workers' compensation insurance for which application is made to the Workers' Compensation
163 Fund [of Utah]. This requirement does not apply to any other insurer.

164 Section 7. Section **31A-26-103** is amended to read:

165 **31A-26-103. Workers' compensation claims.**

166 In addition to being subject to this and other chapters of this title, insurers writing workers'
167 compensation insurance in this state, including the Workers' Compensation Fund [of Utah] created
168 under Chapter 33, are subject to the Labor Commission with respect to claims for and payment of
169 compensation and benefits.

170 Section 8. Section **31A-33-101** is amended to read:

171 **31A-33-101. Definitions.**

172 As used in this chapter:

173 (1) "Board" means the board of directors of the Workers' Compensation Fund.

174 (2) "Chief executive officer" means the chief executive officer appointed by the board.

175 (3) "Director" means a member of the board.

176 (4) "Fund" and "Workers' Compensation Fund" mean the nonprofit, quasi-public
177 corporation established by this chapter.

178 (5) "Injury Fund" means the premiums, reserves, investment income, and any other funds
179 administered by the Workers' Compensation Fund as provided in this chapter.

180 (6) "Joint enterprise" means a joint business activity either for-profit or not-for-profit:

181 (a) by which two or more persons provide insurance, products, or services; and

182 (b) that is established by contract between the persons providing the insurance, products,

183 or services.

184 (7) (a) "Workers' compensation products and services" means:

185 [(a)] (i) medical or lost time claims management;

186 [(b)] (ii) utilization review;

187 [(c)] (iii) rehabilitation counseling or training;

188 [(d)] (iv) fraud detection for workers' compensation claims;

189 [(e)] (v) loss prevention or safety consultation; [and]

190 [(f)] (vi) data or information reporting or processing involving workers' compensation; and

191 (vii) liability insurance claims management if the claims management is related to or
 192 arising out of:

193 (A) the sale of workers' compensation products and services described in Subsections

194 (7)(a)(i) through (vi) by:

195 (I) the Workers' Compensation Fund; or

196 (II) a subsidiary of the fund; or

197 (B) workers' compensation insurance coverage through:

198 (I) the Workers' Compensation Fund; or

199 (II) a subsidiary of the fund in accordance with Section 31A-33-103.5.

200 (b) "Workers' compensation products and services" does not include the bearing of any
 201 insurance risk associated with insurance coverage.

202 Section 9. Section **31A-33-102** is amended to read:

203 **31A-33-102. Establishment of the Workers' Compensation Fund and the Injury**
 204 **Fund.**

205 (1) (a) There is created a nonprofit, quasi-public corporation to be known as the Workers'
 206 Compensation Fund [of Utah] created by this chapter.

207 (b) The purpose of the fund is to:

208 (i) insure Utah employers against liability for compensation based on job-related accidental
 209 injuries and occupational diseases; and

210 (ii) assure payment of this compensation to Utah employees who are entitled to it under
 211 Title 34A, Chapters 2, Workers' Compensation Act, and 3, Utah Occupational Disease Act.

212 (2) (a) There is created an Injury Fund, which shall be maintained by the Workers'
 213 Compensation Fund.

214 (b) The Injury Fund shall consist of all assets acquired from premiums and penalties paid
215 into the Injury Fund and interest and dividends earned on those assets.

216 (c) The Injury Fund is the sole source of monies to:

217 (i) pay losses sustained on account of the insurance provided; and

218 (ii) pay salaries and other expenses of the Workers' Compensation Fund in accordance
219 with this chapter.

220 Section 10. Section **31A-33-103** is amended to read:

221 **31A-33-103. Legal nature of Workers' Compensation Fund.**

222 (1) The Workers' Compensation Fund is:

223 (a) a nonprofit, self-supporting, quasi-public corporation; and

224 (b) a legal entity, that may sue and be sued in its own name.

225 (2) All of the business and affairs of the corporation shall be conducted in the name of the
226 Workers' Compensation Fund [~~of Utah~~] or if conducted through a subsidiary, such other corporate
227 names that comply with state law.

228 Section 11. Section **34A-2-102** is amended to read:

229 **34A-2-102. Definition of terms.**

230 As used in this chapter:

231 (1) "Average weekly wages" means the average weekly wages as determined under Section
232 34A-2-409.

233 (2) "Award" means a final order of the commission as to the amount of compensation due:

234 (a) any injured employee; or

235 (b) the dependents of any deceased employee.

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

238 (4) "Decision" means the ruling of an administrative law judge or, in accordance with
239 Section 34A-2-801, the commissioner or Appeals Board and may include:

240 (a) an award or denial of medical, disability, death, or other related benefits under this
241 chapter or Chapter 3, Utah Occupational Disease Act; or

242 (b) another adjudicative ruling in accordance with this chapter or Chapter 3, Utah
243 Occupational Disease Act.

244 (5) "Director" means the director of the division, unless the context requires otherwise.

245 (6) "Disability" means an administrative determination that may result in an entitlement
246 to compensation as a consequence of becoming medically impaired as to function. Disability can
247 be total or partial, temporary or permanent, industrial or nonindustrial.

248 (7) "Division" means the Division of Industrial Accidents.

249 (8) "Impairment" is a purely medical condition reflecting any anatomical or functional
250 abnormality or loss. Impairment may be either temporary or permanent, industrial or
251 nonindustrial.

252 (9) "Order" means an action of the commission that determines the legal rights, duties,
253 privileges, immunities, or other interests of one or more specific persons, but not a class of
254 persons.

255 (10) (a) "Personal injury by accident arising out of and in the course of employment"
256 includes any injury caused by the willful act of a third person directed against an employee because
257 of the employee's employment.

258 (b) "Personal injury by accident arising out of and in the course of employment" does not
259 include a disease, except as the disease results from the injury.

260 (11) "Safe" and "safety," as applied to any employment or place of employment, means
261 the freedom from danger to the life or health of employees reasonably permitted by the nature of
262 the employment.

263 (12) "Workers' Compensation Fund [~~of Utah~~]" means the nonprofit, quasi-public
264 corporation created in Title 31A, Chapter 33, Workers' Compensation Fund [~~of Utah~~].

265 Section 12. Section **34A-2-107** is amended to read:

266 **34A-2-107. Appointment of workers' compensation advisory council -- Composition**
267 **-- Terms of members -- Duties -- Compensation.**

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

270 (a) the following voting members:

271 (i) five employer representatives; and

272 (ii) five employee representatives; and

273 (b) the following nonvoting members:

274 (i) a representative of the Workers' Compensation Fund [~~of Utah~~];

275 (ii) a representative of a private insurance carrier;

276 (iii) a representative of health care providers;

277 (iv) the Utah insurance commissioner; and

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

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

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

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

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

290 (b) The commissioner shall terminate the terms of any council member who ceases to be
291 representative as designated by the member's original appointment.

292 (5) The council shall confer at least quarterly for the purpose of advising the commission,
293 the division, and the Legislature on the Utah workers' compensation and occupational disease laws,
294 the administration of them, and related rules.

295 (6) The council shall offer advice on issues requested by the commission, the division, and
296 the Legislature and also make recommendations to the commission and division regarding workers'
297 compensation, rehabilitation, and reemployment of employees who are disabled because of an
298 industrial injury or occupational disease.

299 (7) The commissioner or the commissioner's designee shall serve as the chair of the
300 council and call the necessary meetings.

301 (8) The commission shall provide staff support to the council.

302 (9) (a) (i) Members who are not government employees may not receive compensation or
303 benefits for their services, but may receive per diem and expenses incurred in the performance of
304 the member's official duties at the rates established by the Division of Finance under Sections
305 63A-3-106 and 63A-3-107.

306 (ii) Members may decline to receive per diem and expenses for their service.

307 (b) (i) State government officer and employee members who do not receive salary, per
308 diem, or expenses from their agency for their service may receive per diem and expenses incurred
309 in the performance of their official duties from the council at the rates established by the Division
310 of Finance under Sections 63A-3-106 and 63A-3-107.

311 (ii) State government officer and employee members may decline to receive per diem and
312 expenses for their service.

313 Section 13. Section **34A-2-201** is amended to read:

314 **34A-2-201. Employers to secure workers' compensation benefits for employees --**

315 **Methods.**

316 An employer shall secure the payment of workers' compensation benefits for its employees
317 by:

318 (1) insuring, and keeping insured, the payment of this compensation with the Workers'
319 Compensation Fund [~~of Utah~~];

320 (2) insuring, and keeping insured, the payment of this compensation with any stock
321 corporation or mutual association authorized to transact the business of workers' compensation
322 insurance in this state; or

323 (3) obtaining approval from the division in accordance with Section 34A-2-201.5 to pay
324 direct compensation as a self-insured employer in the amount, in the manner, and when due as
325 provided for in this chapter or Chapter 3, Utah Occupational Disease Act.

326 Section 14. Section **34A-2-203** is amended to read:

327 **34A-2-203. Payment of premiums by state department, commission, board, or other**
328 **agency.**

329 Each department, commission, board, or other agency of the state shall pay the insurance
330 premium on its employees direct to the Workers' Compensation Fund [~~of Utah~~].

331 Section 15. Section **34A-2-211** is amended to read:

332 **34A-2-211. Notice of noncompliance to employer -- Enforcement power of division**
333 **-- Penalty.**

334 (1) (a) In addition to the remedies specified in Section 34A-2-210, if the division has
335 reason to believe that an employer is conducting business without securing the payment of benefits
336 in one of the three ways provided in Section 34A-2-201, the division may give that employer
337 written notice of the noncompliance by certified mail to the last-known address of the employer.

338 (b) If the employer does not remedy the default within 15 days after delivery of the notice,
339 the division may issue an order requiring the employer to appear before the division and show
340 cause why the employer should not be ordered to comply with Section 34A-2-201.

341 (c) If it is found that the employer has failed to provide for the payment of benefits in one
342 of the three ways provided in Section 34A-2-201, the division may require any employer to comply
343 with Section 34A-2-201.

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

346 (i) subject to the notice and other requirements of Title 63, Chapter 46b, Administrative
347 Procedures Act; and

348 (ii) if the division believes that an employer of one or more employees is conducting
349 business without securing the payment of benefits in one of the three ways provided in Section
350 34A-2-201.

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

352 (i) \$1,000; or

353 (ii) three times the amount of the premium the employer would have paid for workers'
354 compensation insurance based on the rate filing of the Workers' Compensation Fund [~~of Utah~~],
355 during the period of noncompliance.

356 (c) For purposes of Subsection (2)(b)(ii), the premium is calculated by applying rates and
357 rate multipliers to the payroll basis under Subsection (2)(d), using the highest rated employee class
358 code applicable to the employer's operations.

359 (d) The payroll basis for the purpose of calculating the premium penalty shall be 150% of
360 the state's average weekly wage multiplied by the highest number of workers employed by the
361 employer during the period of the employer's noncompliance multiplied by the number of weeks
362 of the employer's noncompliance up to a maximum of 156 weeks.

363 (3) The penalty imposed under Subsection (2) shall be deposited in the Uninsured
364 Employers' Fund created by Section 34A-2-704 and used for the purposes of that fund.

365 (4) (a) An employer who disputes the determination, imposition, or amount of a penalty
366 imposed under Subsection (2) shall request a hearing before an administrative law judge within
367 30 days of the date of issuance of the administrative action imposing the penalty or the
368 administrative action becomes a final order of the commission.

369 (b) The employer's request for a hearing under Subsection (4)(a) shall specify the facts and
370 grounds that are the basis of the employer's objection to the determination, imposition, or amount
371 of the penalty.

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

374 (5) (a) After a penalty has been issued and becomes a final order of the commission the
375 division on behalf of the commission may file an abstract for any uncollected penalty in the district
376 court.

377 (b) The abstract filed under Subsection (5)(a) shall state:

378 (i) the amount of the uncollected penalty;

379 (ii) reasonable attorneys' fees;

380 (iii) costs of collection; and

381 (iv) court costs.

382 (c) The filed abstract shall have the effect of a judgment of that court.

383 (6) Any administrative action issued by the division under this section shall:

384 (a) be in writing;

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

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

387 (d) specify its effective date, which may be immediate or may be at a later date.

388 (7) The final order of the commission under this section, upon application by the division
389 on behalf of the commission made on or after the effective date of the order to a court of general
390 jurisdiction in any county in this state, may be enforced by an order to comply entered ex parte and
391 without notice by the court.

392 Section 16. Section **34A-2-406** is amended to read:

393 **34A-2-406. Exemptions from chapter for employees temporarily in state --**
394 **Conditions -- Evidence of insurance.**

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

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

- 400 (b) the coverage covers the employee's employment while in this state; and
- 401 (c) (i) the extraterritorial provisions of this chapter and Chapter 3 are recognized in the
- 402 other state and employers and employees who are covered in this state are likewise exempted from
- 403 the application of the workers' compensation or similar laws of the other state; or
- 404 (ii) the Workers' Compensation Fund [~~of Utah~~]:
- 405 (A) is an admitted insurance carrier in the other state; or
- 406 (B) has agreements with a carrier and is able to furnish workers' compensation insurance
- 407 or similar coverage to Utah employers and their subsidiaries or affiliates doing business in the
- 408 other state.
- 409 (2) The benefits under the workers' compensation or similar laws of the other state are the
- 410 exclusive remedy against an employer for any injury, whether resulting in death or not, received
- 411 by an employee while working for the employer in this state.
- 412 (3) A certificate from an authorized officer of the industrial commission or similar
- 413 department of the other state certifying that the employer is insured in the other state and has
- 414 provided extraterritorial coverage insuring the employer's employees while working in this state
- 415 is prima facie evidence that the employer carries compensation insurance.
- 416 Section 17. Section **51-5-4** is amended to read:
- 417 **51-5-4. Funds established -- Titles of funds -- Fund functions.**
- 418 (1) (a) (i) The funds enumerated in this section are established as major fund types.
- 419 (ii) All resources and financial transactions of Utah state government shall be accounted
- 420 for within one of these major fund types.
- 421 (b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.
- 422 (ii) Where a specific statute requires that a restricted fund be established, that fund shall
- 423 be accounted for as an individual fund or subfund within the major fund type to meet generally
- 424 accepted accounting principles.
- 425 (iii) Existing and new activities of state government authorized by the Legislature shall
- 426 be accounted for within the framework of the major fund types established in this section.
- 427 (c) The Division of Finance shall determine the accounting classification that complies
- 428 with generally accepted accounting principles for all funds or subfunds created by the Legislature.
- 429 (d) (i) Major fund types shall be added by amending this chapter.
- 430 (ii) Whenever a new act creates or establishes a fund without amending this chapter, the

431 reference to a fund in the new act means a subfund.

432 (2) Major Fund Type Titles:

433 (a) General Fund;

434 (b) Special Revenue Funds;

435 (c) Capital Projects Funds;

436 (d) Debt Service Funds;

437 (e) Enterprise Funds;

438 (f) Internal Service Funds;

439 (g) Trust and Agency Funds;

440 (h) General Fixed Assets Account Group;

441 (i) General Long-Term Obligation Account Group; and

442 (j) College and University Funds.

443 (3) The General Fund shall receive all revenues and account for all expenditures not
444 otherwise provided for by law in any other fund.

445 (4) Special Revenue Funds shall account for proceeds of specific revenue sources (other
446 than expendable trusts, or major capital projects) that are legally restricted to expenditures for a
447 specific purpose.

448 (a) The Uniform School Fund is a Special Revenue Fund that shall account for all revenues
449 that are required by law to be expended for the public school programs of the state.

450 (b) The Transportation Fund is a Special Revenue Fund that shall account for all revenues
451 that are required by Article XIII, Sec. 13, Utah Constitution, to be expended for highway purposes.

452 (5) Capital Projects Funds shall account for financial resources to be expended for the
453 acquisition or construction of major capital facilities, except that when financing for the
454 acquisition or construction of a major capital facility is obtained from a trust fund or a proprietary
455 type fund within one of the major fund types, the monies shall be accounted for in those accounts.

456 (6) Debt Service Funds shall account for the accumulation of resources for, and the
457 payment of, the principal and interest on general long-term obligations.

458 (7) (a) Enterprise Funds are designated to account for the following:

459 (i) operations, financed and operated in a manner similar to private business enterprises,
460 where the Legislature intends that the costs of providing goods or services to the public are
461 financed or recovered primarily through user charges; or

462 (ii) operations where the Legislature requires periodic determination of revenues earned,
463 expenses incurred, and net income.

464 (b) The Alcoholic Beverage Control Fund is an Enterprise Fund that shall account for the
465 state-controlled liquor merchandising operations.

466 (c) The Utah Housing Finance Agency Fund, the Utah Correctional Industries Fund, and
467 the Workers' Compensation Fund [~~of Utah~~], are Enterprise Funds.

468 (8) Internal Service Funds shall account for the financing of goods or services provided
469 by one department, division, or agency to other departments, divisions, or agencies of the state, or
470 to other governmental units, on a cost-reimbursement basis.

471 (9) (a) Trust and Agency Funds shall account for assets held by the state as trustee or agent
472 for individuals, private organizations, or governmental units, or other funds.

473 (b) Expendable Trust Funds, Nonexpendable Trust Funds, and Agency Funds are Trust
474 and Agency Funds.

475 (i) The Retirement Systems Fund is a Trust Fund that shall account for resources received
476 and held by the state as trustee for the state retirement systems established by the Utah School
477 Employees' Retirement Act, the Utah Public Employees' Retirement Act, and the Firemen's
478 Pension Act. Additional retirement systems that are established by the Legislature shall be included
479 in the Retirement Systems Fund.

480 (ii) The State Land Principal Fund is a Nonexpendable Trust Fund that shall account for
481 resources received by the state as trustee for land grants made in the Enabling Act of the state of
482 Utah.

483 (10) The General Fixed Assets Account Group shall account for all fixed assets acquired
484 or constructed for use by the state, except for the fixed assets accounted for in the Internal Service,
485 Enterprise, Trust and Agency, and College and University Funds.

486 (11) The General Long-Term Obligation Account Group shall account for general
487 obligation bonds, revenue bonds, capital lease obligations, accrued annual and compensatory leave,
488 and other long-term obligations not otherwise recorded in Internal Service, Enterprise, Trust and
489 Agency, and College and University Funds.

490 (12) College and University Funds shall account for the financial resources used to operate
491 the state's colleges and universities. They shall include the Current Funds, Fiduciary Funds, and
492 Plant Funds for each college and university.

493 Section 18. Section **51-7-2** is amended to read:

494 **51-7-2. Exemptions from chapter.**

495 The following funds are exempt from this chapter:

- 496 (1) funds invested in accordance with the participating employees' designation or direction
497 pursuant to a public employees' deferred compensation plan established and operated in
498 compliance with Section 457 of the Internal Revenue Code of 1954, as amended;
- 499 (2) funds of the [~~Utah~~] Workers' Compensation Fund;
- 500 (3) funds of the Utah State Retirement Board;
- 501 (4) funds of the Utah Technology Finance Corporation; and
- 502 (5) funds of the Utah Housing Finance Agency.

503 Section 19. Section **51-7-4** is amended to read:

504 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**
505 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

506 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the
507 functions, powers, and duties vested by law in each and every state officer, board, commission,
508 institution, department, division, agency, and other similar instrumentalities relating to the deposit,
509 investment, or reinvestment of public funds, and the purchase, sale, or exchange of any
510 investments or securities of or for any funds or accounts under the control and management of
511 these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

512 (a) funds assigned to the Utah State Retirement Board for investment under Section
513 49-1-302;

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

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

516 (ii) derived from student fees or from income from operations of auxiliary enterprises,

517 which fees and income are pledged or otherwise dedicated to the payment of interest and principal
518 of bonds issued by such institutions; and

519 (iii) any other funds which are not included in the institution's work program as approved
520 by the State Board of Regents;

521 (c) funds of the Utah Technology Finance Corporation;

522 (d) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b;

523 (e) trust funds established by judicial order;

524 (f) funds of the [~~Utah~~] Workers' Compensation Fund; and

525 (g) funds of the Utah Housing Finance Agency.

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

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

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

532 (3) Unless otherwise provided by the constitution or laws of this state or by contractual
533 obligation, the income derived from the investment of state money by the state treasurer shall be
534 deposited in and become part of the General Fund.

535 Section 20. Section **59-9-101** is amended to read:

536 **59-9-101. Tax basis -- Rates -- Exemptions.**

537 (1) Except for annuity considerations, insurance premiums paid by institutions within the
538 state system of higher education as specified in Section 53B-1-102, and ocean marine insurance,
539 every admitted insurer shall pay to the commission on or before March 31 in each year, a tax of
540 2-1/4% of the total premiums received by it during the preceding calendar year from insurance
541 covering property or risks located in this state. Subsection (1) does not apply to workers'
542 compensation insurance, assessed under Subsection (2), and title insurance premiums, taxed under
543 Subsection (3). The taxable premium under Subsection (1) shall be reduced by:

544 (a) all premiums returned or credited to policyholders on direct business subject to tax in
545 this state;

546 (b) all premiums received for reinsurance of property or risks located in this state; and

547 (c) the dividends, including premium reduction benefits maturing within the year, paid or
548 credited to policyholders in this state or applied in abatement or reduction of premiums due during
549 the preceding calendar year.

550 (2) (a) Every admitted insurer writing workers' compensation insurance in this state,
551 including the Workers' Compensation Fund [~~of Utah~~] created under Title 31A, Chapter 33, shall
552 pay to the tax commission, on or before March 31 in each year, a premium assessment of between
553 1% and 8% of the total workers' compensation premium income received by the insurer from
554 workers' compensation insurance in this state during the preceding calendar year.

555 (b) Total workers' compensation premium income means the net written premium as
556 calculated before any premium reduction for any insured employer's deductible, retention, or
557 reimbursement amounts and also those amounts equivalent to premiums as provided in Section
558 34A-2-202.

559 (c) The percentage of premium assessment applicable for a calendar year shall be
560 determined by the Labor Commission under Subsection (2)(d). The total premium income shall
561 be reduced in the same manner as provided in Subsections (1)(a) and (1)(b), but not as provided
562 in Subsection (1)(c). The tax commission shall promptly remit from the premium assessment
563 collected under Subsection (2):

564 (i) an amount of up to 7.25% of the premium income to the state treasurer for credit to the
565 Employers' Reinsurance Fund created under Subsection 34A-2-702(1);

566 (ii) an amount equal to 0.25% of the premium income to the state treasurer for credit to
567 the restricted account in the General Fund, created by Section 34A-2-701; and

568 (iii) an amount of up to 0.50% and any remaining assessed percentage of the premium
569 income to the state treasurer for credit to the Uninsured Employers' Fund created under Section
570 34A-2-704.

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

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

578 (iii) The actuary shall recommend a premium assessment rate sufficient to provide
579 payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a
580 funded condition with assets equal to or greater than liabilities.

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

585 (v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements

586 from the Employers' Reinsurance Fund are projected to be less than the calculations of the
587 corresponding future minimum required assets. The Labor Commission shall, after a public
588 hearing, determine if the future annual disbursements are less than the corresponding future
589 minimum required assets from projections provided by the actuary.

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

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

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

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

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

607 (4) Beginning July 1, 1986, former county mutuals and former mutual benefit associations
608 shall pay the premium tax or assessment due under this chapter. All premiums received after July
609 1, 1986, shall be considered in determining the tax or assessment.

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

612 (a) insurers licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance
613 Corporations;

614 (b) insurers licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance
615 Corporations;

616 (c) insurers licensed under Title 31A, Chapter 8, Health Maintenance Organizations and

617 Limited Health Plans;

618 (d) insurers licensed under Title 31A, Chapter 9, Insurance Fraternal;

619 (e) insurers licensed under Title 31A, Chapter 11, Motor Clubs;

620 (f) insurers licensed under Title 31A, Chapter 13, Employee Welfare Funds and Plans; and

621 (g) insurers licensed under Title 31A, Chapter 14, Foreign Insurers.

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

625 (7) The retaliatory provisions of Title 31A, Chapter 3, apply to the tax or assessment
626 imposed under this chapter.

627 (8) A premium tax paid to the General Fund may not be collected on premiums paid to
628 public agency insurance mutuals.

629 Section 21. Section **59-9-101.1** is amended to read:

630 **59-9-101.1. Employers' Reinsurance Fund special assessment.**

631 (1) For purposes of this section:

632 (a) "Calendar year" means a time period beginning January 1 and ending December 31
633 during which an assessment is imposed.

634 (b) "Total workers' compensation premium income" has the same meaning as under
635 Subsection 59-9-101(2).

636 (2) (a) For calendar years beginning on January 1, 1998, through December 31, 2000, the
637 following shall pay to the commission, on or before March 31 of each year, an assessment imposed
638 by the Labor Commission under Subsection (3):

639 (i) an admitted insurer writing workers' compensation insurance in this state, including the
640 Workers' Compensation Fund [~~of Utah~~] created under Title 31A, Chapter 33, Workers'

641 Compensation Fund [~~of Utah~~]; and

642 (ii) an employer authorized under Section 34A-2-201 to pay workers' compensation direct.

643 (b) The assessment imposed under Subsection (3) shall be in addition to:

644 (i) the premium assessment imposed under Subsection 59-9-101(2); and

645 (ii) the assessment imposed under Section 34A-2-202.

646 (3) (a) If the conditions described in Subsection (3)(b) are met, the Labor Commission may
647 impose an assessment in accordance with Subsections (3)(c) and (d) of up to 2% of:

648 (i) the total workers' compensation premium income received by the insurer from workers'
649 compensation insurance in this state during the preceding calendar year; or

650 (ii) if authorized under Section 34A-2-201 to pay workers' compensation direct, the
651 amount calculated under Section 34A-2-202 for a self-insured employer that is equivalent to the
652 total workers' compensation premium income.

653 (b) The Labor Commission may impose the assessment described in Subsection (3)(a) if:

654 (i) the Labor Commission determines that:

655 (A) all admitted insurers writing workers' compensation insurance in this state shall pay
656 the maximum 7.25% of the premium income under Subsection 59-9-101(2)(c)(i); and

657 (B) all employers authorized to pay compensation direct shall pay the maximum 7.25%
658 assessment under Section 34A-2-202; and

659 (ii) the maximum 7.25% of the premium income is insufficient to:

660 (A) provide payment of benefits and expenses from the Employers' Reinsurance Fund to
661 project a funded condition of the Employers' Reinsurance Fund with assets greater than liabilities
662 by no later than June 30, 2025; or

663 (B) maintain the minimum approximate assets required in Subsection 59-9-101(2)(d)(iv).

664 (c) On or before each October 15 of the preceding year and following a public hearing, the
665 Labor Commission shall determine:

666 (i) whether an assessment will be imposed under this section for a calendar year; and

667 (ii) if the assessment will be imposed, the percentage of the assessment applicable for the
668 calendar year.

669 (d) The Labor Commission shall:

670 (i) base its determination on the recommendations of the qualified actuary required in
671 Subsection 59-9-101(2)(d)(i); and

672 (ii) take into consideration the recommended premium assessment rate recommended by
673 the actuary under Subsection 59-9-101(2)(d)(ii).

674 (4) An employer shall aggregate all assessments imposed under this section and Section
675 34A-2-202 or 59-9-101 to determine whether the total assessment obligation shall be paid in
676 quarterly installments in accordance with Sections 34A-2-202 and 59-9-104.

677 (5) The commission shall promptly remit the assessment collected under Subsection (2)
678 to the state treasurer for credit to the Employers' Reinsurance Fund created under Section

679 34A-2-702.

680 Section 22. Section **63-5b-102** is amended to read:

681 **63-5b-102. Definitions.**

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

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

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

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

687 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action against
688 the United States of America or this state.

689 (3) "Department" means the Department of Administrative Services, the Department of
690 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
691 Commerce, the Department of Community and Economic Development, the Department of
692 Corrections, the Department of Environmental Quality, the Department of Financial Institutions,
693 the Department of Health, the Department of Human Resource Management, the Department of
694 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the
695 Department of Natural Resources, the Department of Public Safety, the Public Service
696 Commission, the Department of Human Services, the State Tax Commission, the Department of
697 Transportation, any other major administrative subdivisions of state government, the State Board
698 of Education, the State Board of Regents, the Utah Housing Finance Agency, the Utah Technology
699 Finance Corporation, the Workers' Compensation Fund [of Utah], the State Retirement Board, and
700 each institution of higher education within the system of higher education.

701 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,
702 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
703 natural phenomenon, or technological hazard.

704 (5) "Division" means the Comprehensive Emergency Management Division established
705 in Title 53, Chapter 2, Comprehensive Emergency Management Act.

706 (6) "Emergency interim successor" means a person designated by this chapter to exercise
707 the powers and discharge the duties of an office when the person legally exercising the powers and
708 duties of the office is unavailable.

709 (7) "Executive director" means the person with ultimate responsibility for managing and

710 overseeing the operations of each department, however denominated.

711 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

712 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,
713 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

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

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

717 (11) "Place of governance" means the physical location where the powers of an office are
718 being exercised.

719 (12) "Political subdivision" includes counties, cities, towns, townships, districts,
720 authorities, and other public corporations and entities whether organized and existing under charter
721 or general law.

722 (13) "Political subdivision officer" means a person holding an office in a political
723 subdivision.

724 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and
725 the executive director of each department.

726 (15) "Technological hazard" means any hazardous materials accident, mine accident, train
727 derailment, air crash, radiation incident, pollution, structural fire, or explosion.

728 (16) "Unavailable" means:

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

732 (b) as otherwise defined by local ordinance.

733 Section 23. Section **63-38a-102** is amended to read:

734 **63-38a-102. Definitions.**

735 As used in this chapter:

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

739 (b) "Agency" does not include the legislative branch, the board of regents, the Utah Higher
740 Education Assistance Authority, the board of trustees of each higher education institution, each

741 higher education institution and its associated branches, centers, divisions, institutes, foundations,
742 hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

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

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

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

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

749 (iii) revenues from any contracts; and

750 (iv) revenues received by the Attorney General's Office from billings for professional
751 services.

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

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

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

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

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

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

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

761 (iii) revenues from any contracts; and

762 (iv) revenues received by the Attorney General's Office from billings for professional
763 services.

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

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

769 (6) "Independent agency" means the Utah State Retirement Office, the Utah Housing
770 Finance Agency, the Utah Technology Finance Corporation, and the Workers' Compensation Fund
771 [of Utah].

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

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

776 Section 24. Section **63-95-102** is amended to read:

777 **63-95-102. Definitions.**

778 For purposes of this chapter:

779 (1) "Asset" means property of all kind, real and personal, tangible and intangible, and
780 includes:

781 (a) cash, except reasonable compensation or salary for services rendered;

782 (b) stock or other investments;

783 (c) goodwill;

784 (d) real property;

785 (e) an ownership interest;

786 (f) a license;

787 (g) a cause of action; and

788 (h) any similar property.

789 (2) "Authorizing statutes" means the statutes creating an entity as a quasi-governmental
790 entity.

791 (3) "Business interest" means:

792 (a) holding the position of trustee, director, officer, or other similar position with a
793 business entity; or

794 (b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of
795 a corporation or 10% interest in any other business entity, being held by:

796 (i) an individual;

797 (ii) the individual's spouse;

798 (iii) a minor child of the individual; or

799 (iv) any combination of Subsections (3)(b)(i) through (iii).

800 (4) "Interested party" means a person that held or holds the position of trustee, director,
801 officer, or other similar position with a quasi-governmental entity within:

802 (a) five years prior to the date of an action described in Subsection (6); or

- 803 (b) during the privatization of a quasi-governmental entity.
- 804 (5) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in
805 Section 36-11-102, within:
- 806 (a) five years prior to the date of an action described in Subsection (6); or
- 807 (b) during the privatization of a quasi-governmental entity.
- 808 (6) (a) "Privatized" means an action described in Subsection (6)(b) taken under
809 circumstances in which the operations of the quasi-governmental entity are continued by a
810 successor entity that:
- 811 (i) is privately owned;
- 812 (ii) is unaffiliated to the state; and
- 813 (iii) receives any asset of the quasi-governmental entity.
- 814 (b) An action referred to in Subsection (6)(a) includes:
- 815 (i) the repeal of the authorizing statute of a quasi-governmental entity and the revision to
816 state laws to terminate the relationship between the state and the quasi-governmental entity;
- 817 (ii) the dissolution of the quasi-governmental entity;
- 818 (iii) the merger or consolidation of the quasi-governmental entity with another entity; or
- 819 (iv) the sale of all or substantially all of the assets of the quasi-governmental entity.
- 820 (7) "Quasi-governmental entity" means the:
- 821 (a) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 822 (b) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology
823 and Small Business Finance Act;
- 824 (c) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
825 Historic Railroad Authority;
- 826 (d) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
827 Center Authority;
- 828 (e) Utah Housing Finance Agency created in Title 9, Chapter 4, Part 9, Utah Housing
829 Finance Agency Act;
- 830 (f) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
831 Corporation Act;
- 832 (g) Workers' Compensation Fund [~~of Utah~~] created in Title 31A, Chapter 33, Workers'
833 Compensation Fund [~~of Utah~~];

834 (h) Utah State Retirement Office created in Title 49, Chapter 1, Part 2, Retirement Office
835 and Board;

836 (i) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,
837 Part 2, School and Institutional Trust Lands Administration;

838 (j) Crime Victims' Reparations Office created in Title 63, Chapter 25a, Part 4, Crime
839 Victims' Reparations Act; and

840 (k) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
841 Communications Agency Network Act.

842 Section 25. Section **67-4-2** is amended to read:

843 **67-4-2. Definitions.**

844 As used in this chapter:

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

848 (2) "General Fund" means monies received into the treasury and not specially appropriated
849 to any other fund.

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

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

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

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

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

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

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

Legislative Review Note

This legislation raises the following constitutional or statutory concerns:

This legislation requires the Workers' Compensation Fund of Utah to change its name. The

A quasi-public corporation might argue that if a court finds that it has a property interest in its name, a requirement to change the name may raise constitutional concerns such as whether the

Legislature's power to create and set the operating parameters of a quasi-governmental entity.

Office of Legislative Research and General Counsel