

PERSONS WITH A DISABILITY - TECHNICAL REVISIONS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ty McCartney

This act modifies the Utah Code to make technical corrections to provisions relating to a person with a disability or impairment. The act restates the federal standard for the definition of a person with a disability. The act expands the Rights and Privileges of Blind and Disabled Persons Act by allowing any type of service animal to be used as a guide. The act also makes other technical changes.

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

AMENDS:

- 9-4-602**, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-614**, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 9-4-801**, as last amended by Chapters 240 and 243, Laws of Utah 1996
- 9-4-802**, as last amended by Chapter 286, Laws of Utah 2000
- 9-7-205**, as renumbered and amended by Chapter 241, Laws of Utah 1992
- 10-9-104**, as last amended by Chapter 55, Laws of Utah 1996
- 11-17-1.5**, as last amended by Chapter 1, Laws of Utah 1988, Third Special Session
- 11-17-2**, as last amended by Chapter 170, Laws of Utah 1996
- 17-27-104**, as last amended by Chapter 55, Laws of Utah 1996
- 17-28-2.6**, as enacted by Chapter 115, Laws of Utah 1992
- 17-33-3**, as enacted by Chapter 81, Laws of Utah 1981
- 17-33-5**, as last amended by Chapter 182, Laws of Utah 1999
- 20A-3-105**, as last amended by Chapter 22, Laws of Utah 1999
- 26-10-1**, as enacted by Chapter 126, Laws of Utah 1981
- 26-29-1**, as enacted by Chapter 126, Laws of Utah 1981
- 26-29-2**, as enacted by Chapter 126, Laws of Utah 1981
- 26-29-3**, as enacted by Chapter 126, Laws of Utah 1981
- 26-30-1**, as last amended by Chapter 103, Laws of Utah 1988

26-30-2, as last amended by Chapter 38, Laws of Utah 1989
26-30-3, as enacted by Chapter 126, Laws of Utah 1981
31A-22-611, as enacted by Chapter 242, Laws of Utah 1985
34-38-14, as last amended by Chapter 375, Laws of Utah 1997
34-40-104, as last amended by Chapter 375, Laws of Utah 1997
34A-5-102, as last amended by Chapter 161, Laws of Utah 1999
41-1a-408, as last amended by Chapters 27 and 40, Laws of Utah 2000
49-1-103, as last amended by Chapter 288, Laws of Utah 1995
49-5-103, as last amended by Chapter 31, Laws of Utah 1997
53A-1-402, as enacted by Chapter 2, Laws of Utah 1988
53A-9-103, as enacted by Chapter 2, Laws of Utah 1988
53A-11-203, as enacted by Chapter 2, Laws of Utah 1988
53A-17a-106, as renumbered and amended by Chapter 72, Laws of Utah 1991
53A-17a-127, as last amended by Chapter 332, Laws of Utah 1999
53A-20-103, as enacted by Chapter 2, Laws of Utah 1988
53A-25-206, as enacted by Chapter 2, Laws of Utah 1988
55-5-5, as enacted by Chapter 174, Laws of Utah 1971
59-10-108, as last amended by Chapter 183, Laws of Utah 1990
62A-1-111, as last amended by Chapter 106, Laws of Utah 1999
62A-4a-105, as last amended by Chapters 274 and 370, Laws of Utah 1998
63B-5-201, as enacted by Chapter 335, Laws of Utah 1996
75-5-316, as last amended by Chapter 161, Laws of Utah 1997
78-11-23, as enacted by Chapter 167, Laws of Utah 1983

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

Section 1. Section **9-4-602** is amended to read:

9-4-602. Definitions.

As used in this part:

(1) "Area of operation" means:

(a) in the case of an authority of a city, the city, except that the area of operation of an authority of any city does not include any area [~~which~~] that lies within the territorial boundaries of some other city; or

(b) in the case of an authority of a county, all of the county for which it is created except, that a county authority may not undertake any project within the boundaries of any city unless a resolution has been adopted by the governing body of the city (and by any authority which shall have been theretofore established and authorized to exercise its powers in the city) declaring that there is need for the county authority to exercise its powers within that city.

(2) "Blighted area" means any area where dwellings predominate [~~which~~] that, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities or any combination of these factors, are detrimental to safety, health, and morals.

(3) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an authority pursuant to this part.

(4) "City" means any city or town in the state.

(5) "Clerk" means the city clerk or the county clerk, or the officer charged with the duties customarily imposed on [~~such~~] the clerk.

(6) "County" means any county in the state.

(7) "Elderly" means a person who meets the age, disability, or other conditions established by regulation of the authority.

(8) "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.

(9) "Governing body" means, in the case of a city, the council or other body of the city in which is vested legislative authority customarily imposed on the city council, and in the case of a county, the board of county commissioners.

[~~(11)~~] (10) "Housing authority" or "authority" means any public body corporate and politic created by this part.

[~~(12)~~] (11) (a) "Housing project" or "project" means any work or undertaking, on contiguous

or noncontiguous sites to:

(i) demolish, clear, or remove buildings from any blighted area;

(ii) provide or assist in providing decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of medium and low income by any suitable methods, including but not limited to rental, sale of individual units in single or multifamily structures under conventional condominium, cooperative sales contract, lease-purchase agreement, loans, or subsidizing of rentals or charges; or

(iii) accomplish a combination of the foregoing.

(b) "Housing project" includes:

(i) buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances;

(ii) streets, sewers, water service, utilities, parks, site preparation and landscaping;

(iii) facilities for administrative, community, health, recreational, welfare, or other purposes;

(iv) the planning of the buildings and other improvements;

(v) the acquisition of property or any interest therein; the demolition of existing structures;

(vi) the construction, reconstruction, rehabilitation, alteration, or repair of the improvements and all other work in connection with them; and

(vii) all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

~~[(13)]~~ (12) "Major disaster" means any flood, drought, fire, hurricane, earthquake, storm, or other catastrophe which in the determination of the governing body is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the damage, hardship, or suffering caused.

~~[(14)]~~ (13) "Mayor" means the mayor of the city or the officer charged with the duties customarily imposed on the mayor or executive head of a city.

~~[(15)]~~ (14) "Obligee of an authority" or "obligee" includes any bondholder, agent or trustee for any bondholder, any lessor demising to the authority used in connection with a project, any assignee or assignees of the lessor's interest in whole or in part, and the federal government when

it is a party to any contract with the authority.

~~[(16)]~~ (15) "Persons of medium and low income" mean persons or families who, as determined by the authority undertaking a project, cannot afford to pay the amounts at which private enterprise, unaided by appropriate assistance, is providing a substantial supply of decent, safe and sanitary housing.

~~[(10) "Handicapped"]~~ (16) "Person with a disability" means a person ~~[whose functioning is substantially impaired, as determined in accordance with regulations established by the authority]~~ with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(17) "Public body" means any city, county or municipal corporation, commission, district, authority, agency, subdivision, or other body of any of the foregoing.

(18) "Real property" includes all lands, improvements, and fixtures on them, property of any nature appurtenant to them or used in connection with them, and every estate, interest, and right, legal or equitable, including terms for years.

Section 2. Section **9-4-614** is amended to read:

9-4-614. Preference for elderly and persons with a disability.

(1) For the purpose of increasing the supply of low-rent housing and related facilities for medium and low-income elderly and ~~[handicapped persons of]~~ medium and low-income persons with a disability, an authority may exercise any of its powers under this part in projects involving dwelling accommodations designed specifically for these persons. ~~[In respect to]~~

(2) For dwelling units in any projects suitable to the needs of the elderly or ~~[handicapped]~~ persons with a disability, special preference may be extended in admission to those dwelling units to these persons of medium and low income.

Section 3. Section **9-4-801** is amended to read:

9-4-801. Creation.

(1) There is created the Homeless Coordinating Committee.

(2) (a) The committee shall consist of the state planning coordinator, the state superintendent of public instruction, and the executive directors of the Department of Human Services, the

Department of Community and Economic Development, the Department of Workforce Services, and the Department of Health, or their designees.

(b) The governor shall appoint the chair from among these members.

(3) The governor may also appoint representatives of local governments, local housing authorities, local law enforcement agencies, and of federal and private agencies and organizations concerned with the homeless, mentally ill, elderly, single-parent families, substance abusers, and [~~the handicapped~~] persons with a disability to be members of the committee.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A person appointed under this Subsection (4) may not be appointed to serve more than three consecutive terms.

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

(6) (a) (i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

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

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

(c) (i) Local government members who do not receive salary, per diem, or expenses from

the entity that they represent for their service may receive per diem and expenses incurred in the performance of their official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Local government members may decline to receive per diem and expenses for their service.

Section 4. Section **9-4-802** is amended to read:

9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Homeless Trust Account.

(1) (a) The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective manner.

(b) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who have families with children, or who are mentally ill, disabled, or suffer from other serious challenges to employment and self-sufficiency.

(c) The committee may also fund treatment programs to ameliorate the effects of substance abuse or a ~~[handicap]~~ disability.

(2) The committee designated in Subsection 9-4-801(2) ~~[is responsible for awarding]~~ shall:

(a) award contracts funded by the Homeless Trust Account~~[-The committee shall award contracts]~~ with the advice and input of those designated in Subsection 9-4-801(3)~~[-and shall];~~

(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers~~[- Priority];~~ and

(c) give priority for funding ~~[shall be given]~~ to programs that serve the homeless who are mentally ill and who are in families with children.

(3) (a) In any fiscal year, no more than 80% of the funds in the Homeless Trust Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.

(b) The committee may:

(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Homeless Trust Account, and up to 2% of its annual appropriation for marketing the Homeless Trust Account and soliciting donations to the Homeless Trust Account[~~The committee may~~]; and

~~The committee may~~; and

(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-530.5 [~~out of~~ from the Homeless Trust Account.

(4) (a) The committee may not expend, except as provided in Subsection (4)(b), an amount equal to the greater of \$50,000 or 20% of the amount donated to the Homeless Trust Account during fiscal year 1988-89.

(b) [~~The~~] If there are decreases in contributions to the fund, the committee may expend funds held in reserve to provide program stability [~~in the event of decreases in contributions to the fund~~], but the committee shall reimburse the amounts of those expenditures to the reserve fund [~~the amount of any such expenditure~~].

(5) The committee shall make an annual report to the Economic Development and Human Resources Appropriations Subcommittee regarding the programs and services funded by contributions to the Homeless Trust Account.

(6) The moneys in the Homeless Trust Account shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the fund moneys shall be deposited in the fund.

Section 5. Section **9-7-205** is amended to read:

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for its housing;

(b) promote and develop library services throughout the state in cooperation with any and all other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require careful and complete records of the condition and affairs of the state library to be kept;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of any state or federal funds ~~[which]~~ that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries of any type within the state and to all communities or persons proposing to establish them and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind ~~[and physically handicapped]~~, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications, and providing a bibliographic information system;

(l) require that information and statistics necessary to the work of the state library be collected, and that findings and reports be published;

(m) make any report concerning the activities of the state library to the governor as he may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 6. Section **10-9-104** is amended to read:

10-9-104. Stricter requirements.

(1) Except as provided in Subsection (2), municipalities may enact ordinances imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

(a) Section 10-9-106;

(b) Section 10-9-106.5;

(c) Part 5, Residential Facilities for Elderly [~~Persons~~]; and

(d) Part 6, Residential Facilities for [~~Handicapped~~] Persons with a Disability.

Section 7. Section **11-17-1.5** is amended to read:

11-17-1.5. Purpose of chapter.

(1) The purposes of this chapter are to stimulate the economic growth of the state [~~of Utah~~], to promote employment and achieve greater industrial development in the state [~~of Utah~~], to maintain or enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and promote the health, welfare, and safety of the citizens of the state and to improve local health and the general welfare by inducing corporations, persons, or entities engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of [~~physically and mentally handicapped~~] persons with a physical or mental disability, and administrative and support facilities, to locate, relocate, modernize, or expand in this state and to assist in the formation of investment capital with respect thereto. The Legislature hereby finds and declares that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and Development Act and the issuance of bonds under it constitutes a proper public purpose.

(2) It is declared that the policy of the state [~~of Utah~~] is to encourage the development of free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities and economic development. It is found and declared that there exists in the state [~~of Utah~~] an inadequate amount of locally managed, pooled venture capital in the private sector available to invest in early stage businesses having high growth potential and [~~which~~] that can provide jobs for Utah citizens. It is found that [~~such~~] venture capital is required for healthy economic development of sectors of the economy having high growth and employment potential. It is further found that the public economic development purposes of the state and its counties and municipalities can be fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally managed, pooled new venture and economic development funds in accordance with the provisions of this act. It is found and declared that in order to assure adequate investment of private capital for [~~such~~] these uses, cooperation between private enterprise and state and local government is necessary and in the public interest and that the facilitation of [~~such~~] capital accumulation is the appropriate activity of the counties and municipalities of this state and also of the Utah Division of Business and Economic Development, a division of the Utah Department of Community and Economic Development.

It is found that venture capital funds historically, because of the more intensive nature of their relationship with companies in which they invest, tend to concentrate their investments within a relatively close geographical area to their headquarters location.

It is found and declared that investors in economic development or new venture investment funds require for the overall security of their investments reasonable diversification of investment portfolios and that, in the course of [~~such~~] this diversification, investments are often syndicated or jointly made among several financial institutions or funds. It is expressly found and declared that an economic development or new venture investment fund must from time to time for its optimal profitability and efficiency (which are important for the security and profit of bond purchasers providing funds therefor) cooperate with others who may be located outside the state of Utah or the county or municipality where [~~such~~] the fund is headquartered in the making of investments and that [~~such~~] the fund must be free in the interests of reciprocal relationships with other financial institutions and diversification of risks to invest from time to time in enterprises [~~which~~] that are

located outside [~~the state~~] of Utah or [~~such~~] the counties or municipalities. It is specifically found that such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds sold [~~pursuant to~~] under this chapter, is within the public purposes of the state [~~of Utah~~] and any county or municipality offering [~~such~~] the bonds, provided that [~~such~~] the fund locates within the state of Utah or [~~such~~] the county or municipality its headquarters where its actual investment decisions and management functions occur and limits the aggregate amount of its investments in companies located outside [~~the state~~] of Utah to an amount [~~which~~] that in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside [~~the state~~] of Utah in Utah companies, [~~which said~~] that the locally managed fund has sponsored or in which it has invested and [~~which~~] that it has brought to the attention of investors outside [~~the state~~] of Utah.

Section 8. Section **11-17-2** is amended to read:

11-17-2. Definitions.

As used in this chapter:

- (1) "Bonds" means bonds, notes, or other evidences of indebtedness.
- (2) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user or its designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user, or such sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.
- (3) "Governing body" means the board or body [~~in which~~] that the general legislative powers of the municipality or county are vested. In the case of state universities to which this chapter applies, "governing body" means the board or body having the control and supervision of the

University of Utah and Utah State University and, with reference to a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(4) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by any municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use. There may be included as part of the development of the land for any industrial park under this chapter the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(5) "Mortgage" means a mortgage, trust deed, or other security device.

(6) "Municipality" means any incorporated city or town in the state, including cities or towns operating under home rule charters.

(7) "Pollution" means any form of environmental pollution including, but not limited to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(8) "Project" means:

(a) any industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(i) ~~[which]~~ that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(ii) ~~[which]~~ that is suitable to provide services to the general public;

(iii) ~~[which]~~ that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of ~~[physically and mentally handicapped]~~ persons with a physical or mental disability, and

administrative and support facilities; or

(iv) ~~[which]~~ that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions, but "project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1, ~~[except aircraft carriers as defined in Title 54,]~~ Chapter 2, and except as provided in Subsection ~~(8)~~(b);

(b) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including, but not limited to, the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(c) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(d) any economic development or new venture investment fund to be raised other than from:

(i) municipal or county general fund moneys;

(ii) moneys raised ~~[pursuant to]~~ under the taxing power of any county or municipality; or

(iii) moneys raised against the general credit of any county or municipality.

(9) "State university" means the University of Utah and Utah State University and includes any nonprofit corporation or foundation created by and operating under their authority.

(10) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 9. Section **17-27-104** is amended to read:

17-27-104. Stricter requirements.

(1) Except as provided in Subsection (2), counties may enact ordinances imposing stricter

requirements or higher standards than are required by this chapter.

- (2) A county may not impose stricter requirements or higher standards than are required by:
 - (a) Section 17-27-105;
 - (b) Section 17-27-105.5;
 - (c) Part 5, Residential Facilities for Elderly [~~Persons~~]; and
 - (d) Part 6, Residential Facilities for [~~Handicapped~~] Persons with a Disability.

Section 10. Section **17-28-2.6** is amended to read:

17-28-2.6. Merit principles.

The County Fire Civil Service System shall be established and administered in a manner that will provide for the effective implementation of the following merit principles:

- (1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
- (2) provision of equitable and adequate job classification and compensation systems, including pay and benefits programs;
- (3) training of employees as needed to assure high-quality performance;
- (4) retention of employees on the basis of the adequacy of their performance and separation of employees whose inadequate performance cannot be corrected;
- (5) fair treatment of applicants and employees in all aspects of personal administration without regard to race, color, religion, sex, national origin, political affiliation, age, or [~~handicap~~] disability, and with proper regard for their privacy and constitutional rights as citizens;
- (6) provision of information to employees regarding their political rights and prohibited practices under the Hatch Act; and
- (7) provision of a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Section 11. Section **17-33-3** is amended to read:

17-33-3. Merit principles.

It is the policy of this state that each county may establish a personnel system administered in a manner that will provide for the effective implementation of the following merit principles:

- (1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
- (2) provision of equitable and adequate compensation;
- (3) training of employees as needed to assure high-quality performance;
- (4) retention of employees on the basis of the adequacy of their performance, and separation of employees whose inadequate performance cannot be corrected;
- (5) fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or [~~handicap~~ disability], and with proper regard for their privacy and constitutional rights as citizens;
- (6) provision of information to employees regarding their political rights and prohibited practices under the Hatch Act; and
- (7) provision of a formal procedure for processing the appeals and grievances of employees without discrimination, coercion, restraint, or reprisal.

Section 12. Section **17-33-5** is amended to read:

17-33-5. Office of personnel management -- Director -- Appointment and responsibilities -- Personnel rules.

- (1) (a) Each county legislative body shall:
 - (i) create an office of personnel management, administered by a director of personnel management; and
 - (ii) ensure that the director is a person with proven experience in personnel management.
- (b) (i) Beginning July 1, 1993, the county legislative body shall appoint a director of personnel management to serve a four-year term.
 - (ii) At the expiration of any four-year term, the county legislative body may reappoint that director to another four-year term or may appoint a new director.
 - (iii) If the position of director of personnel management becomes vacant for any reason before the four-year term expires, the county legislative body shall appoint a person to complete the unexpired term by following the procedures and requirements of this section.
- (c) The career service council shall:

- (i) advertise and recruit for the director position in the same manner as for merit positions;
 - (ii) select three names from a register; and
 - (iii) submit those names as recommendations to the county legislative body.
- (d) The county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.
- (2) The director of personnel management shall:
- (a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;
 - (b) advise the county legislative and executive bodies on the use of human resources;
 - (c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;
 - (d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;
 - (e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;
 - (f) make an annual report to the county legislative body regarding the work of the department; and
 - (g) apply and carry out this law and the policies under it and perform any other lawful acts that are necessary to carry out the provisions of this law.
- (3) (a) (i) The director shall issue personnel rules for the county.
- (ii) The county legislative body may approve, amend, or reject those rules before they are implemented.
- (b) The rules shall provide for:
- (i) recruiting efforts to be planned and carried out in a manner that assures open competition, with special emphasis to be placed on recruiting efforts to attract minorities, women, ~~handicapped~~ persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented in the county work

force to help assure they will be among the candidates from whom appointments are made;

(ii) the establishment of job-related minimum requirements wherever practical, ~~[which]~~ that all successful candidates shall be required to meet in order to be eligible for consideration for appointment or promotion;

(iii) selection procedures that include consideration of the relative merit of each applicant for employment, a job-related method of determining the eligibility or ineligibility of each applicant, and a valid, reliable, and objective system of ranking eligibles according to their qualifications and merit;

(iv) certification procedures that insure equitable consideration of an appropriate number of the most qualified eligibles based on the ranking system;

(v) appointments to positions in the career service by selection from the most qualified eligibles certified on eligible lists established in accordance with Subsections (3)(b)(iii) and (iv);

(vi) noncompetitive appointments in the occasional instance where there is evidence that open or limited competition is not practical, such as for unskilled positions ~~[for which there are]~~ that have no minimum job requirements;

(vii) limitation of competitions at the discretion of the director for appropriate positions to facilitate employment of qualified applicants with a substantial physical or mental impairment, or other groups protected by Title VII of the Civil Rights Act;

(viii) permanent appointment for entry to the career service ~~[which]~~ that shall be contingent upon satisfactory performance by the employee during a period of six months, with the probationary period extendable for a period not to exceed six months for good cause, but with the condition that the probationary employee may appeal directly to the council any undue prolongation of the period designed to thwart merit principles;

(ix) temporary, provisional, or other noncareer service appointments, which may not be used as a way of defeating the purpose of the career service and may not exceed 90 days, with the period extendable for a period not to exceed an additional 90 days for good cause;

(x) lists of eligibles normally to be used, if available, for filling temporary positions, and short term emergency appointments to be made without regard to the other provisions of law to

provide for maintenance of essential services in an emergency situation where normal procedures are not practical, these emergency appointments not to exceed 90 days, with that period extendable for a period not to exceed an additional 90 days for good cause;

(xi) promotion and career ladder advancement of employees to higher level positions and assurance that all persons promoted are qualified for the position;

(xii) recognition of the equivalency of other merit processes by waiving, at the discretion of the director, the open competitive examination for placement in the career service positions who were originally selected through a competitive examination process in another governmental entity, the individual in those cases, to serve a probationary period;

(xiii) preparation, maintenance, and revision of a position classification plan for all positions in the career service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class, the compensation plan, in order to maintain a high quality public work force, to take into account the responsibility and difficulty of the work, the comparative pay and benefits needed to compete in the labor market and to stay in proper alignment with other similar governmental units, and other factors;

(xiv) keeping records of performance on all employees in the career service and requiring consideration of performance records in determining salary increases, any benefits for meritorious service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

(xv) establishment of a plan governing layoffs resulting from lack of funds or work, abolition of positions, or material changes in duties or organization, and governing reemployment of persons so laid off, taking into account with regard to layoffs and reemployment the relative ability, seniority, and merit of each employee;

(xvi) establishment of a plan for resolving employee grievances and complaints with final and binding decisions;

(xvii) establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge, [such] measures to provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the career service council;

(xviii) establishment of a procedure for employee development and improvement of poor performance;

(xix) establishment of hours of work, holidays, and attendance requirements in various classes of positions in the career service;

(xx) establishment and publicizing of fringe benefits such as insurance, retirement, and leave programs; and

(xxi) any other requirements not inconsistent with this law that are proper for its enforcement.

Section 13. Section **20A-3-105** is amended to read:

20A-3-105. Marking and depositing ballots.

(1) (a) If paper ballots are used, the voter, upon receipt of the ballot, shall go to a voting booth and prepare the voter's ballot by marking the appropriate position with a mark opposite the name of each candidate of the voter's choice for each office to be filled.

(b) A mark is not required opposite the name of a write-in candidate.

(c) If a ballot proposition is submitted to a vote of the people, the voter shall mark in the appropriate square with a mark opposite the answer the voter intends to make.

(d) The voter shall fold the ballot before leaving the booth so its contents are concealed and the stub can be removed.

(2) (a) (i) If ballot cards are used, the voter shall insert the ballot card into the voting device and mark the ballot card according to the instructions provided on the device.

(ii) If the voter is issued a ballot card with a long stub without a secrecy envelope, the voter shall record any write-in votes on the long stub.

(iii) If the voter is issued a ballot card with a secrecy envelope, the voter shall record any write-in votes on the secrecy envelope.

(b) After the voter has marked the ballot card, the voter shall either:

(i) place the ballot card inside the secrecy envelope, if one is provided; or

(ii) fold the long stub over the face of the ballot card to maintain the secrecy of the vote if the voter is issued a ballot card with a long stub without a secrecy envelope.

- (3) (a) After preparation of the ballot, the voter shall:
- (i) leave the voting booth; and
 - (ii) announce his name to the election judge in charge of the ballot box.
- (b) The election judge in charge of the ballot box shall:
- (i) clearly and audibly announce the name of the voter and the number on the stub of the voter's ballot;
 - (ii) if the stub number on the ballot corresponds with the number previously recorded in the official register, and bears the initials of the election judge, remove the stub from the ballot; and
 - (iii) return the ballot to the voter.
- (c) The voter shall, in full view of the election judges, cast his vote by depositing the ballot in the ballot box.
- (d) (i) The election judge may not accept a ballot from which the stub has been detached.
- (ii) The election judge shall treat a ballot from which the stub has been detached as a spoiled ballot and shall provide the voter with a new ballot and dispose of the spoiled ballot as provided in Section 20A-3-107.
- (4) A voter voting a paper ballot in a regular primary election shall, after marking the ballot:
- (a) (i) detach the part of the paper ballot containing the names of the candidates of the party he has voted from the remainder of the paper ballot;
 - (ii) fold that portion of the paper ballot so that its face is concealed; and
 - (iii) deposit it in the ballot box; and
- (b) (i) fold the remainder of the paper ballot, containing the names of the candidates of the parties that the elector did not vote; and
- (ii) deposit it in a separate ballot box that is marked and designated as a blank ballot box.
- (5) (a) Each voter shall mark and deposit the ballot without delay and leave the voting area after voting.
- (b) A voter may not:
- (i) occupy a voting booth occupied by another, except as provided in Section 20A-3-108;
 - (ii) remain within the voting area more than ten minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy them.

(6) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(7) The election judges may not allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials~~[-];~~

(b) watchers~~[-];~~ or ~~[are]~~

(c) assisting ~~[handicapped]~~ voters with a disability.

Section 14. Section **26-10-1** is amended to read:

26-10-1. Definitions.

As used in this chapter:

(1) "Maternal and child health services" means:

(a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this section shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;

(b) the development, strengthening, and improvement of standards and techniques relating to ~~[such]~~ the services and care;

(c) the training of personnel engaged in the provision, development, strengthening, or improvement of ~~[such]~~ the services and care; and

(d) necessary administrative services connected with Subsections (1)(a), (b), and (c) ~~[of this subsection]~~.

(2) "Crippled children's services" means:

(a) the early location of crippled children, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or ~~[handicaps]~~ disabilities of an unborn child will

not be used for screening, but rather will be utilized only when there are medical or genetic indications [~~which~~] that warrant diagnosis;

(b) the provision for such children of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of such children or toward the restoration of [~~such~~] the children to maximum physical and mental health;

(c) the development, strengthening, and improvement of standards and techniques relating to such services and care;

(d) the training of personnel engaged in the provision, development, strengthening, or improvement of such services and care; and

(e) necessary administrative services connected with Subsections (2)(a), (b), and (c) [~~of this subsection~~].

Section 15. Section **26-29-1** is amended to read:

**CHAPTER 29. ELIMINATION OF ARCHITECTURAL BARRIERS FOR PERSONS
WITH A DISABILITY**

26-29-1. Buildings and facilities to which chapter applies -- Standards available to interested parties -- Building board staff to advise, review, and approve plans when possible.

(1) (a) The standards in this chapter [~~shall~~] apply to all buildings and facilities used by the public [~~which~~] that are constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.

(b) All [~~such~~] of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this chapter except buildings [~~or~~], facilities, or portions [~~thereof~~] of them, not intended for public use, including[, ~~but not limited to,~~];

(i) caretaker dwellings[;];

(ii) service buildings[;]; and

(iii) heating plants[, ~~constructed in this state after the effective date of this act shall conform to each of the standards prescribed herein~~].

(2) [~~These standards shall be adhered to in those buildings and facilities under construction~~

on the effective date of this act, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical.] This chapter [~~shall apply~~] applies to temporary or emergency construction as well as permanent buildings.

(3) [~~These~~] (a) The standards [shall be adhered to in] established in this chapter apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this chapter where [such] the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for [the physically handicapped] persons with a physical disability.

(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.

(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards [~~provided in this act~~].

(4) (a) All individuals and organizations are encouraged to apply the standards prescribed [~~herein~~] in this chapter to all buildings used by the public, but [~~which may be~~] that are financed from other than public funds. [~~To this end the~~]

(b) The State Building Board shall:

(i) make the standards [of] established by this chapter available to interested individuals and organizations; and [shall;]

(ii) upon request and to the extent possible, make available the services of the building board staff to advise, review, and approve plans and specifications [with respect to meeting] in order to comply with the standards of this chapter.

Section 16. Section **26-29-2** is amended to read:

26-29-2. Purpose of chapter.

(1) This chapter is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of incoordination, and aging.

(2) It is intended to make all buildings and facilities covered by this chapter accessible to, and functional for, [~~the physically handicapped~~] persons with a physical disability.

Section 17. Section **26-29-3** is amended to read:

26-29-3. Basis for standards.

The standards of this chapter ~~[shall be]~~ are the current edition of planning and design criteria to prevent architectural barriers for the aged and ~~[the physically handicapped]~~ persons with a physical disability, as promulgated by the State Building Board.

Section 18. Section **26-30-1** is amended to read:

26-30-1. Physically disabled persons' rights and privileges.

(1) The blind, visually ~~[handicapped]~~ impaired, hearing impaired, or otherwise physically disabled person has the same rights and privileges in the use of highways, streets, sidewalks, walkways, public buildings, public facilities, and other public areas as able-bodied persons.

(2) The blind, visually ~~[handicapped]~~ impaired, hearing impaired, or otherwise physically disabled person has equal rights to accommodations, advantages, and facilities offered by common carriers, including air carriers, railroad carriers, motor buses, motor vehicles, water carriers, and all other modes of public conveyance in this state.

(3) The blind, visually ~~[handicapped]~~ impaired, hearing impaired, or otherwise physically disabled person has equal rights to accommodations, advantages, and facilities offered by hotels, motels, lodges, and all other places of public accommodation in this state, and to places of amusement or resort to which the public is invited.

(4) (a) The blind, visually ~~[handicapped]~~ impaired, hearing impaired, or otherwise physically disabled person has equal rights and access to public and private housing accommodations offered for rent, lease, or other compensation in this state.

(b) This chapter does not require a person renting, leasing, or selling private housing or real property to modify ~~[his]~~ the housing or property in order to accommodate a blind, visually ~~[disabled]~~ impaired, hearing impaired, or otherwise physically disabled person, or to provide a higher degree of care for that person than for a person who is not physically disabled. ~~[However, a]~~

(c) A person renting, leasing, or selling private housing or real property to a person who is blind, visually ~~[disabled]~~ impaired, hearing impaired, or ~~[otherwise physically disabled]~~ a person who is otherwise physically disabled, shall comply with the provisions of Section 26-30-2, regarding the right of those persons to be accompanied by a guide or service ~~[dog]~~ animal specially trained for

that purpose.

Section 19. Section **26-30-2** is amended to read:

26-30-2. Right to be accompanied by guide or service animal or animal in training.

(1) (a) The blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically disabled person has the right to be accompanied by a guide or service [~~dog~~] animal, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, specially trained for that purpose, in any of the places specified in Section 26-30-1 without additional charge for the guide or service [~~dog~~] animal.

(b) This section does not prohibit an owner or lessor of private housing accommodations from charging a reasonable deposit as security for any damage or wear and tear that might be caused by the [~~dog. However, an~~] service animal.

(c) An owner or lessor of private housing accommodations may not, in any manner, discriminate against a blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically disabled person on the basis of [~~his~~] the person's possession of a guide or service [~~dog~~] animal specially trained for that purpose.

(2) A person, whether or not [~~he~~] the person is blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically disabled, has the right to be accompanied by [~~a pup or dog~~] an animal that is in training to become a guide or service [~~dog~~] animal in any of the places specified in Section 26-30-1 without additional charge for the [~~dog~~] animal.

(3) A blind, visually [~~handicapped~~] impaired, hearing impaired, or otherwise physically disabled person is liable for any loss or damage caused or inflicted to the premises by [~~his~~] the individual's guide or service [~~dog~~] animal.

(4) Persons accompanied by a specially trained guide or service [~~dog~~] animal, or by [~~a pup or dog~~] an animal that is in training to become a guide or service [~~dog~~] animal, may first be required to identify the [~~dog~~] animal by exhibiting the [~~dog's~~] animal's laminated identification card or other form of identification, before these provisions apply.

Section 20. Section **26-30-3** is amended to read:

26-30-3. Policy of state to employ blind and disabled.

It is the policy of this state that ~~the~~ a person who is blind, visually ~~handicapped~~ impaired, and otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied, unless it is shown that the particular disability prevents the performance of the work involved.

Section 21. Section **31A-22-611** is amended to read:

31A-22-611. Policy extension for children with a disability.

(1) Every disability insurance policy or contract that provides that coverage of a dependent child of a person insured under the policy shall:

(a) terminate upon reaching a limiting age as specified in the policy~~[-, shall]; and~~

(b) also provide that the age limitation does not terminate the coverage of a dependent child while the child is and continues to be both:

~~[(a)]~~ (i) incapable of self-sustaining employment because of mental retardation or physical ~~handicap~~ disability; and

~~[(b)]~~ (ii) chiefly dependent upon the person insured under the policy for support and maintenance.

(2) The insurer may require proof of the incapacity and dependency be furnished by the person insured under the policy within 30 days of the date the child attains the limiting age, and at any time thereafter, except that the insurer may not require proof more often than annually after the two-year period immediately following attainment of the limiting age by the child.

Section 22. Section **34-38-14** is amended to read:

34-38-14. Employee not "disabled."

An employee or prospective employee whose drug or alcohol test results are verified or confirmed as positive in accordance with the provisions of this chapter may not, ~~by virtue~~ because of those results alone, be defined as a person with a ~~handicap~~ "disability" for purposes of Title 34A, Chapter 5, Utah Antidiscrimination Act.

Section 23. Section **34-40-104** is amended to read:

34-40-104. Exemptions.

- (1) The minimum wage established in this chapter does not apply to:
- (a) any employee who is entitled to a minimum wage as provided in 29 U.S.C. Sec. 201 et seq., the Fair Labor Standards Act of 1938, as amended;
 - (b) outside sales persons;
 - (c) an employee who is a member of the employer's immediate family;
 - (d) companionship service for persons who, because of age or infirmity, are unable to care for themselves;
 - (e) casual and domestic employees as defined by the commission;
 - (f) seasonal employees of nonprofit camping programs, religious or recreation programs, and nonprofit educational and charitable organizations registered under Title 13, Chapter 22, Charitable Solicitations Act;
 - (g) an individual employed by the United States of America;
 - (h) any prisoner employed through the penal system;
 - (i) any employee employed in agriculture if the employee:
 - (i) is principally engaged in the range production of livestock;
 - (ii) is employed as a harvest laborer and is paid on a piece rate basis in an operation that has been and is generally recognized by custom as having been paid on a piece rate basis in the region of employment;
 - (iii) was employed in agriculture less than 13 weeks during the preceding calendar year; or
 - (iv) is a retired or semiretired person performing part-time or incidental work as a condition of the employee's residence on a farm or ranch;
 - (j) registered apprentices or students employed by the educational institution in which they are enrolled; or
 - (k) any seasonal hourly employee employed by a seasonal amusement establishment with permanent structures and facilities if the other direct monetary compensation from tips, incentives, commissions, end-of-season bonus, or other forms of pay is sufficient to cause the average hourly rate of total compensation for the season of seasonal hourly employees who continue to work to the end of the operating season to equal the applicable minimum wage if the seasonal amusement

establishment:

(i) does not operate for more than seven months in any calendar year; or

(ii) during the preceding calendar year its average receipts for any six months of ~~[such]~~ that year were not more than 33-1/3% of its average receipts for the other six months of ~~[such]~~ that year.

(2) (a) ~~[Handicapped individuals]~~ Persons with a disability whose earnings or productive capacities are impaired by age, physical or mental deficiencies, or injury may be employed at wages that are lower than the minimum wage, provided the wage is related to the employee's productivity.

(b) The commission may establish and regulate the wages paid or wage scales for ~~[the handicapped individuals]~~ persons with a disability.

(3) The commission may establish or may set a lesser minimum wage for learners not to exceed the first 160 hours of employment.

(4) Employees tipped may be paid not less than 55% of the minimum wage when the balance received from tips, either directly or by pooling of tip receipts, is sufficient to bring the employee to the minimum wage. Employees shall retain all tips except to the extent that they participate in a bona fide tip pooling or sharing arrangement with other tipped employees. The commission may by rule provide for a greater tip allowance, in conjunction with its review of the minimum wage, under Section 34-40-103.

Section 24. Section **34A-5-102** is amended to read:

34A-5-102. Definitions.

As used in this chapter:

(1) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(2) "Bona fide occupational qualification" means a characteristic applying to an employee:

(a) that is necessary to the operation; or

(b) is the essence of the employee's employer's business.

(3) "Court" means:

(a) the district court in the judicial district of the state in which the asserted unfair employment practice occurred; or

(b) if this court is not in session at that time, a judge of the court described in Subsection (3)(a).

(4) "Director" means the director of the division.

(5) "Disability" means a physical or mental [~~impairment that substantially limits one or more of an individual's major life activities~~] disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(6) "Division" means the Division of Antidiscrimination and Labor.

(7) "Employee" means any person applying with or employed by an employer.

(8) (a) "Employer" means:

(i) the state;

(ii) any political subdivision;

(iii) a board, commission, department, institution, school district, trust, or agent of the state or its political subdivisions; or

(iv) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(b) "Employer" does not include:

(i) a religious organization or association;

(ii) a religious corporation sole; or

(iii) any corporation or association constituting a wholly owned subsidiary or agency of any religious organization or association or religious corporation sole.

(9) "Employment agency" means any person:

(a) undertaking to procure employees or opportunities to work for any other person; or

(b) holding itself out to be equipped to take an action described in Subsection (9)(a).

(10) "Joint apprenticeship committee" means any association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(11) "Labor organization" means any organization that exists for the purpose in whole or in part of:

(a) collective bargaining;

(b) dealing with employers concerning grievances, terms or conditions of employment; or

(c) other mutual aid or protection in connection with employment.

(12) "National origin" means the place of birth, domicile, or residence of an individual or of an individual's ancestors.

(13) "On-the-job-training" means any program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(a) is also employed at that job; or

(b) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(14) "Person" means one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, receivers, the state and all political subdivisions and agencies of the state.

(15) "Presiding officer" means the same as that term is defined in Section 63-46b-2.

(16) "Prohibited employment practice" means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(17) "Retaliate" means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

(a) has opposed any employment practice prohibited under this chapter; or

(b) filed charges, testified, assisted, or participated in any way in any proceeding, investigation, or hearing under this chapter.

(18) "Vocational school" means any school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

Section 25. Section **41-1a-408** is amended to read:

41-1a-408. Special group plates -- Design -- Application -- Issuance.

(1) As used in this section:

(a) "Boy Scouts of America license plates" means the special group license plates issued under this section to a contributor to the Boy Scouts of America.

(b) "Children's issues license plates" means the special group license plates issued under this section to a contributor to the Guardian Ad Litem Services Account and the Children's Museum of Utah.

(c) "Collegiate license plates" means the special group license plates issued under this section to a contributor to an institution after payment of the appropriate fees.

(d) (i) "Contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single institution;

(B) the Office of Veterans' Affairs in the Department of Community and Economic Development for veterans' programs;

(C) the Division of Wildlife Resources for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of soil conservation districts;

(E) the Division of Parks and Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two; or

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor.

(ii) Except as provided under Subsection (13), the donation must be made in the 12 months prior to registration or renewal of registration.

(e) "Institution" means a state institution of higher education or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(f) "Snowmobile license plates" means the special group license plates issued under this section to a contributor to the Division of Parks and Recreation after payment of the appropriate fees.

(g) "Soil conservation license plates" means the special group license plates issued under this

section to a contributor to the Department of Agriculture and Food after payment of the appropriate fees.

(h) "State institution of higher education" has the same meaning as provided in Section 53B-3-102.

(i) "Veterans' license plates" means the special group license plates issued under this section to a contributor to the Office of Veterans' Affairs after payment of the appropriate fees.

(j) "Wildlife license plates" means the special group license plates issued under this section to a contributor to the Division of Wildlife Resources after payment of the appropriate fees.

(2) (a) The design and maximum number of numerals or characters on special group license plates shall be determined by the division in accordance with the criteria in Subsection (2)(b).

(b) Except for Olympic special group license plates, each special group license plate shall display:

(i) the word Utah;

(ii) the name or identifying slogan of the special group;

(iii) a symbol not exceeding two positions in size representing the special group; and

(iv) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(3) (a) The division shall, after consultation with a representative designated by the special group, specify the word or words comprising the special group name and the symbol to be displayed upon the special group license plates.

(b) Collegiate, veterans', children's issues, snowmobile, soil conservation, Boy Scouts of America, and wildlife license plates may not be redesigned under this section more frequently than every five years.

(c) Veterans' license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, or Coast Guard.

(4) Subject to Subsections (10) and (12), the division shall only issue special group license plates to a person who is:

(a) a current member of the Legislature;

(b) a current member of the United States Congress;

- (c) a survivor of the Japanese attack on Pearl Harbor;
- (d) a former prisoner of war;
- (e) a recipient of a Purple Heart, as provided in Section 41-1a-409;
- (f) a current member of the National Guard;
- (g) a person with a disability or the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk;
- (h) a contributor to an institution's scholastic scholarship fund;
- (i) a contributor to the Division of Wildlife Resources;
- (j) a contributor to the Office of Veterans' Affairs;
- (k) licensing a special interest vehicle;
- (l) licensing a vintage vehicle;
- (m) a licensed amateur radio operator;
- (n) registering a farm truck;
- (o) a currently employed, volunteer, or retired firefighter;
- (p) a contributor to the Division of Parks and Recreation;
- (q) a contributor to the Department of Agriculture and Food;
- (r) a contributor to the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (s) a contributor to the Boy Scouts of America; or
- (t) an emergency medical technician.

(5) (a) A vehicle displaying a survivor of the Japanese attack on Pearl Harbor license plate decal, a former prisoner of war license plate decal, or a Purple Heart license plate decal shall be titled in the name of the veteran or the veteran and spouse.

(b) Upon the death of the veteran, the surviving spouse may, upon application to the division, retain the special group license plate decal so long as the surviving spouse remains unmarried.

(c) The division shall require the surviving spouse to make a sworn statement that the surviving spouse is unmarried before renewing the registration under this section.

(6) (a) (i) In accordance with rules made under Subsection (12), the division shall issue a person with a disability special group license plate, temporary removable windshield placard, or a removable windshield placard to:

(A) a qualifying person with a disability; or

(B) an organization that uses a vehicle registered in the applicant's name primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(ii) The division shall issue a person with a disability special group license plate or a removable windshield placard to a person with a permanent disability.

(iii) The issuance of a person with a disability special group license plate does not preclude the issuance to the same applicant of a removable windshield placard.

(iv) The division shall issue on request one additional placard to a person with a person with a disability special group license plate, temporary removable windshield placard, or a removable windshield placard.

(b) The temporary removable windshield placard or removable windshield placard shall be hung from the front windshield rearview mirror when the vehicle is parked in a parking space reserved for persons with disabilities so that it is visible from the front and rear of the vehicle.

(7) (a) An applicant for original or renewal collegiate license plates must be a contributor to the institution named in the application and present the original contribution verification form or make a contribution to the division at the time of application.

(b) An institution with a special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the moneys collected by the institutions from contributors are used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the

commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63-38-3.2 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the named institution's scholastic scholarship fund and not as a motor vehicle registration fee; and

(iii) deposited with the named institution, less actual production and administrative costs associated with making and issuing collegiate license plates.

(8) (a) An applicant for original or renewal wildlife license plates must be a contributor to the Division of Wildlife Resources.

(b) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the funding of wildlife activities and not as a motor vehicle registration fee; and

(iii) deposited into the Wildlife Resources Account created in Section 23-14-13, less actual production and administrative costs associated with making and issuing wildlife license plates.

(9) The division shall issue Olympic special group license plates.

(10) (a) An organization that makes a significant contribution to the state may request the commission to authorize special group license plates for the organization if the organization collects a minimum of 500 applications with the fees required under Section 41-1a-1211.

(b) If the commission approves the request, the division shall design a license plate in accordance with Subsections (2) and (3).

(c) If the commission rejects the request, the organization shall refund all fees to the applicants.

(11) Any person who meets the criteria established under this part for issuance of special group license plates may make application in the same manner provided in Sections 41-1a-410 and 41-1a-411 for personalized special group license plates.

(12) (a) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to:

(i) establish qualifying criteria for persons to receive, renew, or surrender special group license plates, a temporary removable windshield placard, or a removable windshield placard;

(ii) establish the maximum number of numerals or characters for special group license plates; and

(iii) require all temporary removable windshield placards and removable windshield placards to include:

(A) an identification number;

(B) an expiration date not to exceed six months for a temporary removable windshield placard and two years for a removable windshield placard; and

(C) the seal or other identifying mark of the division.

(b) The qualifying criteria under Subsection (12)(a) for a person with a disability special group license plate, temporary removable windshield placard, or removable windshield placard shall include a requirement that an initial application of a person with a disability be accompanied by the certification of a licensed physician:

(i) that the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for [Handicapped] Parking for Persons with Disabilities, [~~58 Fed. Reg. 10, 328 (1991)~~] 23 C.F.R. Ch. 11, Subch. B, Pt. 1235.2 (1991); and

(ii) containing the period of time that the physician determines the applicant will have the disability, not to exceed six months in the case of a temporary disability.

(13) (a) The division may issue original veterans' license plates.

(b) An applicant for original veterans' license plates must be at least a one-time contributor to the Office of Veterans' Affairs.

(c) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the Office of Veterans' Affairs and not as a motor vehicle registration fee; and

(iii) transferred to the Office of Veterans' Affairs at least monthly, less actual production and administrative costs associated with making and issuing veterans' license plates.

(14) (a) The division may issue original snowmobile license plates if the Division of Parks and Recreation provides a one-time contribution of at least \$9,000 to the division from restricted revenue in the Off-Highway Vehicle Account in the General Fund to cover startup materials and programming costs.

(b) An applicant for original snowmobile license plates must be a contributor to the Division of Parks and Recreation.

(c) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the Division of Parks and Recreation for the benefit of snowmobile programs and not as a motor vehicle registration fee; and

(iii) transferred to the Division of Parks and Recreation at least monthly, less actual production and administrative costs associated with making and issuing snowmobile license plates.

(15) (a) (i) The division may issue original soil conservation license plates if soil conservation districts provide a one-time contribution of at least \$9,000 to the division to cover startup materials and programming costs.

(ii) The contribution described in Subsection (15)(a)(i) may be from private funds available to soil conservation districts.

(b) An applicant for original soil conservation license plates must be a contributor to the Department of Agriculture and Food.

(c) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the Department of Agriculture and Food for the benefit of soil conservation districts and not as a motor vehicle registration fee; and

(iii) transferred to the Department of Agriculture and Food at least monthly, less actual production and administrative costs associated with making and issuing soil conservation license plates.

(16) (a) (i) The division may issue original children's issues license plates if the Office of the Guardian Ad Litem Director and the Children's Museum of Utah each provide a one-time contribution of at least \$4,500 to the division to cover startup materials and programming costs.

(ii) The contribution described in Subsection (16)(a)(i) from the Office of the Guardian Ad Litem Director shall be from private funds not normally available to the Office of the Guardian Ad Litem Director.

(b) An applicant for original or renewal children's issues license plates must be a contributor to the Guardian Ad Litem Services Account and the Children's Museum of Utah.

(c) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the Guardian Ad Litem Services Account and the Children's Museum of Utah and not as a motor vehicle registration fee; and

(iii) transferred to the Guardian Ad Litem Services Account and the Children's Museum of Utah at least monthly, less actual production and administrative costs associated with making and issuing children's issues license plates.

(17) A current member of the Legislature may select the Olympic license plate as the legislator's special group license plate. The legislator shall pay the special fees for the Olympic license plate, as provided in Section 41-1a-417 and Subsection 41-1a-1211(12).

(18) (a) Beginning January 1, 2001, the division may issue original Boy Scouts of America license plates if the Boy Scouts of America provides a one-time contribution of at least \$9,000 to the division to cover startup materials and programming costs.

(b) An applicant for original or renewal Boy Scouts of America license plates must be a contributor to the Boy Scouts of America.

(c) This contribution shall be:

(i) collected by the division;

(ii) treated as a voluntary contribution for the Boy Scouts of America and not as a motor vehicle registration fee; and

(iii) transferred to the Boy Scouts of America at least monthly, less actual production and

administrative costs associated with making and issuing Boy Scouts of America license plates.

Section 26. Section **49-1-103** is amended to read:

49-1-103. Definitions.

As used in this title:

(1) "Accumulated contributions" means the sum of the contributions made by or on behalf of a member and standing to the credit of the member's individual account, including regular interest where allowed by law.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables adopted by the board, including regular interest.

(3) "Actuarial interest rate" means the interest rate adopted by the board upon the recommendation of the actuary and upon which the funding of retirement system costs and benefits are computed.

(4) "Administrator" means the executive director of the board.

(5) "Agency" means:

(a) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(b) a county, municipality, school district, or special district;

(c) a state college or university; or

(d) any other individual employing unit that participates in a system administered by the board.

(6) "Allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(7) "Annuity" means annual payments for life derived from contributions made by the employee.

(8) "Beneficiary" means any person entitled to receive a retirement allowance or other benefit provided by this title.

(9) "Board" or "retirement board" means the Utah State Retirement Board established under this title.

(10) "Contributions" means the contributions by the employer and the member, if any, into a retirement fund.

(11) "Current service" means covered service rendered after the effective date of each system.

(12) "Department" means any department, office, board, commission, instrumentality, or other agency of the state.

(13) "Dependent beneficiary" means a spouse, child, or children under 21 years of age, a ~~[physically or mentally handicapped]~~ child or children with a physical or mental disability, regardless of age, or a parent, or person, regardless of age or relationship, who is or are financially dependent upon the member. The dependency of a person other than a spouse or child shall be proved by written verified documents acceptable to the board or by a copy of the member's state income tax return for the last reportable year listing the person as a dependent. All documents are subject to review and approval of the administrator.

(14) "Employer" or "employing unit" means any department, educational institution, political subdivision, organization, or agency financed in whole or in part by public funds for which any employee or member performs services subject to this title.

(15) "Inactive member" means a member who has received no compensation for a period longer than four months.

(16) (a) "Member" means any person included in the membership of any retirement system administered by the board.

(b) A person is considered to be a member if he has contributions on deposit with the retirement system or with the terminated system. "Member" also includes leased employees within the meaning of Section 414(n)(2) of the federal Internal Revenue Code. If leased employees constitute less than 20% of the employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

(17) "Office" or "retirement office" means the Utah State Retirement Office.

(18) "Participating employer" or "participating employing unit" means any employer or

employing unit participating in the system whose employees are members of the system.

(19) "Payroll" means a register, warrant, or any other document upon which all persons receiving salary payments are listed.

(20) "Pension" means annual payments for life derived from contributions made by employers.

(21) "Political subdivision" means any political subdivision of the state, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity, employees of the state or one of its departments.

(a) The term includes special districts or authorities created by the Legislature or by local governments including mosquito abatement districts, sewer or water districts, water associations and companies, libraries, and any entity arising out of a consolidation agreement between political subdivisions.

(b) The term includes the retirement office.

(c) The term does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act.

(22) "Prior service" means service rendered prior to the effective date of each system.

(23) "Refund" means a return of contributions to a terminating member.

(24) "Regular interest" means interest compounded annually at a rate adopted by the board in accordance with this title.

(25) "Retirant" means a retired member who is receiving retirement benefits.

(26) "Retirement" means withdrawal from active service with a retirement allowance granted under this title.

(27) "Service" or "covered service" means service used in the computation of benefits.

Section 27. Section **49-5-103** is amended to read:

49-5-103. Definitions.

As used in this chapter:

(1) (a) "Compensation," "salary," or "wages" means the total amount of payments [which]

that are currently includable in gross income made by an employer to an employee for services rendered to the employer as base income. Base income shall be determined prior to any salary deductions or reductions for any salary deferral or pretax benefit programs authorized by federal law, for the position covered under the retirement system.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, or travel allowances;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by an employer under this plan or under any other employee benefit plan maintained by an employer for the benefit of a participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) (a) "Disability" means a physical or mental condition [~~which~~] that, in the judgment of the board, is total and presumably permanent, prevents a member from fulfilling the responsibilities of the member's assignment, and prevents the member from performing satisfactorily in some other assignment of the same general class.

(b) The determination of disability is based upon medical and other evidence satisfactory to the board.

(3) "Employer" or "employing unit" means any regularly constituted fire department of a political subdivision for which any employee or member performs services subject to this chapter.

(4) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement, but not including overtime or lump-sum or special salary adjustments received instead of uniform or other allowances or expenses or other payments made covering accumulated leave.

(a) Except as provided in Subsection (4)(b), the percentage increase in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board the limitation in Subsection (4)(a) may be exceeded if:

- (i) the member has transferred from another employing unit; or
- (ii) the member has been promoted to a new position.

(5) "Firefighter service" means full-time paid service rendered as an individual or as a member of a group of firefighters regularly assigned to a regularly constituted fire department.

(6) "Full-time service" means 2,080 hours per year.

(7) "Inactive member" means a member who has received no compensation for a period of longer than four months.

(8) "Line-of-duty death or disability" means a death or any physical or mental disability resulting from external force, violence, or disease occasioned by an act of duty as a firefighter and includes for a paid firefighter, after five years of credited service, any death or disability resulting from heart disease, lung disease, or respiratory tract, but if a firefighter ceases to be a contributing member because of personal illness or service-connected disability, neither of which is related to heart or lung disease nor the respiratory tract for a period of six months or more and then again becomes a contributing member, the provision relating to death or disability resulting from heart, lung, or respiratory disease does not apply until the member again becomes a contributing member for a period of not less than two years or unless clear and precise evidence is presented that the heart, lung, or respiratory disease was, in fact, occasioned in the line-of-duty.

(9) (a) "Member" means any person included in the membership of the retirement system.

(b) A person is a member if the person has contributions on deposit with the retirement system.

(c) A person hired on or after July 1, 1971, in a fire department, who is assigned directly to a clerical position, and because of lack of training in fire fighting techniques, is not subject to

reassignment into positions of hazardous duty, is not eligible for membership in this system.

(i) The person in a clerical position shall become a contributing member of the appropriate retirement system.

(ii) The required employer contributions shall be paid by the fire department.

(iii) This membership exclusion may not be interpreted to prohibit the assignment of a [~~handicapped~~] disabled or partially disabled firefighter to that position.

(iv) If Subsection (9)(c)(iii) applies, the firefighter retains status as a contributing member of this system and continues to accrue service credits while so employed.

(10) "Regularly constituted fire department" means a fire department [~~which~~] that employs a full-time fire chief and promulgates rules.

(11) (a) "Service" or "covered service" means firefighter service rendered an employer for compensation [~~which is~~] included in computations relating to membership status or benefit rights under this chapter.

(b) A retirement allowance or other benefit may not be granted under this system that is based upon the same service for retirement benefits under some other retirement system administered by the board.

(12) (a) "Volunteer firefighter" means any individual that is not regularly employed as a firefighter, but who is on the rolls of a regularly constituted fire department.

(b) An individual that volunteers assistance but is not a regularly enrolled firefighter is not a volunteer firefighter.

(c) Service as a volunteer firefighter is not creditable towards qualifying for a service retirement allowance.

(13) "Years of service" or "service years" means the number of periods consisting of 12 full months as determined by the board, whether consecutive or not, during which an employee performed services for an employer or received full-time pay while on sick leave, including any time the employee was absent in the service of the United States.

Section 28. Section **53A-1-402** is amended to read:

53A-1-402. Board to establish minimum standards for public schools.

(1) The State Board of Education shall establish rules and minimum standards for the public schools, to include:

(a) the qualification and certification of educators and ancillary personnel who provide direct student services, required school administrative and supervisory services, and evaluation of instructional personnel;

(b) access to programs, attendance, competency levels, graduation requirements, discipline and control, and health and safety requirements;

(c) school accreditation, the academic year, alternative and pilot programs, curriculum and instruction requirements, school libraries, and services to [the handicapped] persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102; the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and the Individuals with Disabilities and Education Act, 20 U.S.C. 1401(3); and other special groups;

(d) requirements for school design, general educational specifications, school sites, and building accessibility;

(e) state reimbursed bus routes, bus safety and operational requirements, and other transportation needs; and

(f) school productivity and cost effectiveness measures, the minimum school program, school building aid, school lunch, driver education, federal programs, school budget formats, and financial, statistical, and student accounting requirements.

(2) The board shall determine whether the minimum standards have been met, and that required reports are properly submitted.

(3) The board may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.

Section 29. Section **53A-9-103** is amended to read:

53A-9-103. Authorized components.

Career ladders may include the following components:

(1) A career ladder may have an extended contract year for teachers, providing for additional paid nonteaching days beyond the regular school year for curriculum development, inservice training,

preparation, and related activities. School boards may approve individual exceptions to the extended year contract.

(2) It may have, at the option of the local school board, an extended contract year for teachers, providing for additional paid workdays beyond the regular school year for teaching assignments in summer school, remedial, [~~handicapped~~] disabled, specialized, vocational, gifted and talented, and adult education programs.

(3) It may have a fair and consistent procedure for selecting teachers who will be given additional responsibilities. The selection procedure shall incorporate clearly stated job descriptions and qualifications for each level on the career ladder.

(4) (a) It may have a program of differentiated staffing that provides additional compensation and, as appropriate, additional extensions of the contract year, for those who assume additional instruction-related responsibilities such as:

~~[(a)]~~ (i) assisting students and beginning teachers;

~~[(b)]~~ (ii) curriculum and lesson plan development;

~~[(c)]~~ (iii) helping established teachers improve their teaching skills;

~~[(d)]~~ (iv) volunteer training;

~~[(e)]~~ (v) planning[.];

(vi) facilities and productivity improvements; and

~~[(f)]~~ (vii) educational assignments directed at establishing positive relationships with the community, businesses, and parents.

(b) Administrative and extracurricular activities are not considered additional instruction-related activities under this Subsection (4).

(5) It may have a well defined program of evaluation and guidance for beginning teachers, designed to assist those teachers during provisional years of teaching to acquire and demonstrate the skills required of capable, successful teachers. Continuation in teaching from year to year shall be contingent upon satisfactory teaching performance.

(6) It may have a clear and concise explanation of the evaluation system components, including the respective roles of parents, teachers, administrators, and the school board in the

development of the evaluation system. The system shall provide for frequent, comprehensive evaluations of teachers with less than three years' teaching experience, and periodic evaluations of other teachers.

(7) Advancement on the career ladder program is contingent upon effective teaching performance, evidence of which may include formal evaluation and assessment of student progress. Student progress shall play a significant role in teacher evaluation. Other criteria may include formal preparation and successful teaching experience.

(8) It may include an assessment of implementation costs.

(9) It may have a plan for periodic review of the career ladder including the makeup of the reviewing entity, procedures to be followed during review, and the time schedule for the review.

Section 30. Section **53A-11-203** is amended to read:

53A-11-203. Vision screening.

(1) A child under seven years of age entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the division, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects. As used in this section, "division" means the Division of Services for the Blind and Visually [Handicapped] Impaired, State Office of Education; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(2) The division shall provide vision screening report forms to persons approved by the division to conduct the screening.

(3) Each school district may conduct free vision screening clinics for children aged 3-1/2 to seven.

(4) The division shall maintain a central register of children, aged 3-1/2 to seven, who fail vision screening and who are referred for follow-up treatment. The register shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results. Each school district

shall report referral follow-up results to the division.

(5) The division shall coordinate and supervise the training of persons who serve as vision screeners.

(6) A licensed health professional providing vision care to private patients may not participate as a screener in free vision screening programs provided by school districts.

(7) The Department of Health shall, by rule, set standards and procedures for vision screening required by this chapter, and shall provide the division with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(8) The division shall supervise screening, referral, and follow-up required by this chapter.

Section 31. Section **53A-17a-106** is amended to read:

53A-17a-106. Determination of weighted pupil units.

The number of weighted pupil units in the minimum school program for each year is the total of the units for each school district determined as follows:

(1) The number of units is computed by adding the average daily membership of all pupils of the district attending schools, other than kindergarten and self-contained classes for ~~[handicapped]~~ children with a disability.

(2) The number of units is computed by adding the average daily membership of all pupils of the district enrolled in kindergarten and multiplying the total by .55.

(a) In those districts that do not elect to hold kindergarten for a full nine-month term, the local school board may approve a shorter term of nine weeks' duration.

(b) Upon board approval, the number of pupils in average daily membership at the short-term kindergarten shall be counted for the purpose of determining the number of units allowed in the same ratio as the number of days the short-term kindergarten is held, not exceeding nine weeks, compared to the total number of days schools are held in that district in the regular school year.

(3) (a) The State Board of Education shall use prior year plus growth to determine average daily membership in distributing monies under the minimum school program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

Section 32. Section **53A-17a-127** is amended to read:

53A-17a-127. Eligibility for state-supported transportation -- Approved bus routes -- Additional local tax.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade six who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades seven through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the State Board of Education for trainable, motor, multiple-disabled, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their [~~handicapping~~] disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the State Board of Education, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3) (a) The State Office of Education shall distribute transportation monies to school districts based on three factors:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) an annual allowance for equipment and overhead costs based on approved bus routes

and the age of the equipment.

(b) In order for a bus to be considered for the equipment allowance, it must meet federal and state regulations and standards for school buses.

(c) The State Office of Education shall annually review the allowance per mile, the allowance per hour, and the annual equipment and overhead allowance and adjust the allowance to reflect current economic conditions.

(4) (a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

(5) A Transportation Advisory Committee with representation from local school superintendents, business officials, school district transportation supervisors, and the State Office of Education shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.

(6) (a) A local school board may provide for the transportation of students who are not eligible under Subsection (1), regardless of the distance from school, from:

(i) general funds of the district; and

(ii) a tax rate not to exceed .0003 per dollar of taxable value imposed on the district.

(b) A local school board may use revenue from the tax to pay for transporting participating students to interscholastic activities, night activities, and educational field trips approved by the board and for the replacement of school buses.

(c) (i) If a local school board levies a tax under Subsection (6)(a)(ii) of at least .0002, the state may contribute an amount not to exceed 85% of the state average cost per mile, contingent upon the Legislature appropriating funds for a state contribution.

(ii) The State Office of Education shall distribute the state contribution according to rules enacted by the State Board of Education.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under Subsection (6)(c) may not be reduced for the sole reason that the district's levy is

reduced as a consequence of changes in the certified tax rate under Section 59-2-924 [~~pursuant~~] due to changes in property valuation.

(ii) Subsection (6)(d)(i) applies for a period of two years following the change in the certified tax rate.

(7) There is appropriated for the fiscal year beginning July 1, 1999, \$225,000 to the state board as the state's contribution under Subsection (6)(c)(i).

Section 33. Section **53A-20-103** is amended to read:

53A-20-103. Planning, design, and construction of public school buildings -- Duties of State Board of Education.

The State Board of Education has the following duties:

(1) It shall adopt codes to govern the preparation of plans and specifications for public school buildings. The codes shall include minimum standards for:

(a) construction, heating, ventilation, sanitation, lighting, plumbing, structural safety, protection from fire, panic, and other dangers;

(b) promotion of the safety, health, and comfort of the occupants; and

(c) providing functional adaptability including suitable facilities for [~~handicapped;~~] persons with a disability.

(2) It shall require local school boards to maintain a current inventory of school plant facilities in conformance with rules established by the board.

(3) It shall establish planning procedures for school districts to determine the need for school plant facilities. The procedures shall include definitions of methods, criteria, and other pertinent information necessary to determine the type, size, location, and cost of school plant facilities eligible for state financial participation.

(4) It shall require local school boards to prepare and maintain surveys of school plant capital outlay needs. The surveys shall include immediate and long-range school plant capital outlay needs in accordance with planning procedures established by the state board and space utilization studies, enrollment projections, district and attendance area organization, class size, conditions of present facilities, financial structure of the district, and other necessary information.

(5) It shall prepare a guide for use by school districts in formulating educational specifications for individual building projects.

(6) It shall recommend minimum requirements for contracts and agreements between architects and engineers and local school boards. As a condition of the contract or agreement, the state board shall require the use of independent licensed consulting engineers for engineering design work.

(7) It shall recommend minimum requirements for advertising, bidding, and contractual procedures for school plant construction.

(8) It shall provide school districts with findings regarding school designs, including flexibility of design and modular planning, new methods of construction, and new material.

(9) It shall prepare an annual school plant capital outlay report of all school districts, including tabulations of facilities available, number and size of projects completed and under construction, and additional facilities required.

Section 34. Section **53A-25-206** is amended to read:

53A-25-206. Instruction of adults with visual impairments.

Persons over 21 who are capable of receiving beneficial instruction, but are incapable [~~because of blindness or defective sight~~] of receiving adequate instruction in other public schools because of impaired vision, may, in the discretion of the board of trustees, be admitted to the school.

Section 35. Section **55-5-5** is amended to read:

55-5-5. State policy -- Construction of provisions.

It is the policy of this state to provide maximum opportunities for training blind or visually [~~handicapped~~] impaired persons, helping them to become self-supporting and demonstrating their capabilities. This act shall be construed to carry out this policy.

Section 36. Section **59-10-108** is amended to read:

59-10-108. Credit for cash contributions to sheltered workshops.

(1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due the state [~~of Utah pursuant to~~] under Section 59-10-104 there shall be a tax credit allowed for cash contributions made within the taxable year to nonprofit rehabilitation sheltered workshop facilities

for ~~[the handicapped]~~ persons with a disability operating in Utah ~~[which]~~ that are certified by the Department of Human Services as a qualifying facility.

(2) The allowable credit is an amount equal to 50% of the aggregate amount of the cash contributions to the qualifying rehabilitation facilities, but ~~[in no case shall]~~ the allowed credit may not exceed \$200.

(3) The amount of contribution claimed as a tax credit ~~[pursuant to]~~ under this section may not also be claimed as a charitable deduction in determining net taxable income.

Section 37. Section **62A-1-111** is amended to read:

62A-1-111. Department authority.

The department ~~[has authority]~~ may, in addition to all other authority and responsibility granted to it by law~~[, to]~~:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or his legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63, Chapter 46b, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for its services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the

department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the Workforce Services Plan by the State Council on Workforce Services;

(13) carry out the responsibility assigned by Section 9-4-802 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for [~~handicapped~~] students with a disability;

(15) provide training and educational opportunities for its staff;

(16) collect child support payments and any other monies due to the department;

(17) apply the provisions of Title 78, Chapter 45, Uniform Civil Liability for Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures in cases where the department is given custody of a minor by the juvenile court pursuant to Section 78-3a-118; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to it by statute; and

(20) examine and audit the expenditures of any public funds provided to local substance

abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Sections 62A-8-101 and 62A-12-101.

Section 38. Section **62A-4a-105** is amended to read:

62A-4a-105. Division responsibilities.

The division shall:

- (1) administer services to children and families, including child welfare services, youth services, domestic violence services, and all other responsibilities that the Legislature or the executive director may assign to the division;
- (2) establish standards for all contract providers of out-of-home care for children and families;
- (3) cooperate with the federal government in the administration of child welfare, youth services, and domestic violence programs and other human service activities assigned by the department;
- (4) provide for the compilation of relevant information, statistics, and reports on child and family service matters in the state;
- (5) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(6) promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state. In carrying out the provisions of this subsection, the division shall cooperate with the juvenile courts, the Division of Youth Corrections, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and supports. The division shall take the initiative in all matters involving the protection of abused or neglected children if adequate provisions have not been made or are not likely to be made, and shall make expenditures necessary for the care and protection of those children, within the division's budget;

(7) provide substitute care for dependent, abused, neglected, and delinquent children, establish standards for substitute care facilities, and approve those facilities;

(8) provide financial support to persons adopting [~~physically handicapped, mentally handicapped,~~] a child or children with a physical or mental disability, or older, or other hard-to-place children who, immediately prior to adoption, were legal wards of the state. The financial support provided under this Subsection (8) may not exceed the amounts the division would provide for the child as a legal ward of the state;

(9) cooperate with the Division of Employment Development in the Department of Workforce Services in meeting social and economic needs of individuals eligible for public assistance;

(10) conduct court-ordered home evaluations for the district and juvenile courts with regard to child custody issues. The court shall order either or both parties to reimburse the division for the cost of that evaluation, in accordance with the community rate for that service or with the department's fee schedule rate;

(11) provide noncustodial and in-home preventive services, designed to prevent family breakup, family preservation services, and reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 78, Chapter 3a, Juvenile Courts;

(12) provide protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(13) establish programs pursuant to Section 62A-4a-250, and provide services to runaway and ungovernable children and their families;

(14) provide shelter care in accordance with the requirements of this chapter and Title 78, Chapter 3a, Juvenile Courts;

(15) provide social studies and reports for the juvenile court in accordance with Section 78-3a-505;

(16) arrange for and provide training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(17) provide domestic violence services in accordance with the requirements of federal law, and establish standards for all direct or contract providers of domestic violence services. Within appropriations from the Legislature, the division shall provide or contract for a variety of domestic violence services and treatment methods;

(18) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who have a permanency goal of adoption, or for whom a final plan of termination of parental rights has been approved, pursuant to Section 78-3a-312, and promote adoption of those children;

(19) provide protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings;

(20) have authority to contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(21) perform [~~such~~] other duties and functions as required by law.

Section 39. Section **63B-5-201** is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United State Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction

and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of Parks and Recreation, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Parks and Recreation to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage Control to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange

for a lease purchase agreement in which participation interests may be created, to provide up to \$857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$3,470,200 for the construction of the Student Services Center, at the College of Eastern Utah, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the College of Eastern Utah to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed \$6,000,000 together with additional amounts necessary to:

- (A) pay cost of issuance;
- (B) pay capitalized interest; and
- (C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,479,000 for the construction of a facility for the Courts - Davis County Regional Expansion, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership [Authority] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of the Court Administrator to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63, Chapter 9a,

State Building Ownership [~~Authority~~] Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually [~~Handicapped~~] Impaired, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Office of Education and the Department of Community and Economic Development to seek out the most cost effective and prudent lease purchase plan available.

Section 40. Section **75-5-316** is amended to read:

75-5-316. Expedited guardianship proceedings.

(1) (a) With regard to persons who are residents of the Utah State Developmental Center, the expedited process provided by this section may be applied to obtain a limited guardianship.

(b) For purposes of this section:

(i) "Limited guardianship" means a guardianship solely for the purpose of granting consent for medical care and for participation in approval of the ward's individualized program plan.

(ii) "Ward" means a resident of the Utah State Developmental Center who is the subject of guardianship proceedings under this section.

(2) Any person interested in the incapacitated person's welfare may file a petition for a finding of incapacity and appointment of a guardian. That person may seek the limited guardianship pro se, using the forms described in this section. Any fee for filing a petition for a limited guardianship shall be waived if the guardian is proceeding under this section.

(3) Upon filing a petition for limited guardianship under this section, the court shall set a date for hearing.

(4) The ward has the right to be present at the hearing and to see and hear all evidence relating to his condition.

(5) At that hearing the court shall review the affidavit of the superintendent of the Utah State

Developmental Center, described in Subsection (11), and determine whether notice has been given to the appropriate persons described in Subsection (6).

(6) If the proposed guardian is not a parent or relative of the ward, personal notice shall be given to the ward's spouse, parents, and any adult children of the ward. Personal notice shall also be given to [~~such~~] other persons as the court may direct.

(7) The court may, in its discretion, appoint a guardian ad litem to represent the ward in the hearing, and may request independent evaluation by a physician appointed by the court. The physician shall submit his findings to the court in writing.

(8) The court may grant the petition for a limited guardianship and sign the Order of Appointment if the court finds that:

(a) the appropriate parties have been given notice;

(b) the ward is incapacitated, based on the affidavit of the superintendent of the Utah State Developmental Center and any affidavit or testimony of persons entitled to receive notice or requested to present evidence under this section; and

(c) it is necessary and desirable to establish the guardianship.

(9) Venue for these expedited guardianship proceedings shall be the same as that described in Section 75-5-302.

(10) A petition for a limited guardianship shall include the following information:

(a) the interest of the petitioner;

(b) the name, age, residence, and address of the ward;

(c) verification that the ward is a resident of the Utah State Developmental Center;

(d) the name and address of the nearest relative of the ward; and

(e) the reason for appointment of guardianship.

(11) The petitioner shall also provide the court with an affidavit of the superintendent of the Utah State Developmental Center that includes the following information:

(a) that the ward is a resident of the Utah State Developmental Center;

(b) the date [~~on which~~] the ward was originally admitted to the Utah State Developmental Center;

(c) the diagnosis of the ward, including a description of [~~his handicapping~~] the ward's disabling condition, the level of retardation, and any medical or physical conditions;

(d) that the Utah State Developmental Center is certified as an Intermediate Care Facility for the Mentally Retarded under Title XIX of the Social Security Act;

(e) that because of that certification, the Utah State Developmental Center receives financial participation from the United States Government for its operation and maintenance costs; and

(f) that federal regulations under Title XIX require the ward to have a guardian appointed for the sole purpose of giving consent for medical and dental care and of participation in and approval of the ward's individual program plan.

(12) If the court finds that, under the requirements of this section the proposed limited guardian should be appointed, it shall enter an order establishing that limited guardianship in substantially the following form:

The court finds that:

(a) appointment of a limited guardianship for (named ward) is necessary and desirable as a means of providing continuing care and supervision and to ensure his welfare;

(b) the ward is incapacitated;

(c) (named guardian) is appointed as the limited guardian of (named ward); and

(d) the guardianship is a limited guardianship solely for the purpose of:

(i) granting permission for medical and dental care on behalf of the ward; and

(ii) participation in the development and approval of the ward's individual program plan.

(13) Appointment of guardianship under this section places no additional responsibility or liability on the guardian with regard to the ward. The limited guardianship is solely for consent for medical care and approval of the ward's individualized program plan, and shall not be construed to increase or create liability or responsibility for the guardian.

Section 41. Section **78-11-23** is amended to read:

78-11-23. Right to life -- State policy.

The Legislature finds and declares that it is the public policy of this state to encourage all persons to respect the right to life of all other persons, regardless of age, development, condition or

dependency, including all [~~handicapped~~] persons with a disability and all unborn persons.