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? 01-08-01 3:04 PM ?

FEES RECODIFICATION

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Neil A. Hansen

This act modifies the Fees Title. This act renumbers and amends sections related to fees and makes technical corrections.

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

AMENDS:

10-3-703.5, as enacted by Chapter 323, Laws of Utah 2000

17-25a-4, as enacted by Chapter 44, Laws of Utah 1990

34A-6-301, as renumbered and amended by Chapter 375, Laws of Utah 1997

35A-3-114, as last amended by Chapter 133, Laws of Utah 2000

41-6-44.10, as last amended by Chapters 89 and 334, Laws of Utah 2000

53-3-223, as last amended by Chapter 334, Laws of Utah 2000

63-55-235, as last amended by Chapter 133, Laws of Utah 2000

63-63a-8, as last amended by Chapter 133, Laws of Utah 2000

70A-9-403 (Repealed 07/01/01), as last amended by Chapter 133, Laws of Utah 2000

70A-9-404 (Repealed 07/01/01), as last amended by Chapter 133, Laws of Utah 2000

70A-9a-525 (Effective 07/01/01), as enacted by Chapter 252, Laws of Utah 2000

77-18-10, as last amended by Chapter 170, Laws of Utah 1998

78-6-14, as last amended by Chapter 215, Laws of Utah 1997

78-28-1, as last amended by Chapter 112, Laws of Utah 2000

78-31b-9, as last amended by Chapter 215, Laws of Utah 1997

78-46-1, as last amended by Chapter 21, Laws of Utah 1999

78-56-108, as last amended by Chapter 149, Laws of Utah 2000

RENUMBERS AND AMENDS:

13-1a-9 (Effective 04/30/01), (Renumbered from 21-1-2.5 (Effective 04/30/01), as last

HB0019

28 amended by Chapter 300, Laws of Utah 2000)

29 **13-1a-9 (Superseded 04/30/01)**, (Renumbered from 21-1-2.5 (Superseded 04/30/01), as
30 last amended by Chapter 313, Laws of Utah 1994)

31 **17-16-21**, (Renumbered from 21-2-8, as renumbered and amended by Chapter 133, Laws
32 of Utah 2000)

33 **17-21-18.5**, (Renumbered from 21-2-3, as last amended by Chapter 79, Laws of Utah
34 1996)

35 **17-22-2.5**, (Renumbered from 21-2-4, as last amended by Chapter 167, Laws of Utah
36 1991)

37 **17-25-2**, (Renumbered from 21-3-3, as last amended by Chapter 44, Laws of Utah 1990)

38 **17-25-3**, (Renumbered from 21-3-3.5, as last amended by Chapter 44, Laws of Utah 1990)

39 **17-25-4**, (Renumbered from 21-3-4, as last amended by Chapters 38 and 227, Laws of
40 Utah 1993)

41 **17-25-5**, (Renumbered from 21-3-5, as last amended by Chapter 198, Laws of Utah 1996)

42 **67-1a-2.5 (Effective 04/30/01)**, (Renumbered from 21-1-2 (Effective 04/30/01), as last
43 amended by Chapter 300, Laws of Utah 2000)

44 **67-1a-2.5 (Superseded 04/30/01)**, (Renumbered from 21-1-2 (Superseded 04/30/01), as
45 last amended by Chapter 313, Laws of Utah 1994)

46 **67-3-1.5**, (Renumbered from 21-1-3, Utah Code Annotated 1953)

47 **78-5-135.5**, (Renumbered from 21-7-19, as last amended by Chapter 59, Laws of Utah
48 1990)

49 **78-7-35**, (Renumbered from 21-1-5, as last amended by Chapters 149 and 323, Laws of
50 Utah 2000)

51 **78-7-35.1**, (Renumbered from 21-1-4, as last amended by Chapter 176, Laws of Utah
52 1998)

53 **78-7-36**, (Renumbered from 21-7-3, as last amended by Chapter 161, Laws of Utah 1996)

54 **78-7-37**, (Renumbered from 21-7-4, as last amended by Chapter 161, Laws of Utah 1996)

55 **78-7-38**, (Renumbered from 21-7-4.5, as last amended by Chapter 147, Laws of Utah
56 1998)

57 **78-7-39**, (Renumbered from 21-7-4.6, as last amended by Chapter 147, Laws of Utah
58 1998)

- 59 **78-7-40**, (Renumbered from 21-7-4.7, as last amended by Chapter 147, Laws of Utah
60 1998)
- 61 **78-7-41**, (Renumbered from 21-7-5, as last amended by Chapter 59, Laws of Utah 1990)
- 62 **78-7-42**, (Renumbered from 21-7-6, as last amended by Chapter 59, Laws of Utah 1990)
- 63 **78-7-43**, (Renumbered from 21-7-7, Utah Code Annotated 1953)
- 64 **78-7-44**, (Renumbered from 21-7-20, as enacted by Chapter 14, Laws of Utah 1996)
- 65 **78-46-24**, (Renumbered from 21-5-1, as repealed and reenacted by Chapter 219, Laws of
66 Utah 1992)
- 67 **78-46-25**, (Renumbered from 21-5-1.5, as last amended by Chapter 38, Laws of Utah
68 1993)
- 69 **78-46-26**, (Renumbered from 21-5-2, Utah Code Annotated 1953)
- 70 **78-46-27**, (Renumbered from 21-5-3, Utah Code Annotated 1953)
- 71 **78-46-28**, (Renumbered from 21-5-4, as last amended by Chapter 74, Laws of Utah 1998)
- 72 **78-46-29**, (Renumbered from 21-5-4.5, as last amended by Chapter 219, Laws of Utah
73 1992)
- 74 **78-46-30**, (Renumbered from 21-5-8, as last amended by Chapter 153, Laws of Utah 1989)
- 75 **78-46-31**, (Renumbered from 21-5-11, as last amended by Chapter 227, Laws of Utah
76 1993)
- 77 **78-46-32**, (Renumbered from 21-5-14, as last amended by Chapter 153, Laws of Utah
78 1989)
- 79 **78-46-33**, (Renumbered from 21-5-14.5, as last amended by Chapter 219, Laws of Utah
80 1992)
- 81 **78-46-34**, (Renumbered from 21-5-15, as last amended by Chapter 159, Laws of Utah
82 1993)
- 83 **78-46-35**, (Renumbered from 21-5-16, Utah Code Annotated 1953)
- 84 **78-46-36**, (Renumbered from 21-5-17, as last amended by Chapter 40, Laws of Utah 1967)
- 85 **78-46-37**, (Renumbered from 21-5-18, as last amended by Chapter 153, Laws of Utah
86 1989)
- 87 **78-46-38**, (Renumbered from 21-6-5, as last amended by Chapter 90, Laws of Utah 1981)
- 88 **78-46-39**, (Renumbered from 21-7-16, as last amended by Chapter 198, Laws of Utah
89 1996)

90 **78-46-40**, (Renumbered from 21-7-17, Utah Code Annotated 1953)

91 **78-46-41**, (Renumbered from 21-7-18, Utah Code Annotated 1953)

92 REPEALS:

93 **21-1-1**, Utah Code Annotated 1953

94 **21-6-1**, Utah Code Annotated 1953

95 **21-6-2**, Utah Code Annotated 1953

96 **21-6-3**, as last amended by Chapter 75, Laws of Utah 2000

97 **21-6-6**, Utah Code Annotated 1953

98 **21-6-7**, Utah Code Annotated 1953

99 **21-7-1**, Utah Code Annotated 1953

100 **21-7-2**, as last amended by Chapter 181, Laws of Utah 1991

101 **21-7-9**, Utah Code Annotated 1953

102 **21-7-10**, Utah Code Annotated 1953

103 **21-7-11**, Utah Code Annotated 1953

104 **21-7-12**, Utah Code Annotated 1953

105 **21-7-13**, Utah Code Annotated 1953

106 **21-7-14**, as last amended by Chapter 227, Laws of Utah 1993

107 **21-7-15**, Utah Code Annotated 1953

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

109 Section 1. Section **10-3-703.5** is amended to read:

110 **10-3-703.5. Civil penalty for violation of municipal ordinance -- Administrative**
111 **traffic proceedings -- Appeals.**

112 (1) As used in this section, "municipality" means a municipality of the first class, as
113 defined in Section 10-2-301, that had ordinances in effect on or before January 1, 2000 that
114 provide a civil penalty for and administrative adjudication of moving traffic violations.

115 (2) (a) A municipality may, by ordinance, impose a civil penalty and provide adjudication
116 for a violation of a municipal moving traffic ordinance, including regulations described in Section
117 41-6-17, through an administrative traffic proceeding.

118 (b) The default civil penalty for a municipal traffic ordinance shall be consistent with the
119 uniform bail schedule adopted by the Judicial Council.

120 (c) A civil traffic violation constitutes a public offense for purposes of Section 77-7-15 and

121 may be enforced as provided in that section.

122 (3) An administrative traffic proceeding:

123 (a) shall, except as provided in this section, be conducted in accordance with Section
124 10-3-703.7; and

125 (b) may not be held for:

126 (i) a moving violation that would be a class B misdemeanor in a criminal proceeding;

127 (ii) a violation of Title 41, Chapter 6, Article 5, Driving While Intoxicated and Reckless
128 Driving; or

129 (iii) a traffic violation that occurs in conjunction with another criminal violation as part
130 of a single criminal episode that will be prosecuted in a criminal proceeding.

131 (4) If a final administrative determination in an administrative traffic proceeding is for a
132 violation:

133 (a) the civil penalty is subject to the fees or surcharges established in Subsections [~~21-1-5~~
134 78-7-35(2)(d)(ii) and 63-63a-1(1)(b)(ii);

135 (b) the final administrative determination constitutes a conviction as defined in Section
136 53-3-102; and

137 (c) the final administrative determination may be appealed by a party in accordance with
138 Section 10-3-703.7.

139 (5) (a) A municipality that has a population greater than 150,000, according to the last
140 official federal census, shall remit to the state by June 30 of each fiscal year:

141 (i) \$504,700 for fiscal year 2000-01; and

142 (ii) \$580,400 for fiscal year 2001-02.

143 (b) A municipality that has a population less than 150,000, according to the last official
144 federal census, shall remit to the state by June 30 of each fiscal year:

145 (i) \$388,600 for fiscal year 2000-01; and

146 (ii) \$446,900 for fiscal year 2001-02.

147 (c) If a municipality repeals the ordinance described in Subsection (2)(a) prior to the end
148 of a fiscal year, the municipality shall remit to the state the amount described in Subsection (5)(a)
149 or (b) prorated according to the date the ordinance is repealed.

150 (d) Monies remitted to the state under this Subsection (5) shall be remitted to the state
151 treasurer and deposited in the state General Fund.

152 Section 2. Section **13-1a-9 (Effective 04/30/01)**, which is renumbered from Section
153 21-1-2.5 (Effective 04/30/01) is renumbered and amended to read:

154 ~~[21-1-2.5 (Effective 04/30/01)].~~ **13-1a-9 (Effective 04/30/01). Fees of Division of**
155 **Corporations and Commercial Code.**

156 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit
157 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the Division
158 of Corporations and Commercial Code shall receive and determine fees pursuant to Section
159 63-38-3.2 for filing articles of incorporation or amendments of insurance corporations, of canal
160 or irrigation corporations organized for furnishing water to lands owned by the members thereof
161 exclusively, or of water users' associations organized in conformity with the requirements of the
162 United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish
163 water only to their stockholders. No license fee may be imposed on insurance corporations, canal
164 or irrigation corporations organized for furnishing water to lands owned by the members thereof
165 exclusively, or water users' associations organized in conformity with the requirements of the
166 United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish
167 water only to the stockholders at the time any such corporation files its articles of incorporation,
168 articles of amendment increasing the number of authorized shares, or articles of merger or
169 consolidation, any provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, to
170 the contrary notwithstanding.

171 Section 3. Section **13-1a-9 (Superseded 04/30/01)**, which is renumbered from Section
172 21-1-2.5 (Superseded 04/30/01) is renumbered and amended to read:

173 ~~[21-1-2.5 (Superseded 04/30/01)].~~ **13-1a-9 (Superseded 04/30/01). Fees of**
174 **Division**
of Corporations and Commercial Code.

175 In addition to the fees prescribed by Title 16, Chapter 10a, Utah Revised Business
176 Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative
177 Association Act, the Division of Corporations and Commercial Code shall receive and determine
178 fees pursuant to Section 63-38-3.2 for filing articles of incorporation or amendments of insurance
179 corporations, of canal or irrigation corporations organized for furnishing water to lands owned by
180 the members thereof exclusively, or of water users' associations organized in conformity with the
181 requirements of the United States under the Reclamation Act of June 17, 1902, and which are
182 authorized to furnish water only to their stockholders. No license fee may be imposed on

183 insurance corporations, canal or irrigation corporations organized for furnishing water to lands
184 owned by the members thereof exclusively, or water users' associations organized in conformity
185 with the requirements of the United States under the Reclamation Act of June 17, 1902, and which
186 are authorized to furnish water only to the stockholders at the time any such corporation files its
187 articles of incorporation, articles of amendment increasing the number of authorized shares, or
188 articles of merger or consolidation, any provision of Title 16, Chapter 10a, Utah Revised Business
189 Corporation Act, to the contrary notwithstanding.

190 Section 4. Section **17-16-21**, which is renumbered from Section 21-2-8 is renumbered and
191 amended to read:

192 ~~[21-2-8]~~. **17-16-21. Fees of county officers.**

193 (1) As used in this section, "county officer" means all of the county officers enumerated
194 in Section 17-53-101 except county recorders, county constables, and county sheriffs.

195 (2) (a) Each county officer shall collect, in advance, for exclusive county use and benefit:

196 (i) all fees established by the county legislative body under this section; and

197 (ii) any other fees authorized or required by law.

198 (b) As long as the displaced homemaker program is authorized by Section 35A-3-114, the
199 county clerk shall:

200 (i) assess \$20 in addition to whatever fee for a marriage license is established under
201 authority of this section; and

202 (ii) transmit \$20 from each marriage license fee to the Division of Finance to be credited
203 to the displaced homemaker program.

204 (c) As long as the Children's Legal Defense Account is authorized by Section 63-63a-8,
205 the county clerk shall:

206 (i) assess \$10 in addition to whatever fee for a marriage license is established under
207 authority of this section and in addition to the \$20 assessed for the displaced homemaker program;
208 and

209 (ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in
210 the Children's Legal Defense Account.

211 (3) This section does not apply to any fees currently being assessed by the state but
212 collected by county officers.

213 Section 5. Section **17-21-18.5**, which is renumbered from Section 21-2-3 is renumbered

214 and amended to read:

215 ~~[21-2-3]~~. 17-21-18.5. Fees of county recorder.

216 (1) The county recorder shall receive the following fees:

217 (a) for receiving, entering, and filing any instrument, paper, or notice, not otherwise
218 provided for, other than bonds of public officers, \$10;

219 (b) for recording any instrument, paper, or notice, including those provided for under Title
220 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided
221 for, \$10 for the first page, if the page is not larger than 8 1/2 inches x 14 inches in size, and \$2 for
222 each additional page, and if any instrument, paper, or notice contains more than one description,
223 \$1 for each additional description;

224 (c) for recording any instrument in which a right-of-way is described, which is connected
225 with or is appurtenant to any tract of land described in the instrument, \$1, but if the instrument
226 contains a description of more than one right-of-way, \$1 for each additional right-of-way, and if
227 any instrument contains more than two names for either first or second party, or plaintiffs or
228 defendants, for each additional name, \$1;

229 (d) for recording, indexing, and abstracting mining location notices, and recording,
230 indexing, and abstracting affidavits of labor affecting mining claims, \$10 for the first page if that
231 page is not larger than 8 1/2 inches by 14 inches in size, and \$2 for each additional page; and

232 (e) for a location notice, affidavit, or proof of labor which contains names of more than
233 two signers, \$1 for each additional name, and for an affidavit or proof of labor which contains
234 more than one mining claim, \$1 for each additional mining claim.

235 (2) (a) Each county recorder shall record the mining rules of the several mining districts
236 in each county without fee.

237 (b) Certified copies of these records shall be received in all tribunals and before all officers
238 of this state as prima facie evidence of the rules.

239 (3) The county recorder shall receive the following fees:

240 (a) for copies of any record or paper, a reasonable fee determined and set by the county
241 legislative body;

242 (b) for each certificate under seal, \$2;

243 (c) for recording any plat of a subdivision into lots and blocks, \$1 for each lot, and \$30 for
244 each sheet;

245 (d) for recording any other plat or map, \$30 for each sheet and \$1 for each lot or unit
246 designation;

247 (e) for taking and certifying acknowledgments, including seal, \$5 for one name and \$2 for
248 each additional name;

249 (f) for recording any license issued by the Division of Occupational and Professional
250 Licensing, \$10;

251 (g) for filing of federal tax lien, \$10, and for the discharge of the lien, \$10;

252 (h) for copies of microfilm, a charge per lineal foot as fixed by the county governing body,
253 not to exceed the cost of reproduction of the film plus 10%; and

254 (i) for all services not enumerated in this section, a reasonable compensation.

255 Section 6. Section **17-22-2.5**, which is renumbered from Section 21-2-4 is renumbered and
256 amended to read:

257 **[21-2-4]. 17-22-2.5. Fees of sheriff.**

258 (1) The sheriff shall receive the following fees:

259 (a) for serving a notice, rule, order, subpoena, garnishment, summons, or summons and
260 complaint, or garnishee execution, or other process by which an action or proceeding is
261 commenced, on each defendant, including copies when furnished by plaintiff, \$6;

262 (b) for taking or approving a bond or undertaking in any case in which he is authorized to
263 take or approve a bond or undertaking, including justification, \$2;

264 (c) for a copy of any writ, process or other paper when demanded or required by law, for
265 each folio, 50 cents;

266 (d) for serving an attachment on property, or levying an execution, or executing an order
267 of arrest or an order for the delivery of personal property, including copies when furnished by
268 plaintiff, \$25;

269 (e) for taking and keeping possession of and preserving property under attachment or
270 execution or other process, the amount the court orders to a maximum of \$5 per day;

271 (f) for advertising property for sale on execution, or any judgment, or order of sale,
272 exclusive of the cost of publication, \$5;

273 (g) for drawing and executing a sheriff's deed or a certificate of redemption, exclusive of
274 acknowledgment, \$5, to be paid by the grantee;

275 (h) for recording each deed, conveyance, or other instrument affecting real estate,

276 exclusive of the cost of recording, \$2, to be paid by the grantee;

277 (i) for serving a writ of possession or restitution, and putting any person entitled to
278 possession into possession of premises, and removing occupant, \$25;

279 (j) for holding each trial of right of property, to include all services in the matter, except
280 mileage, \$15;

281 (k) for conducting, postponing, or canceling a sale of property, \$5;

282 (l) for taking a prisoner in civil cases from prison before a court or magistrate, for each
283 mile necessarily traveled, in going only, \$1;

284 (m) for taking a prisoner from the place of arrest to prison, in civil cases, or before a court
285 or magistrate, for each mile necessarily traveled, in going only, \$1;

286 (n) for receiving and paying over money on execution or other process, as follows:

287 (i) if the amount collected does not exceed \$1,000, 2% of this amount, with a minimum
288 of \$1; and

289 (ii) if the amount collected exceeds \$1,000, 2% on the first \$1,000 and 1-1/2% on the
290 balance; and

291 (o) for executing in duplicate a certificate of sale, exclusive of filing it, \$5.

292 (2) The fees allowed by Subsection (1)(f) for the levy of execution and for advertising shall
293 be collected from the judgment debtor as part of the execution in the same manner as the sum
294 directed to be made.

295 (3) When serving an attachment on property, an order of arrest, or an order for the delivery
296 of personal property, the sheriff may only collect traveling fees for the distance actually traveled
297 beyond the distance required to serve the summons if the attachment or those orders:

298 (a) accompany the summons in the action; and

299 (b) may be executed at the time of the service of the summons.

300 (4) (a) (i) When traveling generally to serve notices, orders, process, or other papers, the
301 sheriff may receive \$1 for each mile necessarily traveled, in going only, computed from the
302 courthouse for each person served.

303 (ii) When transmitting notices, orders, process, or other papers by mail, the sheriff may
304 receive \$1 for each mile necessarily traveled, in going only, computed from the post office where
305 received for each person served.

306 (b) The sheriff may only charge one mileage fee if any two or more papers are required to

307 be served in the same action or proceeding at the same time and at the same address.

308 (c) If it is necessary to make more than one trip to serve any notice, order, process, or other
309 paper, the sheriff may not collect more than two additional mileage charges.

310 (5) (a) For delivering an insane person to the Utah State Hospital, when the cost of
311 delivery is payable by private individuals, the sheriff may collect \$1 per mile for the distance from
312 the county seat of his county to the Utah State Hospital.

313 (b) If the sheriff requires assistance to deliver the person to the Utah State Hospital, the
314 sheriff may also charge the actual and necessary cost of that assistance.

315 Section 7. Section **17-25-2**, which is renumbered from Section 21-3-3 is renumbered and
316 amended to read:

317 ~~[21-3-3]~~. **17-25-2. Fees for constables -- Civil.**

318 (1) Constables may for their own use collect as compensation in civil matters the same fees
319 as those specified for sheriffs in Section ~~[21-2-4]~~ 17-22-2.5.

320 (2) Constable fees that exceed the amounts in Section ~~[21-2-4]~~ 17-22-2.5 are recoverable:

321 (a) by the constable only if he has received prior approval for the increased fee from the
322 party requesting the service; and

323 (b) by prevailing party as a cost of the action only if the court finds the service and
324 increased fee are justifiable.

325 Section 8. Section **17-25-3**, which is renumbered from Section 21-3-3.5 is renumbered and
326 amended to read:

327 ~~[21-3-3.5]~~. **17-25-3. Fees for constables -- Criminal.**

328 (1) (a) In criminal matters constables shall be paid for each copy of a summons, subpoena,
329 notice, court order, or other criminal paper, except a warrant of arrest;

330 (i) \$5 for each defendant served; and

331 (ii) mileage of \$1 per mile for each mile necessarily traveled in going only, to be computed
332 from either the courthouse, or when transmitted by mail, from the post office where received.

333 (b) If more than one trip is necessary to serve, or diligently attempt to serve, service of
334 process, mileage charges for more than two trips may be collected only if the party requesting the
335 service of process has approved the additional mileage charges.

336 (c) Each charge shall be individually documented on the affidavit of return of service.

337 (2) Lower charges may be established by contract for services under this ~~[subsection]~~

338 section.

339 (3) If a constable serves process in a county other than the county where the process
340 originated, travel expenses may not exceed the fee that would be charged if served by the sheriff
341 of that county.

342 (4) (a) For each mile traveled for the purpose of serving, or to diligently attempt service
343 of, a warrant of arrest, both in going to and returning from defendant's address, a fee of \$1 may be
344 charged.

345 (b) If more than one trip is necessary to serve, or diligently attempt to serve, a warrant of
346 arrest, no more than two additional mileage charges may be collected.

347 (c) Each charge shall be individually documented on the affidavit of return of service.

348 (5) For arresting each prisoner and bringing him into court, or otherwise satisfying a
349 warrant, a fee of \$15 may be charged.

350 Section 9. Section **17-25-4**, which is renumbered from Section 21-3-4 is renumbered and
351 amended to read:

352 ~~[21-3-4].~~ **17-25-4. Constables' fees in criminal cases -- Procedure.**

353 Accounts against the county filed by constables for services in criminal cases shall be
354 certified as correct by the county attorney or district attorney and shall be presented to the auditor.
355 The county legislative body may reject such bills in all causes or proceedings in which the county
356 attorney or district attorney has not in writing authorized the issuance of the warrant of arrest.

357 Section 10. Section **17-25-5**, which is renumbered from Section 21-3-5 is renumbered and
358 amended to read:

359 ~~[21-3-5].~~ **17-25-5. Contracts for constable services.**

360 The governing body of any municipality or county where a justice court exists may
361 contract with any one or more of the constables appointed in the county where the court sits to
362 provide services in criminal cases for the contracting governmental entity by any method and for
363 any amount mutually agreed upon.

364 Section 11. Section **17-25a-4** is amended to read:

365 **17-25a-4. Rates recoverable -- Exception.**

366 (1) The rates recoverable through court action for service of process by a constable are
367 governed by Section ~~[21-2-4, 21-3-3.5]~~ 17-22-2.5, 17-25-3, or ~~[21-3-5]~~ 17-25-5 when applicable.

368 (2) Constable fees that exceed the amounts in Section ~~[21-2-4]~~ 17-22-2.5 are recoverable

369 in court:

370 (a) by the constable only if he has received prior approval for the increased fee from the
371 party requesting the service; and

372 (b) by a prevailing party as a cost of the action only if the court finds the service and
373 increased fee are justifiable.

374 Section 12. Section **34A-6-301** is amended to read:

375 **34A-6-301. Inspection and investigation of workplace, worker injury, illness, or**
376 **complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers --**
377 **Employer and employee representatives -- Request for inspection by employees --**
378 **Compilation and publication of reports and information -- Division rules.**

379 (1) (a) The division or its representatives, upon presenting appropriate credentials to the
380 owner, operator, or agent in charge, may:

381 (i) enter without delay at reasonable times any workplace where work is performed by an
382 employee of an employer;

383 (ii) inspect and investigate during regular working hours and at other reasonable times in
384 a reasonable manner, any workplace, worker injury, occupational disease, or complaint and all
385 pertinent methods, operations, processes, conditions, structures, machines, apparatus, devices,
386 equipment, and materials in the workplace; and

387 (iii) question privately any such employer, owner, operator, agent, or employee.

388 (b) The division, upon an employer's refusal to permit an inspection, may seek a warrant
389 under Section 77-23-211.

390 (2) The division or its representatives may require the attendance and testimony of
391 witnesses and the production of evidence under oath. Witnesses shall receive fees and mileage in
392 accordance with Section [~~21-5-4~~] 78-46-28. If any person fails or refuses to obey an order of the
393 division to appear, any district court within the jurisdiction of which such person is found, or
394 resides or transacts business, upon the application by the division, shall have jurisdiction to issue
395 to any person an order requiring that person to appear to produce evidence if, as, and when so
396 ordered, and to give testimony relating to the matter under investigation or in question, and any
397 failure to obey such order of the court may be punished by the court as a contempt.

398 (3) (a) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
399 Administrative Rulemaking Act, requiring employers to keep records regarding activities related

400 to this chapter considered necessary for enforcement or for the development of information about
401 the causes and prevention of occupational accidents and diseases and requiring employers, through
402 posting of notices or other means, to inform employees of their rights and obligations under this
403 chapter including applicable standards.

404 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
405 Administrative Rulemaking Act, requiring employers to keep records regarding any work-related
406 death and injury and any occupational disease as follows:

407 (i) Each employer shall investigate or cause to be investigated all work-related injuries and
408 occupational diseases and any sudden or unusual occurrence or change of conditions that pose an
409 unsafe or unhealthful exposure to employees.

410 (ii) Each employer shall, within 12 hours of occurrence, notify the division of any:

411 (A) work-related fatality;

412 (B) disabling, serious, or significant injury; and

413 (C) occupational disease incident.

414 (iii) (A) Each employer shall file a report with the Division of Industrial Accidents within
415 seven days after the occurrence of an injury or occupational disease, after the employer's first
416 knowledge of the occurrence, or after the employee's notification of the same, in the form
417 prescribed by the Division of Industrial Accidents, of any work-related fatality or any work-related
418 injury or occupational disease resulting in medical treatment, loss of consciousness, loss of work,
419 restriction of work, or transfer to another job.

420 (B) Each employer shall file a subsequent report with the Division of Industrial Accidents
421 of any previously reported injury or occupational disease that later resulted in death. The
422 subsequent report shall be filed with the Division of Industrial Accidents within seven days
423 following the death or the employer's first knowledge or notification of the death. A report is not
424 required for minor injuries, such as cuts or scratches that require first-aid treatment only, unless
425 a treating physician files, or is required to file, the Physician's Initial Report of Work Injury or
426 Occupational Disease with the Division of Industrial Accidents. A report is not required for
427 occupational diseases that manifest after the employee is no longer employed by the employer with
428 which the exposure occurred, or where the employer is not aware of an exposure occasioned by
429 the employment which results in an occupational disease as defined by Section 34A-3-103.

430 (iv) Each employer shall provide the employee with:

431 (A) a copy of the report submitted to the Division of Industrial Accidents;

432 (B) a statement, as prepared by the Division of Industrial Accidents, of the employee's
433 rights and responsibilities related to the industrial injury or occupational disease.

434 (v) Each employer shall maintain a record in a manner prescribed by the commission of
435 all work-related fatalities or work-related injuries and of all occupational diseases resulting in:

436 (A) medical treatment;

437 (B) loss of consciousness;

438 (C) loss of work;

439 (D) restriction of work; or

440 (E) transfer to another job.

441 (vi) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
442 Administrative Rulemaking Act, to implement Subsection (3)(b) consistent with nationally
443 recognized rules or standards on the reporting and recording of work-related injuries and
444 occupational diseases.

445 (c) (i) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
446 Administrative Rulemaking Act, requiring employers to keep records regarding exposures to
447 potentially toxic materials or harmful physical agents required to be measured or monitored under
448 Section 34A-6-202.

449 (ii) The rules made under Subsection (3)(c)(i) shall provide for employees or their
450 representatives to observe the measuring or monitoring and to have access to the records thereof,
451 and to records that indicate their exposure to toxic materials or harmful agents. Each employer
452 shall promptly notify employees being exposed to toxic materials or harmful agents in
453 concentrations that exceed prescribed levels and inform any such employee of the corrective action
454 being taken.

455 (4) Information obtained by the division shall be obtained with a minimum burden upon
456 employers, especially those operating small businesses.

457 (5) A representative of the employer and a representative authorized by employees shall
458 be given an opportunity to accompany the division's authorized representative during the physical
459 inspection of any workplace. If there is no authorized employee representative, the division's
460 authorized representative shall consult with a reasonable number of employees concerning matters
461 of health and safety in the workplace.

462 (6) (a) (i) Any employee or representative of employees who believes that a violation of
463 an adopted safety or health standard exists that threatens physical harm, or that an imminent danger
464 exists, may request an inspection by giving notice to the division's authorized representative of the
465 violation or danger. The notice shall be in writing, setting forth with reasonable particularity the
466 grounds for notice, and signed by the employee or representative of employees. A copy of the
467 notice shall be provided the employer or the employer's agent no later than at the time of
468 inspection. Upon request of the person giving notice, the person's name and the names of
469 individual employees referred to in the notice shall not appear in the copy or on any record
470 published, released, or made available pursuant to Subsection (7).

471 (ii) (A) If upon receipt of the notice the division's authorized representative determines
472 there are reasonable grounds to believe that a violation or danger exists, the authorized
473 representative shall make a special inspection in accordance with this section as soon as practicable
474 to determine if a violation or danger exists.

475 (B) If the division's authorized representative determines there are no reasonable grounds
476 to believe that a violation or danger exists, the authorized representative shall notify the employee
477 or representative of the employees in writing of that determination.

478 (b) Prior to or during any inspection of a workplace, any employee or representative of
479 employees employed in the workplace may notify the division or its representative of any violation
480 of a standard that they have reason to believe exists in the workplace. The division shall, by rule,
481 establish procedures for informal review of any refusal by a representative of the division to issue
482 a citation with respect to any alleged violation and furnish the employees or representative of
483 employees requesting review a written statement of the reasons for the division's final disposition
484 of the case.

485 (7) (a) The division may compile, analyze, and publish, either in summary or detailed
486 form, all reports or information obtained under this section, subject to the limitations set forth in
487 Section 34A-6-306.

488 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
489 Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter,
490 including rules for information obtained under this section, subject to the limitations set forth in
491 Section 34A-6-306.

492 (8) Any employer who refuses or neglects to make reports, to maintain records, or to file

493 reports with the commission as required by this section is guilty of a class C misdemeanor and
494 subject to citation under Section 34A-6-302 and a civil assessment as provided under Section
495 34A-6-307, unless the commission finds that the employer has shown good cause for submitting
496 a report later than required by this section.

497 Section 13. Section **35A-3-114** is amended to read:

498 **35A-3-114. Programs for displaced homemakers.**

499 (1) For purposes of this section, "displaced homemaker" means an individual:

500 (a) who has been a homemaker for a period of eight or more years without significant
501 gainful employment outside the home;

502 (b) whose primary occupation during the period of time described in Subsection (1)(a) was
503 the provision of unpaid household services for family members;

504 (c) has found it necessary to enter the job market;

505 (d) is not reasonably capable of obtaining employment sufficient to provide self-support
506 or necessary support for dependents, due to a lack of marketable job skills or other skills necessary
507 for self-sufficiency; and

508 (e) has depended on:

509 (i) the income of a family member and lost that income; or

510 (ii) governmental assistance as the parent of dependent children and is no longer eligible
511 for that assistance.

512 (2) The department shall establish, in cooperation with state and local governmental
513 agencies, community-based organizations, and private employers, a program for the education,
514 training, and transitional counseling of displaced homemakers, which includes referral services and
515 the following services:

516 (a) employment and skills training, career counseling, and placement services specifically
517 designed to address the needs of displaced homemakers;

518 (b) assistance in obtaining access to existing public and private employment training
519 programs;

520 (c) educational services, including information on high school or college programs, or
521 assistance in gaining access to existing educational programs;

522 (d) health education and counseling, or assistance in gaining access to existing health
523 education and counseling services;

524 (e) financial management services which provide information on insurance, taxes, estate
525 and probate matters, mortgages, loans, and other financial issues; and

526 (f) prevocational self-esteem and assertiveness training.

527 (3) The department shall:

528 (a) (i) contract with existing governmental or private agencies or community-based
529 organizations that have demonstrated effectiveness in serving displaced homemakers to provide
530 a program for displaced homemakers in each county or group of counties, as the population
531 demands; or

532 (ii) establish a program for displaced homemakers in that area;

533 (b) coordinate its program for displaced homemakers with existing state or federal
534 programs of a similar nature and, where possible, utilize existing physical resources;

535 (c) establish rules to implement this section, and may form an advisory committee for
536 recommendations on the establishment and improvement of a program for displaced homemakers;

537 (d) encourage the placement of displaced homemakers in programs established under:

538 (i) the Job Training Partnership Act, 29 U.S.C. Section 1501; and

539 (ii) the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C.
540 Section 2301, et seq.; and

541 (e) prepare an evaluation of its program for displaced homemakers, including the success
542 of placement of displaced homemakers in programs described in this section, and annually submit
543 a written report of that evaluation to the Legislature.

544 (4) Displaced homemakers may act as peer counselors in programs for displaced
545 homemakers.

546 (5) (a) Appropriate funds received by the state under Section [~~21-2-8~~] 17-16-21 shall be
547 deposited as nonlapsing dedicated credits and used for the purposes of this section.

548 (b) Notwithstanding Subsection (5)(a), if the nonlapsing amount exceeds \$300,000 at the
549 end of any fiscal year, the excess shall lapse into the General Fund.

550 (6) The department shall establish procedures for payment and repayment, when possible,
551 by clients to the department of the costs of services provided to displaced homemakers under this
552 section.

553 Section 14. Section **41-6-44.10** is amended to read:

554 **41-6-44.10. Implied consent to chemical tests for alcohol or drug -- Number of tests**

555 -- Refusal -- Warning, report -- Hearing, revocation of license -- Appeal -- Person incapable
556 of refusal -- Results of test available -- Who may give test -- Evidence.

557 (1) (a) A person operating a motor vehicle in this state is considered to have given his
558 consent to a chemical test or tests of his breath, blood, or urine for the purpose of determining
559 whether he was operating or in actual physical control of a motor vehicle while having a blood or
560 breath alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, while
561 under the influence of alcohol, any drug, or combination of alcohol and any drug under Section
562 41-6-44, or while having any measurable controlled substance or metabolite of a controlled
563 substance in the person's body in violation of Section 41-6-44.6, if the test is or tests are
564 administered at the direction of a peace officer having grounds to believe that person to have been
565 operating or in actual physical control of a motor vehicle while having a blood or breath alcohol
566 content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under the
567 influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44, or
568 while having any measurable controlled substance or metabolite of a controlled substance in the
569 person's body in violation of Section 41-6-44.6.

570 (b) (i) The peace officer determines which of the tests are administered and how many of
571 them are administered.

572 (ii) If an officer requests more than one test, refusal by a person to take one or more
573 requested tests, even though he does submit to any other requested test or tests, is a refusal under
574 this section.

575 (c) (i) A person who has been requested under this section to submit to a chemical test or
576 tests of his breath, blood, or urine, may not select the test or tests to be administered.

577 (ii) The failure or inability of a peace officer to arrange for any specific chemical test is
578 not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal,
579 civil, or administrative proceeding resulting from a person's refusal to submit to the requested test
580 or tests.

581 (2) (a) If the person has been placed under arrest, has then been requested by a peace
582 officer to submit to any one or more of the chemical tests under Subsection (1), and refuses to
583 submit to any chemical test requested, the person shall be warned by the peace officer requesting
584 the test or tests that a refusal to submit to the test or tests can result in revocation of the person's
585 license to operate a motor vehicle.

586 (b) Following the warning under Subsection (2)(a), if the person does not immediately
587 request that the chemical test or tests as offered by a peace officer be administered a peace officer
588 shall serve on the person, on behalf of the Driver License Division, immediate notice of the Driver
589 License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

590 When the officer serves the immediate notice on behalf of the Driver License Division, he shall:

591 (i) take the Utah license certificate or permit, if any, of the operator;

592 (ii) issue a temporary license effective for only 29 days; and

593 (iii) supply to the operator, on a form approved by the Driver License Division, basic

594 information regarding how to obtain a hearing before the Driver License Division.

595 (c) A citation issued by a peace officer may, if approved as to form by the Driver License
596 Division, serve also as the temporary license.

597 (d) As a matter of procedure, the peace officer shall submit a signed report, within ten
598 calendar days after the date of the arrest, that he had grounds to believe the arrested person had
599 been operating or was in actual physical control of a motor vehicle while having a blood or breath
600 alcohol content statutorily prohibited under Section 41-6-44, 53-3-231, or 53-3-232, or while under
601 the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6-44,
602 or while having any measurable controlled substance or metabolite of a controlled substance in the
603 person's body in violation of Section 41-6-44.6, and that the person had refused to submit to a
604 chemical test or tests under Subsection (1).

605 (e) (i) A person who has been notified of the Driver License Division's intention to revoke
606 his license under this section is entitled to a hearing.

607 (ii) A request for the hearing shall be made in writing within ten calendar days after the
608 date of the arrest.

609 (iii) Upon written request, the division shall grant to the person an opportunity to be heard
610 within 29 days after the date of arrest.

611 (iv) If the person does not make a timely written request for a hearing before the division,
612 his privilege to operate a motor vehicle in the state is revoked beginning on the 30th day after the
613 date of arrest for a period of:

614 (A) 18 months unless Subsection (2)(e)(iv)(B) applies; or

615 (B) 24 months if the person has had a previous license sanction after July 1, 1993, under
616 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,

617 under Section 41-6-44.

618 (f) If a hearing is requested by the person, the hearing shall be conducted by the Driver
619 License Division in the county in which the offense occurred, unless the division and the person
620 both agree that the hearing may be held in some other county.

621 (g) The hearing shall be documented and shall cover the issues of:

622 (i) whether a peace officer had reasonable grounds to believe that a person was operating
623 a motor vehicle in violation of Section 41-6-44, 41-6-44.6, or 53-3-231; and

624 (ii) whether the person refused to submit to the test.

625 (h) (i) In connection with the hearing, the division or its authorized agent:

626 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the
627 production of relevant books and papers; and

628 (B) shall issue subpoenas for the attendance of necessary peace officers.

629 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
630 accordance with the rates established in Section [~~21-5-4~~] 78-46-28.

631 (i) If after a hearing, the Driver License Division determines that the person was requested
632 to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails
633 to appear before the Driver License Division as required in the notice, the Driver License Division
634 shall revoke his license or permit to operate a motor vehicle in Utah beginning on the date the
635 hearing is held for a period of:

636 (i) (A) 18 months unless Subsection (2)(i)(i)(B) applies; or

637 (B) 24 months if the person has had a previous license sanction after July 1, 1993, under
638 this section, Section 41-6-44.6, 53-3-223, 53-3-231, 53-3-232, or a conviction after July 1, 1993,
639 under Section 41-6-44.

640 (ii) The Driver License Division shall also assess against the person, in addition to any fee
641 imposed under Subsection 53-3-205(14), a fee under Section 53-3-105, which shall be paid before
642 the person's driving privilege is reinstated, to cover administrative costs.

643 (iii) The fee shall be cancelled if the person obtains an unappealed court decision
644 following a proceeding allowed under this Subsection (2) that the revocation was improper.

645 (j) (i) Any person whose license has been revoked by the Driver License Division under
646 this section may seek judicial review.

647 (ii) Judicial review of an informal adjudicative proceeding is a trial. Venue is in the

648 district court in the county in which the offense occurred.

649 (3) Any person who is dead, unconscious, or in any other condition rendering him
650 incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the
651 consent provided for in Subsection (1), and the test or tests may be administered whether the
652 person has been arrested or not.

653 (4) Upon the request of the person who was tested, the results of the test or tests shall be
654 made available to him.

655 (5) (a) Only a physician, registered nurse, practical nurse, or person authorized under
656 Section 26-1-30, acting at the request of a peace officer, may withdraw blood to determine the
657 alcoholic or drug content. This limitation does not apply to taking a urine or breath specimen.

658 (b) Any physician, registered nurse, practical nurse, or person authorized under Section
659 26-1-30 who, at the direction of a peace officer, draws a sample of blood from any person whom
660 a peace officer has reason to believe is driving in violation of this chapter, or hospital or medical
661 facility at which the sample is drawn, is immune from any civil or criminal liability arising from
662 drawing the sample, if the test is administered according to standard medical practice.

663 (6) (a) The person to be tested may, at his own expense, have a physician of his own
664 choice administer a chemical test in addition to the test or tests administered at the direction of a
665 peace officer.

666 (b) The failure or inability to obtain the additional test does not affect admissibility of the
667 results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or
668 tests to be taken at the direction of a peace officer.

669 (c) The additional test shall be subsequent to the test or tests administered at the direction
670 of a peace officer.

671 (7) For the purpose of determining whether to submit to a chemical test or tests, the person
672 to be tested does not have the right to consult an attorney or have an attorney, physician, or other
673 person present as a condition for the taking of any test.

674 (8) If a person under arrest refuses to submit to a chemical test or tests or any additional
675 test under this section, evidence of any refusal is admissible in any civil or criminal action or
676 proceeding arising out of acts alleged to have been committed while the person was operating or
677 in actual physical control of a motor vehicle while under the influence of alcohol, any drug,
678 combination of alcohol and any drug, or while having any measurable controlled substance or

679 metabolite of a controlled substance in the person's body.

680 Section 15. Section **53-3-223** is amended to read:

681 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
682 **Hearing and decision -- Suspension and fee -- Judicial review.**

683 (1) (a) If a peace officer has reasonable grounds to believe that a person may be violating
684 or has violated Section 41-6-44, prohibiting the operation of a vehicle with a certain blood or
685 breath alcohol concentration and driving under the influence of any drug, alcohol, or combination
686 of a drug and alcohol or while having any measurable controlled substance or metabolite of a
687 controlled substance in the person's body in violation of Section 41-6-44.6, the peace officer may,
688 in connection with arresting the person, request that the person submit to a chemical test or tests
689 to be administered in compliance with the standards under Section 41-6-44.10.

690 (b) In this section, a reference to Section 41-6-44 includes any similar local ordinance
691 adopted in compliance with Subsection 41-6-43(1).

692 (2) The peace officer shall advise a person prior to the person's submission to a chemical
693 test that a test result indicating a violation of Section 41-6-44 or 41-6-44.6 shall, and the existence
694 of a blood alcohol content sufficient to render the person incapable of safely driving a motor
695 vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

696 (3) If the person submits to a chemical test and the test results indicate a blood or breath
697 alcohol content in violation of Section 41-6-44 or 41-6-44.6, or if the officer makes a
698 determination, based on reasonable grounds, that the person is otherwise in violation of Section
699 41-6-44, the officer directing administration of the test or making the determination shall serve on
700 the person, on behalf of the division, immediate notice of the division's intention to suspend the
701 person's license to drive a motor vehicle.

702 (4) (a) When the officer serves immediate notice on behalf of the division he shall:

703 (i) take the Utah license certificate or permit, if any, of the driver;

704 (ii) issue a temporary license certificate effective for only 29 days; and

705 (iii) supply to the driver, on a form to be approved by the division, basic information
706 regarding how to obtain a prompt hearing before the division.

707 (b) A citation issued by the officer may, if approved as to form by the division, serve also
708 as the temporary license certificate.

709 (5) As a matter of procedure, the peace officer serving the notice shall send to the division

710 within ten calendar days after the date of arrest and service of the notice:

711 (a) the person's license certificate;

712 (b) a copy of the citation issued for the offense;

713 (c) a signed report on a form approved by the division indicating the chemical test results,

714 if any; and

715 (d) any other basis for the officer's determination that the person has violated Section

716 41-6-44 or 41-6-44.6.

717 (6) (a) Upon written request, the division shall grant to the person an opportunity to be

718 heard within 29 days after the date of arrest. The request to be heard shall be made within ten

719 calendar days of the date of the arrest.

720 (b) A hearing, if held, shall be before the division in the county in which the arrest

721 occurred, unless the division and the person agree that the hearing may be held in some other

722 county.

723 (c) The hearing shall be documented and shall cover the issues of:

724 (i) whether a peace officer had reasonable grounds to believe the person was driving a

725 motor vehicle in violation of Section 41-6-44 or 41-6-44.6;

726 (ii) whether the person refused to submit to the test; and

727 (iii) the test results, if any.

728 (d) (i) In connection with a hearing the division or its authorized agent:

729 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and the

730 production of relevant books and papers; or

731 (B) may issue subpoenas for the attendance of necessary peace officers.

732 (ii) The division shall pay witness fees and mileage from the Transportation Fund in

733 accordance with the rates established in Section [~~21-5-4~~] 78-46-28.

734 (e) The division may designate one or more employees to conduct the hearing.

735 (f) Any decision made after a hearing before any designated employee is as valid as if

736 made by the division.

737 (g) After the hearing, the division shall order whether the person's license to drive a motor

738 vehicle is suspended or not.

739 (h) If the person for whom the hearing is held fails to appear before the division as

740 required in the notice, the division shall order whether the person's license to drive a motor vehicle

741 is suspended or not.

742 (7) (a) A first suspension, whether ordered or not challenged under this Subsection (7), is
743 for a period of 90 days, beginning on the 30th day after the date of the arrest.

744 (b) A second or subsequent suspension under this subsection is for a period of one year,
745 beginning on the 30th day after the date of arrest.

746 (8) (a) The division shall assess against a person, in addition to any fee imposed under
747 Subsection 53-3-205(14) for driving under the influence, a fee under Section 53-3-105 to cover
748 administrative costs, which shall be paid before the person's driving privilege is reinstated. This
749 fee shall be cancelled if the person obtains an unappealed division hearing or court decision that
750 the suspension was not proper.

751 (b) A person whose license has been suspended by the division under this Subsection (8)
752 may file a petition within 30 days after the suspension for a hearing on the matter which, if held,
753 is governed by Section 53-3-224.

754 Section 16. Section **63-55-235** is amended to read:

755 **63-55-235. Repeal dates, Title 35A.**

756 (1) Title 35A, Utah Workforce Services Code, is repealed July 1, 2005.

757 (2) Section 35A-3-114, the Displaced Homemaker Program, together with the provision
758 for funding that program contained in Subsection [~~21-2-8~~] 17-16-21(2)(b), is repealed July 1, 2007.

759 Section 17. Section **63-63a-8** is amended to read:

760 **63-63a-8. Children's Legal Defense Account.**

761 (1) There is created a restricted account within the General Fund known as the Children's
762 Legal Defense Account.

763 (2) The purpose of the Children's Legal Defense Account is to provide for programs that
764 protect and defend the rights, safety, and quality of life of children.

765 (3) The Legislature shall appropriate money from the account for the administrative and
766 related costs of the following programs:

767 (a) implementing the Mandatory Educational Course on Children's Needs for Divorcing
768 Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-7,
769 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child Custody
770 or Visitation as provided in Sections 30-3-15.3 and 30-3-18;

771 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,

772 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as
773 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
774 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental Rights
775 Act. This account may not be used to supplant funding for the guardian ad litem program in the
776 juvenile court as provided in Section 78-3a-912; and

777 (c) implementing and administering the Expedited Visitation Enforcement Pilot Program
778 as provided in Section 30-3-38.

779 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
780 Account and used only for the purposes provided in Subsections (3)(a) through (c):

781 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
782 as provided in Section [~~21-2-8~~] 17-16-21; and

783 (b) a fee of \$2 shall be withheld from the existing civil filing fee collected on any
784 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

785 (5) The Division of Finance shall allocate the monies described in Subsection (4) from the
786 General Fund to the Children's Legal Defense Account.

787 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of
788 any fiscal year shall lapse into the General Fund.

789 Section 18. Section **67-1a-2.5 (Effective 04/30/01)**, which is renumbered from Section
790 21-1-2 (Effective 04/30/01) is renumbered and amended to read:

791 ~~[21-1-2 (Effective 04/30/01)].~~ **67-1a-2.5 (Effective 04/30/01). Fees of lieutenant**
792 **governor.**

793 In addition to the fees prescribed by Title 16, Chapter 6a, Utah Revised Nonprofit
794 Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the lieutenant
795 governor shall receive and determine fees pursuant to Section 63-38-3.2 for the following:

796 (1) for a copy of any law, resolution, record, or other document or paper on file in the
797 lieutenant governor's office, other than documents or papers filed under Title 16, Chapter 6a, Utah
798 Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation
799 Act;

800 (2) for affixing certificate and the Great Seal of the state, except on documents filed under
801 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah
802 Revised Business Corporation Act;

803 (3) for each commission signed by the governor, except that no charge may be made for
804 commissions to public officers serving without compensation;

805 (4) for each warrant of arrest issued by the governor and attested by the lieutenant governor
806 upon the requisition of any other state or territory;

807 (5) for recording miscellaneous papers or documents;

808 (6) for filing any paper or document not otherwise provided for; and

809 (7) for searching records and archives of the state, except that no member of the
810 Legislature or other state or county officer may be charged for any search relative to matters
811 appertaining to the duties of his office or for a certified copy of any law or resolution relative to
812 his official duties passed by the Legislature.

813 Section 19. Section **67-1a-2.5 (Superseded 04/30/01)**, which is renumbered from Section
814 21-1-2 (Superseded 04/30/01) is renumbered and amended to read:

815 **~~[21-1-2 (Superseded 04/30/01)].~~ 67-1a-2.5 (Superseded 04/30/01). Fees of**
816 **lieutenant governor.**

817 In addition to the fees prescribed by Title 16, Chapter 10a, Utah Revised Business
818 Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative
819 Association Act, the lieutenant governor shall receive and determine fees pursuant to Section
820 63-38-3.2 for the following:

821 (1) for a copy of any law, resolution, record, or other document or paper on file in his
822 office, other than documents or papers filed under Title 16, Chapter 10a, Utah Revised Business
823 Corporation Act, and Title 16, Chapter 6, Utah Nonprofit Corporation and Cooperative
824 Association Act;

825 (2) for affixing certificate and the Great Seal of the state, except on documents filed under
826 Title 16, Chapter 10a, Utah Revised Business Corporation Act, and Title 16, Chapter 6, Utah
827 Nonprofit Corporation and Cooperative Association Act;

828 (3) for each commission signed by the governor, except that no charge may be made for
829 commissions to public officers serving without compensation;

830 (4) for each warrant of arrest issued by the governor and attested by the lieutenant governor
831 upon the requisition of any other state or territory;

832 (5) for recording miscellaneous papers or documents;

833 (6) for filing any paper or document not otherwise provided for; and

834 (7) for searching records and archives of the state, except that no member of the
835 Legislature or other state or county officer may be charged for any search relative to matters
836 appertaining to the duties of his office or for a certified copy of any law or resolution relative to
837 his official duties passed by the Legislature.

838 Section 20. Section **67-3-1.5**, which is renumbered from Section 21-1-3 is renumbered and
839 amended to read:

840 ~~[21-1-3]~~. **67-3-1.5. Fees of state auditor.**

841 The state auditor shall receive the following fees:

842 For a copy of any paper filed or recorded in his office, 20 cents per folio.

843 For affixing certificate, with or without seal, \$1.

844 For filing any paper not otherwise provided for, \$1.

845 Section 21. Section **70A-9-403 (Repealed 07/01/01)** is amended to read:

846 **70A-9-403 (Repealed 07/01/01). What constitutes filing -- Required statement --**
847 **Duration of filing -- Effect of lapsed filing -- Duties of filing officer.**

848 (1) Presentation for filing by the Division of Corporations and Commercial Code, or for
849 recording, indexing, and abstracting by tract by the county recorder of a financing statement and
850 tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under
851 this chapter.

852 (2) Except as provided in Subsection (6), a filed financing statement is effective for a
853 period of five years from the date of filing. The effectiveness of a filed financing statement lapses
854 on the expiration of the five-year period unless a continuation statement is filed prior to the lapse.
855 If a security interest perfected by filing exists at the time insolvency proceedings are commenced
856 by or against the debtor, the security interest remains perfected until termination of the insolvency
857 proceedings and thereafter for a period of 60 days or until expiration of the five-year period,
858 whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is
859 perfected without filing. If the security interest becomes unperfected upon lapse, it is considered
860 to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

861 (3) (a) A continuation statement may be filed by the secured party within six months prior
862 to the expiration of the five-year period specified in Subsection (2). Any such continuation
863 statement must be signed by the secured party, identify the original statement by file number or
864 by entry numbers and book and page numbers and state that the original statement is still effective.

865 A continuation statement signed by a person other than the secured party of record must be
866 accompanied by a separate written statement of assignment signed by the secured party of record
867 and complying with Subsection 70A-9-405(2), including payment of the required fee. Upon timely
868 filing of the continuation statement, the effectiveness of the original statement is continued for five
869 years after the last date to which the filing was effective whereupon it lapses in the same manner
870 as provided in Subsection (2) unless another continuation statement is filed prior to such lapse.
871 Succeeding continuation statements may be filed in the same manner to continue the effectiveness
872 of the original statement.

873 (b) Unless a statute on disposition of public records provides otherwise, the filing officer
874 may remove a lapsed statement from the files and destroy it immediately if the filing officer has
875 retained a microfilm or other photographic record, or in other cases after one year after the lapse.
876 The filing officer shall so arrange matters by physical annexation of financing statements to
877 continuation statement or other related filings, or by other means, that if the filing officer
878 physically destroys the financing statements of a period more than five years past, those which
879 have been continued by a continuation statement or which are still effective under Subsection (6)
880 shall be retained.

881 (4) Except as provided in Subsection (7), a filing officer shall mark each statement with
882 a file number and with the date and hour of filing and shall hold the statement or a microfilm or
883 other photographic copy thereof for public inspection. In addition, the filing officer shall index
884 the statements according to the name of the debtor and shall note in the index the file number and
885 the address of the debtor given in the statement.

886 (5) The fees for filing and indexing and for stamping a copy furnished by the secured party
887 to show the date and place of filing for an original financing statement or for a continuation
888 statement shall be determined by the Division of Corporations and Commercial Code pursuant to
889 Section 63-38-3.2. The secured party may at the secured party's option show a trade name for any
890 person and an extra indexing fee determined by the Division of Corporations and Commercial
891 Code pursuant to Section 63-38-3.2 shall be paid with respect thereto.

892 (6) If the debtor is a transmitting utility (Subsection 70A-9-401(5)) and a filed financing
893 statement so states, it is effective until a termination statement is filed. A real estate mortgage
894 which is effective as a fixture filing under Subsection 70A-9-402(6) remains effective as a fixture
895 filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates

896 as to the real estate.

897 (7) When a financing statement covers timber to be cut or covers minerals or the like
898 (including oil and gas) subject to Subsection 70A-9-103(5), or accounts, or is recorded as a fixture
899 filing, the county recorder shall record and index it under the names of the debtor and any owner
900 of record shown on the financing statement in the same fashion as if they were the mortgagors in
901 a mortgage of the real estate described, and under the name of the secured party as if the secured
902 party were the mortgagee thereunder, or where indexing is by description, record and index it in
903 the same fashion as if the financing statement were a mortgage of the real estate described.

904 Original statements, once duly marked and recorded by the county recorder, may be returned to
905 the party making the filing. Except as provided in Subsection 70A-9-404(3), filings made in the
906 office of the county recorder shall be subject to the provisions of Section [~~21-2-8~~] 17-16-21 in lieu
907 of the fees provided in this chapter.

908 Section 22. Section **70A-9-404 (Repealed 07/01/01)** is amended to read:

909 **70A-9-404 (Repealed 07/01/01). Termination statement.**

910 (1) If a financing statement covering consumer goods is filed on or after July 1, 1977, then
911 within one month or within ten days following written demand by the debtor after there is no
912 outstanding secured obligation and no commitment to make advances, incur obligations, or
913 otherwise give value, the secured party must file with each filing officer with whom the financing
914 statement was filed, a termination statement to the effect that he no longer claims a security interest
915 under the financing statement, which shall be identified by file number or by entry number and
916 book and page numbers. In other cases, whenever there is no outstanding secured obligation and
917 no commitment to make advances, incur obligations, or otherwise give value, the secured party
918 must, on written demand by the debtor, send the debtor, for each filing officer with whom the
919 financing statement was filed, a termination statement to the effect that he no longer claims a
920 security interest under the financing statement, which shall be identified by file number or by entry
921 number and book and page numbers. A termination statement signed by a person other than the
922 secured party of record must be accompanied by a separate written statement of assignment signed
923 by the secured party of record complying with Subsection (2) of Section 70A-9-405, including
924 payment of the required fee. If the affected secured party fails to file such a termination statement
925 as required by this Subsection (1), or to send such a termination statement within ten days after
926 proper demand therefor, he shall be liable to the debtor for \$100, and in addition, for any loss

927 caused to the debtor by such failure.

928 (2) On presentation to the filing officer of such a termination statement, he must duly file
929 the same. If he has received the termination statement in duplicate, he shall return one copy of the
930 termination statement to the secured party stamped to show the time of receipt thereof. If the filing
931 officer has a microfilm or other photographic record of the financing statement, and of any related
932 continuation statement, statement of assignment and statement of release, he may remove the
933 originals from the files at any time after receipt of the termination statement, or if he has no such
934 record, he may remove them from the files at any time after one year after receipt of the
935 termination statement.

936 (3) No fee shall be charged for filing and indexing a termination statement including
937 sending or delivering the financing statement, except that filings made in the office of the county
938 recorder shall be subject to the provisions of Section [~~21-2-8~~] 17-16-21 in lieu of the no-fee
939 provision in this chapter.

940 Section 23. Section **70A-9a-525 (Effective 07/01/01)** is amended to read:

941 **70A-9a-525 (Effective 07/01/01). Fees.**

942 (1) Except as otherwise provided in Subsection (3), the fee for the Division of
943 Corporations and Commercial Code filing and indexing a record under this part, including an
944 initial financing statement of the kind described in Subsection 70A-9a-502(3), shall:

- 945 (a) be determined by the Division of Corporations and Commercial Code;
946 (b) be reasonable and fair; and
947 (c) reflect the cost of services provided.

948 (2) The fee for the Division of Corporations and Commercial Code responding to a request
949 for information from the Division of Corporations and Commercial Code, including for issuing
950 a record showing whether there is on file any financing statement naming a particular debtor shall:

- 951 (a) be determined by the Division of Corporations and Commercial Code;
952 (b) be reasonable and fair; and
953 (c) reflect the cost of services provided.

954 (3) (a) This section does not require a fee with respect to a record of a mortgage which is
955 effective as a financing statement filed as a fixture filing or as a financing statement covering
956 as-extracted collateral or timber to be cut under Subsection 70A-9a-502(3). However, the
957 recording and satisfaction fees that otherwise would be applicable to the record of the mortgage

958 apply.

959 (b) (i) This section does not apply to fees charged by a filing office described in Subsection
960 70A-9a-501(1)(a).

961 (ii) A filing office described in Subsection 70A-9a-501(1)(a) shall charge fees in
962 accordance with Section [~~21-2-3~~] 17-21-18.5.

963 Section 24. Section **77-18-10** is amended to read:

964 **77-18-10. Petition -- Expungement of records of arrest, investigation, and detention**
965 **-- Eligibility conditions -- No filing fee.**

966 (1) A person who has been arrested with or without a warrant may petition the court in
967 which the proceeding occurred or, if there were no court proceedings, any court in the jurisdiction
968 where the arrest occurred, for an order expunging any and all records of arrest, investigation, and
969 detention which may have been made in the case, subject to the following conditions:

970 (a) at least 30 days have passed since the arrest for which expungement is sought;

971 (b) there have been no intervening arrests; and

972 (c) one of the following occurred:

973 (i) the person was released without the filing of formal charges;

974 (ii) proceedings against the person were dismissed;

975 (iii) the person was discharged without a conviction and no charges were refiled within
976 30 days;

977 (iv) the person was acquitted at trial; or

978 (v) the record of any proceedings against the person has been sealed.

979 (2) (a) A person seeking expungement under Subsection (1) may petition the court for
980 expungement before the expiration of the 30 days required by Subsection (1)(a) if he believes
981 extraordinary circumstances exist and the court orders the division to proceed with the eligibility
982 process.

983 (b) A court may, with the receipt of a certificate of eligibility, order expungement if the
984 court finds that the petitioner is eligible for relief under this subsection and in the interest of justice
985 the order should be issued prior to the expiration of the 30-day period required by Subsection
986 (1)(a).

987 (3) As provided in Subsection [~~21-1-5~~] 78-7-35(1)(i), there is no fee for a petition filed
988 under Subsection (2).

989 (4) The petitioner shall file a certificate of eligibility issued by the division to be reviewed
990 by the prosecuting attorney and the court prior to issuing an order granting the expungement.

991 (5) If the court finds that the petitioner is eligible for relief under this section, it shall issue
992 an order granting the expungement.

993 (6) No filing fees or other administrative charges shall be assessed against a successful
994 petitioner under this section.

995 (7) A person who has received expungement of an arrest under this section may respond
996 to any inquiry as though the arrest did not occur, unless otherwise provided by law.

997 Section 25. Section **78-5-135.5**, which is renumbered from Section 21-7-19 is renumbered
998 and amended to read:

999 **[21-7-19]. 78-5-135.5. Justice court judge to collect fees before filing action --**
1000 **Penalty.**

1001 Every justice court judge who files in his office any complaint, or allows a civil action to
1002 be commenced in his court, without the fees being paid in advance, except in cases permitted by
1003 law, is guilty of a class B misdemeanor.

1004 Section 26. Section **78-6-14** is amended to read:

1005 **78-6-14. Civil filing fees.**

1006 (1) Except as provided in this section, the fees for a small claims action in justice court
1007 shall be the same as provided in Section [~~21-1-5~~] 78-7-35.

1008 (2) Fees collected in small claims actions filed in municipal justice court are remitted to
1009 the municipal treasurer. Fees collected in small claims actions filed in a county justice court are
1010 remitted to the county treasurer.

1011 (3) (a) Seven dollars and 50 cents shall be withheld from the fee for the small claims
1012 affidavit and allocated to the Judges' Retirement Trust Fund. Five dollars shall be withheld from
1013 the fee for a small claims counter affidavit and allocated to the Judges' Retirement Trust Fund.

1014 (b) Two dollars withheld from the civil filing fee in a court of record as provided in
1015 Subsection 63-63a-8(4)(b) shall not apply to the fees collected for small claims actions in justice
1016 court.

1017 (4) The fee in the justice court for filing a notice of appeal for trial de novo in a court of
1018 record is \$10. The fee covers all services of the justice court on appeal but does not satisfy the trial
1019 de novo filing fee in the court of record.

1020 Section 27. Section **78-7-35**, which is renumbered from Section 21-1-5 is renumbered and
1021 amended to read:

1022 ~~[21-1-5]~~. **78-7-35. Civil fees of the courts of record -- Courts complex design.**

1023 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court
1024 of record not governed by another subsection is \$120.

1025 (b) The fee for filing a complaint or petition is:

1026 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
1027 and attorney fees is \$2,000 or less;

1028 (ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs,
1029 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

1030 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

1031 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,
1032 Separate Maintenance.

1033 (c) The fee for filing a small claims affidavit is:

1034 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
1035 and attorney fees is \$2,000 or less; and

1036 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
1037 interest, and attorney fees is greater than \$2,000.

1038 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
1039 complaint, or other claim for relief against an existing or joined party other than the original
1040 complaint or petition is:

1041 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
1042 or less;

1043 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
1044 than \$2,000 and less than \$10,000;

1045 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is
1046 \$10,000 or more, or the party seeks relief other than monetary damages; and

1047 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
1048 Chapter 4, Separate Maintenance.

1049 (e) The fee for filing a small claims counter affidavit is:

1050 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000

1051 or less; and

1052 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
1053 than \$2,000.

1054 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action
1055 already before the court is determined under Subsection (1)(b) based on the amount deposited.

1056 (g) The fee for filing a petition is:

1057 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims
1058 department; and

1059 (ii) \$40 for an appeal of a municipal administrative determination in accordance with
1060 Section 10-3-703.7.

1061 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
1062 petition for writ of certiorari is \$190.

1063 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition
1064 for expungement is \$50.

1065 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

1066 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
1067 allocated to the Judges' Retirement Trust Fund, as provided in Title 49, Chapter 6, Judges'
1068 Retirement Act.

1069 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated
1070 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,
1071 as provided in Section 63-63a-8.

1072 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
1073 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
1074 78-31b-9.

1075 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
1076 United States is \$25.

1077 (l) The fee for filing probate or child custody documents from another state is \$25.

1078 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah
1079 State Tax Commission is \$30.

1080 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
1081 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing

1082 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is
1083 \$40.

1084 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
1085 \$25.

1086 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation
1087 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is
1088 \$25.

1089 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

1090 (q) The fee for filing any accounting required by law is:

1091 (i) \$10 for an estate valued at \$50,000 or less;

1092 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

1093 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

1094 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

1095 (v) \$150 for an estate valued at more than \$168,000.

1096 (r) The fee for filing a demand for a civil jury is \$50.

1097 (s) The fee for filing a notice of deposition in this state concerning an action pending in
1098 another state under Utah Rule of Civil Procedure 26 is \$25.

1099 (t) The fee for filing documents that require judicial approval but are not part of an action
1100 before the court is \$25.

1101 (u) The fee for a petition to open a sealed record is \$25.

1102 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition
1103 to any fee for a complaint or petition.

1104 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9
1105 is \$5.

1106 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

1107 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

1108 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per
1109 page.

1110 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents
1111 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government
1112 Records Access and Management Act. Fees under this subsection shall be credited to the court

1113 as a reimbursement of expenditures.

1114 (bb) There is no fee for services or the filing of documents not listed in this section or
1115 otherwise provided by law.

1116 (cc) Except as provided in this section, all fees collected under this section are paid to the
1117 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts
1118 the pleading for filing or performs the requested service.

1119 (dd) The filing fees under this section may not be charged to the state, its agencies, or
1120 political subdivisions filing or defending any action. In judgments awarded in favor of the state,
1121 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order
1122 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under
1123 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or
1124 other penalty and costs permitted by law.

1125 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall
1126 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and
1127 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
1128 Construction and Management Capital Projects Fund.

1129 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
1130 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital
1131 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the
1132 development of a courts complex in Salt Lake City.

1133 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake
1134 City in the 1995 Annual General Session, the Division of Facilities Construction and Management
1135 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct
1136 a courts complex in Salt Lake City.

1137 (C) After the courts complex is completed and all bills connected with its construction
1138 have been paid, the Division of Facilities Construction and Management shall use any monies
1139 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court
1140 building.

1141 (iii) The Division of Facilities Construction and Management may enter into agreements
1142 and make expenditures related to this project before the receipt of revenues provided for under this
1143 Subsection (2)(a)(iii).

1144 (iv) The Division of Facilities Construction and Management shall:

1145 (A) make those expenditures from unexpended and unencumbered building funds already
1146 appropriated to the Capital Projects Fund; and

1147 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under
1148 this Subsection (2).

1149 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
1150 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
1151 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
1152 account.

1153 (c) The Division of Finance shall deposit all revenues received from the court
1154 administrator into the restricted account created by this section.

1155 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
1156 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
1157 court of record to the Division of Facilities Construction and Management Capital Projects Fund.
1158 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
1159 or bail forfeiture paid.

1160 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7
1161 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court
1162 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the
1163 Division of Finance for deposit in the restricted account created by this section. The division of
1164 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture
1165 paid.

1166 (3) (a) There is created within the General Fund a restricted account known as the State
1167 Courts Complex Account.

1168 (b) The Legislature may appropriate monies from the restricted account to the
1169 administrator of the courts for the following purposes only:

1170 (i) to repay costs associated with the construction of the court complex that were funded
1171 from sources other than revenues provided for under this Subsection (3)(b)(i); and

1172 (ii) to cover operations and maintenance costs on the court complex.

1173 Section 28. Section **78-7-35.1**, which is renumbered from Section 21-1-4 is renumbered
1174 and amended to read:

1175 ~~[21-1-4]~~. 78-7-35.1. Fees for certificate of admission.

1176 The appellate courts shall receive a \$50 fee for a certificate of admission as attorney and
1177 counselor, \$30 of which shall be retained by the state treasurer for the benefit of the State Law
1178 Library, to be expended by the Judicial Council.

1179 Section 29. Section **78-7-36**, which is renumbered from Section 21-7-3 is renumbered and
1180 amended to read:

1181 ~~[21-7-3]~~. 78-7-36. Impecunious litigants -- Affidavit.

1182 (1) For purposes of this section:

1183 (a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere, guilty
1184 and mentally ill, no contest, and conviction of any crime or offense.

1185 (b) "Prisoner" means a person who has been convicted of a crime and is incarcerated for
1186 that crime or is being held in custody for trial or sentencing.

1187 (2) As provided in this chapter, any person may institute, prosecute, defend, and appeal
1188 any cause in any court in this state without prepayment of fees and costs or security, by taking and
1189 subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity
1190 demonstrating financial inability to pay fees and costs or give security.

1191 (3) The affidavit shall contain complete information on the party's:

1192 (a) identity and residence;

1193 (b) amount of income, including government financial support, alimony, child support;

1194 (c) assets owned, including real and personal property;

1195 (d) business interests;

1196 (e) accounts receivable;

1197 (f) securities, checking and savings account balances;

1198 (g) debts; and

1199 (h) monthly expenses.

1200 (4) If the party is a prisoner, he shall also disclose the amount of money held in his
1201 prisoner trust account at the time the affidavit is executed as provided in Section ~~[21-7-4.5]~~
1202 78-7-38.

1203 (5) In addition to the financial disclosures, the affidavit shall state the following:

1204 I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the
1205 expenses of the action or legal proceedings which I am about to commence or the appeal which

1206 I am about to take, and that I believe I am entitled to the relief sought by the action, legal
1207 proceedings, or appeal.

1208 Section 30. Section **78-7-37**, which is renumbered from Section 21-7-4 is renumbered and
1209 amended to read:

1210 ~~[21-7-4]~~. **78-7-37. Effect of filing affidavit -- Nonprisoner.**

1211 (1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the
1212 court shall review the affidavit and make an independent determination based on the information
1213 provided whether court costs and fees should be waived entirely or in part. Notwithstanding the
1214 party's statement of inability to pay court costs, the court shall require a partial or full filing fee
1215 where the financial information provided demonstrates an ability to pay a fee.

1216 (2) In instances where fees or costs are completely waived, the court shall immediately file
1217 any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant
1218 had fully paid all the regular fees. The constable or sheriff shall immediately serve any
1219 summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or
1220 defense of the cause, for the impecunious person as if all the necessary fees and costs had been
1221 fully paid.

1222 (3) However, in cases where an impecunious affidavit is filed, the judge shall question the
1223 person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the judge
1224 opines that the person is reasonably able to pay the costs, the judge shall direct the judgment or
1225 decree not be entered in favor of that person until the costs are paid. The order may be cancelled
1226 later upon petition if the facts warrant cancellation.

1227 Section 31. Section **78-7-38**, which is renumbered from Section 21-7-4.5 is renumbered
1228 and amended to read:

1229 ~~[21-7-4.5]~~. **78-7-38. Effect of filing affidavit -- Procedure for review and collection.**

1230 (1) As used in this section, "prisoner" means a person who has been convicted of a crime
1231 and is incarcerated for that crime or is being held in custody for trial or sentencing.

1232 (2) (a) Upon receipt of the oath or affirmation filed with any Utah court by a prisoner, the
1233 court shall immediately request the institution or facility where the prisoner is incarcerated to
1234 provide an account statement detailing all financial activities in the prisoner's trust account for the
1235 previous six months or since the time of incarceration, whichever is shorter.

1236 (b) The incarcerating facility shall:

1237 (i) prepare and produce to the court the prisoner's six-month trust account statement,
1238 current trust account balance, and aggregate disposable income; and

1239 (ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's
1240 trust account during the six-month period and subtracting all funds automatically deducted or
1241 otherwise garnished from the account during the same period.

1242 (3) The court shall:

1243 (a) review both the affidavit of impecuniosity and the financial account statement; and

1244 (b) based upon the review, independently determine whether or not the prisoner is
1245 financially capable of paying all the regular fees and costs associated with filing the action.

1246 (4) When the court concludes that the prisoner is unable to pay full fees and costs, the court
1247 shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance
1248 or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.

1249 (5) (a) After payment of the initial partial filing fee, the court shall require the prisoner to
1250 make monthly payments of 20% of the preceding month's aggregate disposable income until the
1251 regular filing fee associated with the civil action is paid in full.

1252 (b) The agency having custody of the prisoner shall:

1253 (i) garnish the prisoner's account each month; and

1254 (ii) once the collected fees exceed \$10, forward payments to the clerk of the court until the
1255 filing fees are paid.

1256 (c) Nothing in this section may be construed to prevent the agency having custody of the
1257 prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.

1258 (6) Collection of the filing fees continues despite dismissal of the action.

1259 (7) The filing fee collected may not exceed the amount of fees permitted by statute for the
1260 commencement of a civil action or an appeal of a civil action.

1261 Section 32. Section **78-7-39**, which is renumbered from Section 21-7-4.6 is renumbered
1262 and amended to read:

1263 **[21-7-4.6]. 78-7-39. Notice of filing fee -- Consequence of nonpayment.**

1264 (1) When an affidavit of impecuniosity has been filed and the court assesses an initial filing
1265 fee, the court shall immediately notify the litigant in writing of:

1266 (a) the initial filing fee required as a prerequisite to proceeding with the action;

1267 (b) the procedure available to challenge the initial filing fee assessment as provided in

1268 Section ~~[21-7-4.7]~~ 78-7-40; and

1269 (c) the inmate's ongoing obligation to make monthly payments until the entire filing fee
1270 is paid.

1271 (2) The court may not authorize service of process or otherwise proceed with the action,
1272 except as provided in Section ~~[21-7-4.7]~~ 78-7-40, until the initial filing fee has been completely
1273 paid to the clerk of the court.

1274 Section 33. Section **78-7-40**, which is renumbered from Section 21-7-4.7 is renumbered
1275 and amended to read:

1276 ~~[21-7-4.7]~~. **78-7-40. Filing fee challenge -- Court powers.**

1277 (1) Within ten days of receiving court notice requiring an initial filing fee under Section
1278 ~~[21-7-4.6]~~ 78-7-39, the litigant may contest the fee assessment by filing a memorandum and
1279 supporting documentation with the court demonstrating inability to pay the fee.

1280 (2) The court shall review the memorandum and supporting documents challenging the
1281 fee assessment for facial validity.

1282 (3) The court may reduce the initial filing fee, authorize service of process, or otherwise
1283 proceed with the action without prepayment of costs and fees if the memorandum shows the
1284 litigant:

1285 (a) has lost his source of income;

1286 (b) has unaccounted nondiscretionary expenses limiting his ability to pay;

1287 (c) will suffer immediate irreparable harm if the action is unnecessarily delayed; or

1288 (d) will otherwise lose the cause of action by unnecessary delays associated with securing
1289 funds necessary to satisfy the assessed filing fee.

1290 (4) Nothing in this section shall be construed to relieve the litigant from the ongoing
1291 obligation of monthly payments until the filing fee is paid in full.

1292 Section 34. Section **78-7-41**, which is renumbered from Section 21-7-5 is renumbered and
1293 amended to read:

1294 ~~[21-7-5]~~. **78-7-41. Failure to serve papers -- Penalty.**

1295 Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a
1296 class B misdemeanor.

1297 Section 35. Section **78-7-42**, which is renumbered from Section 21-7-6 is renumbered and
1298 amended to read:

1299 ~~[21-7-6]~~. **78-7-42. Liability for fees if successful in litigation.**

1300 Nothing herein contained shall prevent a justice court judge, clerk, constable, or sheriff
1301 from collecting his regular fees for all services so rendered for such poor person, in the event the
1302 poor person is successful in his litigation, and all fees and costs shall be regularly taxed and
1303 included in any judgment recovered by the poor person, and the fees and costs shall be paid to a
1304 justice court judge, clerk, constable, or sheriff. If the poor person fails in his action or appeal, then
1305 the costs of the action or appeal shall be adjudged against him.

1306 Section 36. Section **78-7-43**, which is renumbered from Section 21-7-7 is renumbered and
1307 amended to read:

1308 ~~[21-7-7]~~. **78-7-43. False affidavit -- Penalty.**

1309 If it is made to appear to the court by affidavit that the affidavit or affirmation is untrue,
1310 or that the action or appeal is frivolous or malicious or without merit, the court may make a rule
1311 on the affiant, fixing a day not less than five days from the date of service of such notice, requiring
1312 such affiant to appear at a fixed time and place to show cause, if any he has, why he should not
1313 give bond and security for the costs of his action or appeal, or pay the legal fees therefor, and, on
1314 failure so to do, why his action or appeal should not be dismissed. Should the court be of the
1315 opinion that the affidavit or affirmation is untrue, or that said action or appeal is frivolous,
1316 malicious or without merit, the court in which such action or appeal is pending may dismiss it.

1317 Section 37. Section **78-7-44**, which is renumbered from Section 21-7-20 is renumbered
1318 and amended to read:

1319 ~~[21-7-20]~~. **78-7-44. Fees for writ of garnishment -- Single or continuing.**

1320 (1) Any creditor who serves or causes to be served a writ of garnishment upon the
1321 garnishee shall pay to the garnishee:

1322 (a) \$10 for a single garnishment; and

1323 (b) \$25 for a continuing garnishment.

1324 (2) The creditor shall pay the fee directly to the garnishee.

1325 Section 38. Section **78-28-1** is amended to read:

1326 **78-28-1. Online court assistance program -- Purpose of program -- User's fee.**

1327 (1) There is established an online court assistance program administered by the
1328 Administrative Office of the Courts to provide the public with information about civil procedures
1329 and to assist the public in preparing and filing civil pleadings and other papers in:

- 1330 (a) uncontested divorces;
- 1331 (b) enforcement of orders in the divorce decree;
- 1332 (c) landlord and tenant actions; and
- 1333 (d) other types of proceedings approved by the Online Court Assistance Program Policy
- 1334 Board.

1335 (2) The purpose of the online court assistance program shall be to:

- 1336 (a) minimize the costs of civil litigation;
- 1337 (b) improve access to the courts; and
- 1338 (c) provide for informed use of the courts and the law by pro se litigants.

1339 (3) (a) An additional \$20 shall be added to the filing fee established by Section ~~[21-1-5]~~
 1340 78-7-35 if a person files a complaint, petition, answer, or response prepared through the program.
 1341 There shall be no fee for using the program or for papers filed subsequent to the initial pleading.

1342 (b) There is created within the General Fund a restricted account known as the Online
 1343 Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the
 1344 restricted account and appropriated by the Legislature to the Administrative Office of the Courts
 1345 to develop, operate, and maintain the program and to support the use of the program through
 1346 education of the public.

1347 Section 39. Section **78-31b-9** is amended to read:

1348 **78-31b-9. Dispute Resolution Fund -- Appropriation.**

1349 There is created within the General Fund a restricted account known as the Dispute
 1350 Resolution Fund. Fees established in Subsections ~~[21-1-5]~~ 78-7-35(1)(a) through (e), (1)(g), and
 1351 (1)(r) shall be allocated to and deposited in the fund. The Legislature shall annually appropriate
 1352 money from the Dispute Resolution Fund to the Administrative Office of the Courts to implement
 1353 the purposes of the Alternative Dispute Resolution Act.

1354 Section 40. Section **78-46-1** is amended to read:

1355 **78-46-1. Title.**

1356 This chapter is known as the "Jury ~~[Selection and Service]~~ and Witness Act."

1357 Section 41. Section **78-46-24**, which is renumbered from Section 21-5-1 is renumbered
 1358 and amended to read:

1359 ~~[21-5-1].~~ **78-46-24. Judicial Council rules governing jury and witness fee**
 1360 **payment.**

1361 The Judicial Council shall adopt rules governing the method of payment of fees, mileage,
1362 and other expenses of jurors and witnesses, authorization for payment, record of payment, and the
1363 audit of payment records.

1364 Section 42. Section **78-46-25**, which is renumbered from Section 21-5-1.5 is renumbered
1365 and amended to read:

1366 **[21-5-1.5]. 78-46-25. State payment for jurors and subpoenaed persons --**
1367 **Appropriations and costs -- Expenses in justice court.**

1368 (1) The state is responsible for payment of all fees and expenses authorized by law for
1369 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in
1370 criminal actions in the courts of record and actions in the juvenile court. The state is responsible
1371 for payment of all fees and expenses authorized by law for jurors in the courts of record. For such
1372 payments, the Judicial Council shall receive an annual appropriation contained in a separate line
1373 item appropriation.

1374 (2) If expenses exceed the line item appropriation, the administrator of the courts shall
1375 submit a claim against the state to the Board of Examiners and request the board to recommend
1376 and submit a supplemental appropriation request to the Legislature for the deficit incurred.

1377 (3) In the justice courts, the fees, mileage, and other expenses authorized by law for jurors,
1378 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs shall
1379 be paid by the municipality if the action is prosecuted by the city attorney, and by the county if the
1380 action is prosecuted by the county attorney or district attorney.

1381 Section 43. Section **78-46-26**, which is renumbered from Section 21-5-2 is renumbered
1382 and amended to read:

1383 **[21-5-2]. 78-46-26. Witness and jurors fees in criminal cases -- Daily report of**
1384 **attendance.**

1385 Every witness in a criminal case subpoenaed for the state, or for a defendant by order of
1386 the court at the expense of the state, and every juror, whether grand or trial, shall, unless
1387 temporarily excused, in person report daily to the clerk his attendance at court from the time of his
1388 appearance to the date of his discharge, and no per diem shall be allowed for any day upon which
1389 attendance is not so reported.

1390 Section 44. Section **78-46-27**, which is renumbered from Section 21-5-3 is renumbered
1391 and amended to read:

1392 ~~[21-5-3]~~. **78-46-27**. **Statement of service of witness or juror -- Certificate.**

1393 Whenever a grand juror, or a witness for the state before the grand jury, is finally
1394 discharged, the foreman of the grand jury shall furnish to the clerk of the district court a statement
1395 containing information necessary for the clerk to make the juror's or witness's certificate.

1396 Section 45. Section **78-46-28**, which is renumbered from Section 21-5-4 is renumbered
1397 and amended to read:

1398 ~~[21-5-4]~~. **78-46-28**. **Fees and mileage.**

1399 (1) Every juror and witness legally required or in good faith requested to attend a trial court
1400 of record or not of record or a grand jury is entitled to:

1401 (a) \$18.50 for the first day of attendance and \$49 per day for each subsequent day of
1402 attendance; and

1403 (b) if traveling more than 50 miles, \$1 for each four miles in excess of 50 miles actually
1404 and necessarily traveled in going only, regardless of county lines.

1405 (2) Persons in the custody of a penal institution upon conviction of a criminal offense are
1406 not entitled to a witness fee.

1407 (3) A witness attending from outside the state in a civil case is allowed mileage at the rate
1408 of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside the state
1409 in going only.

1410 (4) If the witness is attending from outside the state in a criminal case, the state shall
1411 reimburse the witness under Section 77-21-3.

1412 (5) A prosecution witness or a witness subpoenaed by an indigent defendant attending
1413 from outside the county but within the state may receive reimbursement for necessary lodging and
1414 meal expenses under rule of the Judicial Council.

1415 (6) There is created within the General Fund, a restricted account known as the CASA
1416 Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in \$18.50
1417 or \$49 increments. The Legislature shall annually appropriate money from the CASA Volunteer
1418 Account to the Administrative Office of the Courts for the purpose of recruiting, training, and
1419 supervising volunteers for the Court Appointed Special Advocate program established pursuant
1420 to Section 78-3a-912.

1421 Section 46. Section **78-46-29**, which is renumbered from Section 21-5-4.5 is renumbered
1422 and amended to read:

1423 ~~[21-5-4.5].~~ **78-46-29. Food allowance for jurors -- Sequestration costs.**

1424 (1) Jurors may be provided with a reasonable food allowance under the rules of the
1425 Judicial Council.

1426 (2) When a jury has been placed in sequestration by order of the court, the necessary
1427 expenses for food and lodging shall be provided under the rules of the Judicial Council.

1428 Section 47. Section **78-46-30**, which is renumbered from Section 21-5-8 is renumbered
1429 and amended to read:

1430 ~~[21-5-8].~~ **78-46-30. Witness fees in civil cases -- How paid -- Taxed as costs.**

1431 The fees and compensation of witnesses in all civil causes shall be paid by the party who
1432 causes the witnesses to attend. A witness is not obliged to attend court in a civil cause when
1433 subpoenaed unless his fees for one day's attendance are tendered or paid to him on demand, or his
1434 fees for attendance for each day are tendered or paid to him on demand. The fees of witnesses paid
1435 in civil causes may be taxed as costs against the losing party.

1436 Section 48. Section **78-46-31**, which is renumbered from Section 21-5-11 is renumbered
1437 and amended to read:

1438 ~~[21-5-11].~~ **78-46-31. Justice court judge -- Certificate of attendance -- Records
1439 and reporting.**

1440 (1) Every justice court judge shall give to each person who has served before him as a juror
1441 or as a witness in a criminal cause when summoned for the prosecution by the county or city
1442 attorney, or for the defense by order of the court, a numbered certificate, in which must be stated:

1443 (a) the name of the juror or witness;

1444 (b) the title of the proceeding;

1445 (c) the number of days in attendance;

1446 (d) the number of miles traveled if the witness has traveled more than 50 miles in going
1447 only; and

1448 (e) the amount due.

1449 (2) The certificate shall be presented to the county or city attorney. When certified by him
1450 as being correct, it shall be presented to the county or city auditor and when allowed by the county
1451 executive or town council, the auditor shall draw his warrant for it on the treasurer.

1452 (3) Every justice court judge shall keep a record of all certificates issued by him. The
1453 record shall show all of the facts stated in each certificate. On the first Monday of each month he

1454 shall file with the treasurer a detailed statement of all certificates issued.

1455 Section 49. Section **78-46-32**, which is renumbered from Section 21-5-14 is renumbered
1456 and amended to read:

1457 ~~[21-5-14]~~. **78-46-32**. **When criminal defense witness may be called at expense of**
1458 **state.**

1459 A witness for a defendant in a criminal cause may not be subpoenaed at the expense of the
1460 state, county, or city, except upon order of the court. The order shall be made only upon affidavit
1461 of the defendant, showing:

1462 (1) the defendant is impecunious and unable to pay the per diems of the witness;

1463 (2) the evidence of the witness is material for defendant's defense as he is advised by his
1464 counsel, if he has counsel; and

1465 (3) the defendant cannot safely proceed to trial without the witness.

1466 Section 50. Section **78-46-33**, which is renumbered from Section 21-5-14.5 is renumbered
1467 and amended to read:

1468 ~~[21-5-14.5]~~. **78-46-33**. **Expenses for expert witnesses.**

1469 (1) The court may appoint any expert witness agreed upon by the parties or of its own
1470 selection. The court shall inform the expert of required duties in writing and a copy shall be filed
1471 with the court record.

1472 (2) The appointed expert shall advise the court and the parties of findings and may be
1473 called to testify by the court or by any party. The expert witness is subject to cross-examination
1474 by each party.

1475 (3) The court shall determine the reasonable compensation of the expert and order
1476 payment. The parties may call expert witnesses of their own at their own expense. Upon a
1477 showing that a defendant is financially unable to pay the compensation of an expert whose services
1478 are necessary for an adequate defense, the compensation shall be paid as if the expert were called
1479 on behalf of the prosecution.

1480 (4) Payment by the court for an expert witness in a criminal case is limited to the fee and
1481 mileage allowance for witnesses under Section ~~[21-5-4]~~ **78-46-28** and necessary meals and lodging
1482 expenses as provided by rule of the Judicial Council. Compensation of an expert witness beyond
1483 the statutory fee and mileage allowance shall be paid by the parties under Subsection (3).

1484 Section 51. Section **78-46-34**, which is renumbered from Section 21-5-15 is renumbered

1485 and amended to read:

1486 ~~[21-5-15].~~ 78-46-34. **Officials subpoenaed not entitled to fee or per diem --**

1487 **Exception.**

1488 No officer of the United States, or of the State of Utah, or of any county, incorporated city
1489 or town within the State of Utah, shall receive any witness fee or per diem when testifying in a
1490 criminal proceeding unless the officer is required to testify at a time other than during his or her
1491 normal working hours.

1492 Section 52. Section **78-46-35**, which is renumbered from Section 21-5-16 is renumbered
1493 and amended to read:

1494 ~~[21-5-16].~~ 78-46-35. **Only one fee per day allowed.**

1495 No witness shall receive fees in more than one criminal cause on the same day.

1496 Section 53. Section **78-46-36**, which is renumbered from Section 21-5-17 is renumbered
1497 and amended to read:

1498 ~~[21-5-17].~~ 78-46-36. **Interpreters' fees taxed as costs.**

1499 Interpreters and translators, including those skilled in foreign languages and
1500 communication with the deaf, shall be allowed such compensation for their services as the court
1501 may allow, to be taxed and collected as other costs.

1502 Section 54. Section **78-46-37**, which is renumbered from Section 21-5-18 is renumbered
1503 and amended to read:

1504 ~~[21-5-18].~~ 78-46-37. **Jury fee assessments -- Payment.**

1505 (1) The court has discretionary authority in any civil or criminal action or proceeding
1506 triable by jury to assess the entire cost of one day's juror fees against either the plaintiff or
1507 defendant or their counsel, or to divide the cost and assess them against both plaintiff and
1508 defendant or their counsel, or additional parties plaintiff or defendant, if:

1509 (a) a jury demand has been made and is later withdrawn within the 48 hours preceding the
1510 commencement of the trial; or

1511 (b) the case is settled or continued within 48 hours of trial without just cause for not
1512 having settled or continued the case prior to the 48-hour period.

1513 (2) The party assessed shall make payment to the clerk of the court within a prescribed
1514 period. Payment shall be enforced by contempt proceedings.

1515 (3) The court clerk shall transfer the assessment to the state treasury, or the auditor of the

1516 city or county incurring the juror expenses.

1517 Section 55. Section **78-46-38**, which is renumbered from Section 21-6-5 is renumbered
1518 and amended to read:

1519 **[21-6-5]. 78-46-38. Statement of certificates -- Contents -- Payment by state.**

1520 At the end of each quarter it shall be the duty of the county treasurer and the county auditor
1521 of each county to prepare in duplicate and verify under oath a full and complete itemized statement
1522 of all certificates issued by the clerk of the district court since the date of the last statement for
1523 mileage and attendance of grand jurors, for mileage and attendance of trial jurors engaged in the
1524 trial of criminal causes in the district court, and for mileage and attendance of witnesses summoned
1525 by or on behalf of the state in criminal causes in the district court. The statement shall set forth in
1526 detail the number of each certificate, the date of same, the name of the person in whose favor
1527 issued, the nature of the service rendered, and such other information as may be necessary and
1528 required by the state auditor. Within 30 days of the end of the quarter one of these statements shall
1529 be transmitted to the state auditor and the other shall be filed in the office of the county clerk.
1530 Upon the timely receipt of this statement by the state auditor he shall, unless he finds the same to
1531 be incorrect, draw his warrant in favor of the county treasurer upon the state treasurer for the whole
1532 amount of jurors' and witnesses' certificates as shown by the statement, and shall transmit the same
1533 to the county treasurer. The county treasurer shall hold the funds drawn from the state treasury
1534 upon the certificates for mileage and attendance of jurors and witnesses as a separate fund for the
1535 redemption of jurors' and witnesses' certificates.

1536 Section 56. Section **78-46-39**, which is renumbered from Section 21-7-16 is renumbered
1537 and amended to read:

1538 **[21-7-16]. 78-46-39. Witnesses or jurors -- Certifying excessive fees a felony.**

1539 Every clerk or judge of any court, county attorney, district attorney, or other officer who
1540 shall certify as a fact any matter which he knows to be untrue, whereby any witness or juror shall
1541 be allowed a greater sum than he would otherwise be entitled to under the provisions of this title,
1542 is guilty of a felony.

1543 Section 57. Section **78-46-40**, which is renumbered from Section 21-7-17 is renumbered
1544 and amended to read:

1545 **[21-7-17]. 78-46-40. Purchase of certificate forbidden.**

1546 No person connected officially with any of the district courts of this state, and no state,

1547 district, county or precinct officer, shall purchase or cause to be purchased any certificate issued
1548 to any juror or witness under the provisions of this title. Any person who violates the provisions
1549 of this section is guilty of a misdemeanor.

1550 Section 58. Section **78-46-41**, which is renumbered from Section 21-7-18 is renumbered
1551 and amended to read:

1552 ~~[21-7-18]~~. **78-46-41. Limit of time for presentation of certificate.**

1553 Any holder of a witness's or juror's certificate specified in this title shall be required to
1554 present it to the county treasurer or to the county auditor, as the case may be, of the county where
1555 such certificate was issued within one year from the date of its issuance. If the same shall not be
1556 presented for payment within that time, it shall be invalid and shall not be paid.

1557 Section 59. Section **78-56-108** is amended to read:

1558 **78-56-108. Transcripts and copies -- Fees -- Establishment of Court Reporting**
1559 **Technology Account.**

1560 (1) The Judicial Council shall by rule provide for a standard page format for transcripts
1561 of court hearings.

1562 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be
1563 \$3.50 per page, which includes the initial preparation of the transcript and one certified copy. The
1564 preparer shall deposit the original transcript with the clerk of the court and provide the person
1565 requesting the transcript with the certified copy. The cost of additional copies shall be as provided
1566 in Subsection ~~[21-1-5]~~ 78-7-35(1). The transcript for an appeal shall be prepared within the time
1567 period permitted by the rules of Appellate Procedure. The fee for a transcript prepared within three
1568 business days of the request shall be 1-1/2 times the base rate. The fee for a transcript prepared
1569 within one business day of the request shall be double the base rate.

1570 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to the
1571 action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case in
1572 which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.

1573 (c) There is established within the General Fund a restricted account known as the Court
1574 Reporting Technology Account. The clerk of the court shall transfer to the state treasurer for
1575 deposit into this account all fees received under this section. The state court administrator may
1576 draw upon this account for the purchase, development, and maintenance of court reporting
1577 technologies and for other expenses necessary for maintaining a verbatim record of court sessions.

1578 (3) The fee for the preparation of a transcript of a court hearing by an official court
1579 transcriber other than an official court reporter and the fee for the preparation of the transcript by
1580 a certified shorthand reporter of a hearing before any referee, master, board, or commission of this
1581 state shall be as provided in Subsection (2)(a), and shall be payable to the person preparing the
1582 transcript.

1583 Section 60. **Repealer.**

1584 This act repeals:

1585 Section **21-1-1, Collection in advance by state officers.**

1586 Section **21-6-1, Elective state officers' fees.**

1587 Section **21-6-2, County officers' fees.**

1588 Section **21-6-3, Verification of statement of fees.**

1589 Section **21-6-6, Salaries of state officers withheld until fees accounted for.**

1590 Section **21-6-7, Salaries of county officers withheld until fees accounted for.**

1591 Section **21-7-1, Accounts of all fees to be kept.**

1592 Section **21-7-2, Payment of fees prerequisite to service -- Exception.**

1593 Section **21-7-9, Fee book to be kept.**

1594 Section **21-7-10, Schedule of fees to be posted.**

1595 Section **21-7-11, Cost of publications to be advanced.**

1596 Section **21-7-12, Receipts to be given -- Penalty.**

1597 Section **21-7-13, Breach of duty respecting fees -- Penalty.**

1598 Section **21-7-14, Office declared vacant.**

1599 Section **21-7-15, Exacting excessive fees -- Penalty.**

Legislative Review Note**as of 11-15-00 4:05 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Government Operations Interim Committee recommended this bill.