

REVISOR'S STATUTE

2001 GENERAL SESSION

STATE OF UTAH

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This act modifies parts of the Utah Code to make technical corrections including wording, cross references, numbering changes, and repealing the Utah Sesquicentennial Coordinating Council.

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

AMENDS:

4-37-503, as last amended by Chapter 302, Laws of Utah 1998

7-5-5, as last amended by Chapter 260, Laws of Utah 2000

7-15-1, as last amended by Chapters 100 and 171, Laws of Utah 1999

7-15-2, as last amended by Chapters 100 and 171, Laws of Utah 1999

8-5-5, as enacted by Chapter 132, Laws of Utah 1985

10-6-151, as last amended by Chapter 20, Laws of Utah 1995

10-7-3, as last amended by Chapter 269, Laws of Utah 1991

10-7-8, as last amended by Chapter 2, Laws of Utah 1970

10-8-62, as last amended by Chapter 285, Laws of Utah 1992

10-8-63, as last amended by Chapter 132, Laws of Utah 1985

11-13-1, as enacted by Chapter 14, Laws of Utah 1965

11-13-2, as last amended by Chapter 47, Laws of Utah 1977

11-13-5.6, as last amended by Chapter 337, Laws of Utah 1998

11-26-1, as last amended by Chapter 262, Laws of Utah 2000

13-8-5, as last amended by Chapter 238, Laws of Utah 2000

- 28 **15-7-12**, as enacted by Chapter 62, Laws of Utah 1983
29 **16-4-12**, as last amended by Chapter 75, Laws of Utah 2000
30 **16-6a-809 (Effective 04/30/01)**, as enacted by Chapter 300, Laws of Utah 2000
31 **17-18-1**, as last amended by Chapter 149, Laws of Utah 2000
32 **17-18-1.5**, as last amended by Chapters 279 and 372, Laws of Utah 1999
33 **17A-2-306**, as renumbered and amended by Chapter 186, Laws of Utah 1990
34 **17A-2-307**, as renumbered and amended by Chapter 186, Laws of Utah 1990
35 **17A-2-309**, as renumbered and amended by Chapter 186, Laws of Utah 1990
36 **17A-2-423**, as renumbered and amended by Chapter 186, Laws of Utah 1990
37 **17A-2-543**, as last amended by Chapter 254, Laws of Utah 2000
38 **17A-2-556**, as last amended by Chapters 75 and 254, Laws of Utah 2000
39 **17A-2-712**, as last amended by Chapter 254, Laws of Utah 2000
40 **17A-2-747**, as last amended by Chapter 254, Laws of Utah 2000
41 **17A-2-826**, as renumbered and amended by Chapter 186, Laws of Utah 1990
42 **17A-2-1037**, as renumbered and amended by Chapter 186, Laws of Utah 1990
43 **17A-2-1038**, as last amended by Chapters 254 and 318, Laws of Utah 2000
44 **17A-2-1058**, as renumbered and amended by Chapter 186, Laws of Utah 1990
45 **17A-2-1225**, as last amended by Chapter 349, Laws of Utah 2000
46 **17A-2-1236**, as last amended by Chapter 349, Laws of Utah 2000
47 **17A-2-1264**, as last amended by Chapters 348 and 349, Laws of Utah 2000
48 **17A-2-1312**, as renumbered and amended by Chapter 186, Laws of Utah 1990
49 **17A-2-1316**, as renumbered and amended by Chapter 186, Laws of Utah 1990
50 **17A-2-1322**, as renumbered and amended by Chapter 186, Laws of Utah 1990
51 **17A-2-1413**, as last amended by Chapter 254, Laws of Utah 2000
52 **17A-2-1414**, as renumbered and amended by Chapter 186, Laws of Utah 1990
53 **17A-2-1439**, as last amended by Chapter 254, Laws of Utah 2000
54 **17A-2-1448**, as last amended by Chapter 254, Laws of Utah 2000
55 **17A-2-1449**, as last amended by Chapter 254, Laws of Utah 2000
56 **19-6-505**, as renumbered and amended by Chapter 112, Laws of Utah 1991
57 **19-6-804**, as renumbered and amended by Chapter 51, Laws of Utah 2000
58 **20A-3-304**, as last amended by Chapters 75 and 328, Laws of Utah 2000

59 **20A-5-404**, as last amended by Chapter 75, Laws of Utah 2000
60 **21-2-8**, as renumbered and amended by Chapter 133, Laws of Utah 2000
61 **23-13-2**, as last amended by Chapters 44 and 195, Laws of Utah 2000
62 **30-3-35**, as last amended by Chapter 97, Laws of Utah 2000
63 **30-6-1**, as last amended by Chapter 170, Laws of Utah 2000
64 **31A-22-625**, as enacted by Chapter 267, Laws of Utah 2000
65 **31A-23-102**, as last amended by Chapter 1, Laws of Utah 2000
66 **31A-29-103**, as enacted by Chapter 232, Laws of Utah 1990
67 **31A-35-608**, as last amended by Chapter 259, Laws of Utah 2000
68 **34A-1-309**, as last amended by Chapter 205 and renumbered and amended by Chapter 375,
69 Laws of Utah 1997
70 **34A-2-105**, as last amended by Chapter 199, Laws of Utah 1999
71 **35A-3-102**, as last amended by Chapter 161, Laws of Utah 2000
72 **36-12-8**, as last amended by Chapter 165, Laws of Utah 2000
73 **41-22-2 (Effective 04/30/01)**, as last amended by Chapter 300, Laws of Utah 2000
74 **41-22-2 (Superseded 04/30/01)**, as last amended by Chapter 73, Laws of Utah 1999
75 **46-4-105**, as enacted by Chapter 74, Laws of Utah 2000
76 **52-4-7.8**, as enacted by Chapter 25, Laws of Utah 1997
77 **53A-2-206**, as last amended by Chapter 103, Laws of Utah 1994
78 **53A-15-305**, as last amended by Chapter 215, Laws of Utah 2000
79 **53A-18-101**, as enacted by Chapter 2, Laws of Utah 1988
80 **53A-18-102**, as last amended by Chapter 78, Laws of Utah 1990
81 **53A-28-302**, as enacted by Chapter 62, Laws of Utah 1996
82 **54-4-28**, Utah Code Annotated 1953
83 **54-4-29**, Utah Code Annotated 1953
84 **54-4-30**, Utah Code Annotated 1953
85 **54-9-5**, as last amended by Chapter 3, Laws of Utah 1988
86 **54-13-1**, as enacted by Chapter 131, Laws of Utah 1989
87 **55-3-2.5**, as enacted by Chapter 115, Laws of Utah 1975
88 **55-5-6**, as last amended by Chapter 285, Laws of Utah 1998
89 **57-1-5**, as last amended by Chapter 124, Laws of Utah 1997

- 90 **59-1-503**, as last amended by Chapter 86, Laws of Utah 2000
- 91 **59-1-703**, as last amended by Chapter 169, Laws of Utah 1993
- 92 **59-1-704**, as renumbered and amended by Chapter 3, Laws of Utah 1987
- 93 **59-1-1005**, as enacted by Chapter 35, Laws of Utah 1991
- 94 **59-2-507**, as renumbered and amended by Chapter 4, Laws of Utah 1987
- 95 **59-2-509**, as last amended by Chapter 74, Laws of Utah 1987
- 96 **59-2-704**, as last amended by Chapter 271, Laws of Utah 1995
- 97 **59-2-1351.5**, as last amended by Chapter 79, Laws of Utah 1996
- 98 **59-2-1354**, as repealed and reenacted by Chapter 3, Laws of Utah 1988
- 99 **59-2-1361**, as last amended by Chapter 4, Laws of Utah 1992
- 100 **59-7-114**, as repealed and reenacted by Chapter 169, Laws of Utah 1993
- 101 **59-7-612**, as last amended by Chapter 59, Laws of Utah 1999
- 102 **59-10-540**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 103 **59-10-541**, as renumbered and amended by Chapters 2 and 3, Laws of Utah 1987
- 104 **59-10-603**, as last amended by Chapter 345, Laws of Utah 1997
- 105 **59-12-102 (Effective 07/01/01)**, as last amended by Chapter 253, Laws of Utah 2000
- 106 **59-12-102 (Superseded 07/01/01)**, as last amended by Chapters 63 and 362, Laws of Utah
- 107 1999
- 108 **59-12-111**, as last amended by Chapter 86, Laws of Utah 2000
- 109 **59-12-117**, as last amended by Chapter 4, Laws of Utah 1993
- 110 **59-13-202.5**, as enacted by Chapter 174, Laws of Utah 2000
- 111 **59-13-301.5**, as enacted by Chapter 258, Laws of Utah 2000
- 112 **59-13-307**, as last amended by Chapter 271, Laws of Utah 1997
- 113 **59-13-322**, as enacted by Chapter 174, Laws of Utah 2000
- 114 **59-22-101**, as last amended by Chapter 1 and renumbered and amended by Chapter 229,
- 115 Laws of Utah 2000
- 116 **62A-4a-412**, as last amended by Chapters 304 and 321, Laws of Utah 2000
- 117 **62A-11-304.2**, as last amended by Chapter 161, Laws of Utah 2000
- 118 **63-55-258**, as last amended by Chapter 66, Laws of Utah 2000
- 119 **63-95-203**, as enacted by Chapter 210, Laws of Utah 2000
- 120 **63A-6-105**, as last amended by Chapter 18, Laws of Utah 1999

121 **63A-6-106**, as last amended by Chapter 413, Laws of Utah 1998
122 **63A-9-805**, as renumbered and amended by Chapter 252, Laws of Utah 1997
123 **63B-7-502**, as enacted by Chapter 67, Laws of Utah 1998
124 **67-1-9**, as enacted by Chapter 252, Laws of Utah 1977
125 **67-1a-1**, as enacted by Chapter 68, Laws of Utah 1984
126 **73-10b-2**, as last amended by Chapter 282, Laws of Utah 2000
127 **73-10d-4**, as last amended by Chapter 245, Laws of Utah 1985
128 **73-10d-7**, as last amended by Chapter 245, Laws of Utah 1985
129 **73-10h-8**, as last amended by Chapter 10, Laws of Utah 1997
130 **76-8-316**, as enacted by Chapter 51, Laws of Utah 1995
131 **76-10-1201**, as last amended by Chapter 92, Laws of Utah 1977
132 **76-10-1306**, as enacted by Chapter 196, Laws of Utah 1973
133 **78-14-5**, as enacted by Chapter 23, Laws of Utah 1976
134 **78-23-10**, as enacted by Chapter 111, Laws of Utah 1981

135 REPEALS:

136 **63C-5-101**, as enacted by Chapter 233, Laws of Utah 1994
137 **63C-5-103**, as enacted by Chapter 233, Laws of Utah 1994
138 **63C-5-104**, as enacted by Chapter 233, Laws of Utah 1994
139 **63C-5-105**, as enacted by Chapter 233, Laws of Utah 1994
140 **63C-5-106**, as enacted by Chapter 233, Laws of Utah 1994
141 **63C-5-107**, as enacted by Chapter 233, Laws of Utah 1994

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

143 Section 1. Section **4-37-503** is amended to read:

144 **4-37-503. Fish Health Policy Board.**

145 (1) There is created within the department the Fish Health Policy Board which shall
146 establish policies designed to prevent the outbreak of, control the spread of, and eradicate
147 pathogens that cause disease in aquatic animals.

148 (2) The Fish Health Policy Board shall:

149 (a) determine procedures and requirements for certifying a source of aquatic animals as
150 health approved, including:

151 (i) the pathogens for which inspection is required to receive health approval;

152 (ii) the pathogens which may not be present to receive health approval; and
153 (iii) standards and procedures required for the inspection of aquatic animals;
154 (b) establish procedures for the timely reporting of the presence of pathogens and disease
155 threats;

156 (c) create policies and procedures for, and appoint, an emergency response team to:

- 157 (i) investigate serious threats of disease;
- 158 (ii) develop and monitor a plan of action; and
- 159 (iii) report to:

- 160 (A) the commissioner of agriculture and food;
- 161 (B) the director of the Division of Wildlife Resources; and
- 162 (C) the chair of the Fish Health Policy Board; and
- 163 (d) develop unified statewide aquaculture disease control plans.

164 (3) The Fish Health Policy Board shall advise the commissioner of agriculture and food
165 and the executive director of the Department of Natural Resources regarding:

- 166 (a) educational programs and information systems to educate and inform the public about
167 practices that the public may employ to prevent the spread of disease; and
- 168 (b) communication and interaction between the department and the Division of Wildlife
169 Resources regarding fish health policies and procedures.

170 (4) (a) (i) The Fish Health Policy Board shall consist of seven members as follows:

- 171 (A) one member shall be jointly appointed by the commissioner of agriculture and food
172 and the executive director of the Department of Natural Resources;
- 173 (B) two members shall be appointed by the commissioner of agriculture and food;
- 174 (C) two members shall be appointed by the executive director of the Department of Natural
175 Resources;
- 176 (D) one member shall be the state veterinarian; and
- 177 (E) one member shall be the director of the Division of Wildlife Resources.

178 (ii) Each member appointed under Subsections (4)(a)(i)(A) through (C) shall be
179 knowledgeable about the control of aquatic diseases.

180 (iii) The member appointed under Subsection (4)(a)(i)(A) may not be an employee of, or
181 a member of a board within, the Department of Agriculture and Food or Department of Natural
182 Resources.

183 (iv) Of the members appointed under Subsection (4)(a)(i)(B), one shall be an employee
184 of the Division of Animal Industry and one shall be a representative of the aquaculture industry.

185 (v) Of the members appointed under Subsection (4)(a)(i)(C), one shall be an employee of
186 the Division of Wildlife Resources and one shall represent sport fishermen.

187 (b) Except as required by Subsection (4)(c), the term of office of board members, other than
188 the state veterinarian and the director of the Division of Wildlife Resources, shall be four years.

189 (c) Notwithstanding the requirements of Subsection (4)(b), the commissioner and the
190 executive director shall, at the time of appointment or reappointment, adjust the length of terms
191 to ensure that the terms of board members are staggered so that approximately half of the board
192 is appointed every two years.

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

195 (e) The member appointed under Subsection (4)(a)(i)(A) shall serve as chair of the board.

196 (f) The board shall meet upon the call of the chair or a majority of the board members.

197 (g) (i) An action of the board shall be adopted upon approval of four or more voting
198 members.

199 (ii) The chair may not vote.

200 (5) (a) (i) Members who are not government employees shall receive no compensation or
201 benefits for their services, but may receive per diem and expenses incurred in the performance of
202 the member's official duties at the rates established by the Division of Finance under Sections
203 63A-3-106 and 63A-3-107.

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

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

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

211 (6) (a) The board shall make rules consistent with its responsibilities and duties specified
212 in this section.

213 (b) Rules of the department and Fish Health Policy Board pertaining to the control of

214 disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those
215 provisions.

216 Section 2. Section **7-5-5** is amended to read:

217 **7-5-5. Revocation of trust authority -- Procedure.**

218 (1) (a) The commissioner may issue and serve upon a trust company a notice of intent to
219 revoke the authority of the trust company to exercise the powers granted by this chapter, if, in the
220 commissioner's opinion, the trust company:

221 (i) [~~the trust company~~] is unlawfully or unsoundly exercising the powers granted under this
222 chapter;

223 (ii) has unlawfully or unsoundly exercised the powers granted under this chapter;

224 (iii) has failed, for a period of five consecutive years, to exercise the powers granted by
225 this chapter;

226 (iv) fails or has failed to comply with requirements upon which its permit is conditioned;

227 or

228 (v) fails or has failed to comply with any rule of the commissioner.

229 (b) The notice shall:

230 (i) contain a statement of the facts constituting the alleged unlawful or unsound exercise
231 of powers, or failure to exercise powers, or failure to comply; and

232 (ii) fix the time and place at which a hearing will be held to determine whether an order
233 revoking authority to execute those powers should issue against the trust company.

234 (2) (a) If the trust company or its representative does not appear at the hearing, the
235 commissioner may consider the trust company to be in default, and may issue a revocation order.

236 (b) If default has occurred, or if upon the record made at any hearing the commissioner
237 finds that any allegation specified in the notice of charges has been established, the commissioner
238 shall issue and serve upon the trust company an order:

239 (i) prohibiting it from accepting any new or additional trust accounts; and

240 (ii) revoking its authority to exercise any powers granted under this chapter.

241 (c) Any order issued under this section permits the trust company to continue to service
242 all previously accepted trust accounts pending their expeditious divestiture or termination.

243 (3) A revocation order shall become effective 30 days after service of the order upon the
244 trust company and shall remain effective and enforceable, unless it is stayed, modified, terminated,

245 or set aside by action of the commissioner or by judicial review as provided for in Section 7-1-714.

246 Section 3. Section **7-15-1** is amended to read:

247 **7-15-1. Definitions -- Civil liability of issuer -- Notice of action -- Collection costs --**

248 **Exemptions.**

249 (1) As used in this chapter:

250 (a) "Check" means a payment instrument on a depository institution including a:

251 (i) check;

252 (ii) draft;

253 (iii) order; or

254 (iv) other instrument.

255 (b) "Issuer" means a person who makes, draws, signs, or issues a check, whether as

256 corporate agent or otherwise, for the purpose of:

257 (i) obtaining from any person any money, merchandise, property, or other thing of value;

258 or

259 (ii) paying for any service, wages, salary, or rent.

260 (c) "Mailed" means the day that a notice is properly deposited in the United States mail.

261 (2) (a) An issuer of a check is liable to the holder of the check if:

262 (i) the check:

263 (A) is not honored upon presentment; and

264 (B) is marked "refer to maker";

265 (ii) the account upon which the check is made or drawn:

266 (A) does not exist;

267 (B) has been closed; or

268 (C) does not have sufficient funds or sufficient credit for payment in full of the check; or

269 (iii) (A) the check is issued in partial or complete fulfillment of a valid and legally binding

270 obligation; and

271 (B) the issuer stops payment on the check with the intent to:

272 (I) fraudulently defeat a possessory lien; or

273 (II) otherwise defraud the holder of the check.

274 (b) If an issuer of a check is liable under Subsection (2)(a), the issuer is liable for:

275 (i) the check amount; and

- 276 (ii) a service charge of \$20.
- 277 (3) (a) The holder of a check that has been dishonored may:
- 278 (i) give written or oral notice of dishonor to the issuer of the check; and
- 279 (ii) waive all or part of the service charge imposed under Subsection (2)(b).
- 280 (b) Notwithstanding Subsection (2)(b), a holder of a check that has been dishonored may
- 281 not collect and the issuer is not liable for the service charge imposed under Subsection (2)(b) if:
- 282 (i) the holder redeposits the check; and
- 283 (ii) that check is honored.
- 284 (4) If the issuer does not pay the amount owed under Subsection (2)(b) within 15 calendar
- 285 days from the day on which the notice required under Subsection (5) is mailed, the issuer is liable
- 286 for:
- 287 (a) the amount owed under Subsection (2)(b); and
- 288 (b) collection costs not to exceed \$20.
- 289 (5) (a) A holder shall provide written notice to an issuer before:
- 290 (i) charging collection costs under Subsection (4) in addition to the amount owed under
- 291 Subsection (2)(b); or
- 292 (ii) filing an action based upon this section.
- 293 (b) The written notice required under Subsection (5)(a) shall notify the issuer of the
- 294 dishonored check that:
- 295 (i) if the amount owed under Subsection (2)(b) is not paid within 15 calendar days from
- 296 the day on which the notice is mailed, the issuer is liable for:
- 297 (A) the amount owed under Subsection (2)(b); and
- 298 (B) collection costs under Subsection (4); and
- 299 (ii) the holder may file civil action if the issuer does not pay to the holder the amount owed
- 300 under Subsection (4) within 30 calendar days from the day on which the notice is mailed.
- 301 (6) (a) If the issuer has not paid the holder the amounts owed under Subsection (4) within
- 302 30 calendar days from the day on which the notice required by Subsection (5) is mailed, the holder
- 303 may offer to not file civil action under this section if the issuer pays the holder:
- 304 (i) the amount owed under Subsection (2)(b);
- 305 (ii) the collection costs under Subsection (4);
- 306 (iii) an amount that:

307 (A) is equal to the greater of:
308 (I) \$50; or
309 (II) triple the check amount; and
310 (B) does not exceed the check amount plus \$250; and
311 (iv) if the holder retains an attorney to recover on the dishonored check, reasonable
312 attorney's fees not to exceed \$50.

313 (b) (i) Notwithstanding Subsection (6)(a), all amounts charged or collected under
314 Subsection (6)(a)(iii) shall be paid to and be the property of the original payee of the check.

315 (ii) A person who is not the original payee may not retain any amounts charged or
316 collected under Subsection (6)(a)(iii).

317 (iii) The original payee of a check may not contract for a person to retain any amounts
318 charged or collected under Subsection (6)(a)(iii).

319 (7) (a) A civil action may not be filed under this section unless the issuer fails to pay the
320 amounts owed under Subsection (4) within 30 calendar days from the day on which the notice
321 required by Subsection (5) is mailed.

322 (b) In a civil action, the issuer of the check is liable to the holder for:

323 (i) the check amount;

324 (ii) interest;

325 (iii) all costs of collection, including all court costs and reasonable attorneys' fees; and

326 (iv) damages:

327 (A) equal to the greater of:

328 (I) \$100; or

329 (II) triple the check amount; and

330 (B) not to exceed the check amount plus \$500.

331 (c) If an issuer is held liable under Subsection (7)(b), notwithstanding Subsection (7)(b),
332 a court may waive all or part of the amounts owed under Subsections (7)(b)(ii) through (iv) upon
333 a finding of good cause.

334 (d) (i) Notwithstanding Subsection (7)(b), all amounts charged or collected under
335 Subsection (7)(b)(iv) shall be paid to and be the property of the original payee of the check.

336 (ii) A person who is not the original payee may not retain any amounts charged or
337 collected under Subsection (7)(b)(iv).

338 (iii) The original payee of a check may not contract for a person to retain any amounts
339 charged or collected under Subsection (7)(b)(iv).

340 (8) This section may not be construed to prohibit the holder of the check from seeking
341 relief under any other applicable statute or cause of action.

342 (9) (a) Notwithstanding the other provisions of this section, a holder of a check is exempt
343 from this section if:

344 (i) the holder:

345 (A) is a depository institution; or

346 (B) a person that receives a payment on behalf of a depository institution;

347 (ii) the check is a payment on a loan that originated at the depository institution that:

348 (A) is the holder; or

349 (B) on behalf of which the holder received the payment; and

350 (iii) the loan contract states a specific service charge for dishonor.

351 (b) A holder exempt under Subsection [~~(6)~~] (9)(a) may contract with an issuer for the
352 collection of fees or charges for the dishonor of a check.

353 Section 4. Section **7-15-3** is amended to read:

354 **7-15-3. Liability of financial institution upon wrongful dishonor.**

355 If a person is liable to a holder under Section 7-15-1 or under a contract with a depository
356 institution as provided in Subsection 7-15-1[~~(6)~~](9), and the liability is proximately caused by a
357 financial institution's wrongful dishonor under Section 70A-4-402, any award against the financial
358 institution under Section 70A-4-402 shall include all amounts awarded against the person to the
359 holder under:

360 (1) Section 7-15-1; or

361 (2) the contract with the depository institution as provided in Subsection 7-15-1[~~(6)~~](9).

362 Section 5. Section **8-5-5** is amended to read:

363 **8-5-5. Proceeds of resale of lots.**

364 The proceeds from the subsequent resale of any lot or parcel, title to which has been
365 revested in the municipality under Section 8-5-2 or 8-5-6, less the costs and expenses incurred in
366 the proceeding, shall become part of the permanent care and improvement fund of the
367 municipality, subject to subsequent disposition under [the] Title 10, Chapter 6, Uniform Fiscal
368 Procedures Act for Utah Cities.

369 Section 6. Section **10-6-151** is amended to read:

370 **10-6-151. Independent audits required.**

371 Independent audits of all cities are required, to be performed in conformity with Title 51,
372 Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and Other Local Entities. In
373 the case of a city organized under Title 10, Chapter 3, Part 12, [~~Optional~~] Alternative Forms of
374 Municipal Government [Act], the council shall appoint an independent auditor for the purpose of
375 complying with the requirements of this section and of Title 51, Chapter 2, Audits of Political
376 Subdivisions, Interlocal Organizations and Other Local Entities.

377 Section 7. Section **10-7-3** is amended to read:

378 **10-7-3. Joining with county to create and maintain local health department --**
379 **Adoption of ordinances and regulations required.**

380 (1) The governing body of every municipality shall join with the governing body of the
381 county in which the municipality is located to create and maintain a local health department as
382 provided in Title 26A, Chapter 1, Part 1, Local Health Department Act.

383 (2) The municipality shall cooperate with the board of health of the local health
384 department in the adoption of ordinances necessary for the protection of public health required
385 in this title.

386 Section 8. Section **10-7-8** is amended to read:

387 **10-7-8. Resolution on bond issue -- Election as provided by Utah Municipal Bond**
388 **Act.**

389 When the board of commissioners, city council or the town board of trustees of any city
390 or town shall have decided that incurring such bonded indebtedness is advisable, it shall by
391 resolution specify the purpose for which the indebtedness is to be created and the amount of bonds
392 which it is proposed to issue, and shall provide for submitting the question of the issue of such
393 bonds to the qualified electors of the city or town at the next general election, or at a special
394 election to be called for that purpose by the board of commissioners, city council or board of
395 trustees in such manner and subject to such conditions as is provided in [~~the~~] Title 11, Chapter 14,
396 Utah Municipal Bond Act. This section does not require an election for the issuance of refunding
397 bonds or other bonds not required by the Constitution to be voted at an election.

398 Section 9. Section **10-8-62** is amended to read:

399 **10-8-62. Cemeteries -- Purchase and operation.**

400 The city legislative body may:

401 (1) purchase, hold, and pay for lands within or without the corporate limits for the burial
402 of the dead, and all necessary grounds for hospitals;

403 (2) have and exercise police jurisdiction over those lands, and over any cemetery used by
404 the inhabitants of the city;

405 (3) survey, plat, map, fence, ornament, and otherwise improve, manage, and operate public
406 burial and cemetery grounds;

407 (4) convey cemetery lots owned by the city, and pass ordinances for the protection and
408 governing of these grounds consistent with Title 8, Chapter 5, Municipal Cemeteries;

409 (5) contract for the care and improvement of cemeteries and cemetery lots, and for any
410 compensation for the care and improvement;

411 (6) receive deposits for the care of lots and invest the deposits by following the procedures
412 and requirements of Title 51, Chapter 7, State Money Management Act; and

413 (7) pay the cost of the care from any proceeds from the investment.

414 Section 10. Section **10-8-63** is amended to read:

415 **10-8-63. Burial of dead -- Vital statistics.**

416 They may regulate the burial of the dead, consistent with Title 8, Chapter 5, Municipal
417 Cemeteries, the registration of births and deaths, direct the returning and keeping of bills of
418 mortality, and impose penalties on physicians, sextons, and others for any default therein.

419 Section 11. Section **11-13-1** is amended to read:

420 **11-13-1. Title.**

421 This [act] chapter may be cited as the "Interlocal Co-operation Act."

422 Section 12. Section **11-13-2** is amended to read:

423 **11-13-2. Purpose of act.**

424 It is the purpose of this [act] chapter:

425 (1) to permit local governmental units to make the most efficient use of their powers by
426 enabling them to co-operate with other localities on a basis of mutual advantage and thereby to
427 provide services and facilities in a manner and [~~pursuant to~~] under forms of governmental
428 organization that will accord best with geographic, economic, population and other factors
429 influencing the needs and development of local communities; and

430 (2) to provide the benefit of economy of scale, economic development, and utilization of

431 natural resources for the overall promotion of the general welfare of the state.

432 Section 13. Section **11-13-5.6** is amended to read:

433 **11-13-5.6. Contract by public agencies to create new entities to own sewage and**
434 **wastewater facilities -- Powers and duties of new entities -- Validation of previously created**
435 **entities.**

436 (1) It is declared that the policy of the state is to assure the health, safety, and welfare of
437 its citizens, that adequate sewage and wastewater treatment plants and facilities are essential to the
438 well-being of the citizens of the state and that the acquisition of adequate sewage and wastewater
439 treatment plants and facilities on a regional basis in accordance with federal law and state and
440 federal water quality standards and effluent standards in order to provide services to public
441 agencies is a matter of statewide concern and is in the public interest. It is found and declared that
442 there is a statewide need to provide for regional sewage and wastewater treatment plants and
443 facilities, and as a matter of express legislative determination it is declared that the compelling
444 need of the state for construction of regional sewage and wastewater treatment plants and facilities
445 requires the creation of entities under the Interlocal Cooperation Act to own, construct, operate,
446 and finance sewage and wastewater treatment plants and facilities; and it is the purpose of this law
447 to provide for the accomplishment thereof in the manner provided in this section.

448 (2) Any two or more public agencies of the state may also agree to create a separate legal
449 or administrative entity to accomplish and undertake the purpose of owning, acquiring,
450 constructing, financing, operating, maintaining, and repairing regional sewage and wastewater
451 treatment plants and facilities.

452 (3) A separate legal or administrative entity created in the manner provided herein is
453 considered to be a political subdivision and body politic and corporate of the state with power to
454 carry out and effectuate its corporate powers, including, but not limited to, the power:

455 (a) to adopt, amend, and repeal rules, bylaws, and regulations, policies, and procedures for
456 the regulation of its affairs and the conduct of its business, to sue and be sued in its own name, to
457 have an official seal and power to alter that seal at will, and to make and execute contracts and all
458 other instruments necessary or convenient for the performance of its duties and the exercise of its
459 powers and functions under the Interlocal Cooperation Act;

460 (b) to own, acquire, construct, operate, maintain, repair, or cause to be constructed,
461 operated, maintained, and repaired one or more regional sewage and wastewater treatment plants

462 and facilities, all as shall be set forth in the agreement providing for its creation;

463 (c) to borrow money, incur indebtedness and issue revenue bonds, notes or other
464 obligations payable solely from the revenues and receipts derived from all or a portion of the
465 regional sewage and wastewater treatment plants and facilities which it owns, operates, and
466 maintains, such bonds, notes, or other obligations to be issued and sold in compliance with the
467 provisions of ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act;

468 (d) to enter into agreements with public agencies and other parties and entities to provide
469 sewage and wastewater treatment services on such terms and conditions as it considers to be in the
470 best interests of its participants; and

471 (e) to acquire by purchase or by exercise of the power of eminent domain, any real or
472 personal property in connection with the acquisition and construction of any sewage and
473 wastewater treatment plant and all related facilities and rights-of-way which it owns, operates, and
474 maintains.

475 (4) The provisions of Sections 11-13-25, 11-13-26, 11-13-27, 11-13-28, 11-13-29,
476 11-13-30, 11-13-31, 11-13-32, 11-13-33, 11-13-34, 11-13-35, and 11-13-36 ~~shall~~ do not apply
477 to a legal or administrative entity created for regional sewage and wastewater treatment purposes
478 under this section.

479 (5) All proceedings previously had in connection with the creation of any legal or
480 administrative entity pursuant to this chapter, and all proceedings previously had by any such entity
481 for the authorization and issuance of bonds of the entity are validated, ratified, and confirmed; and
482 these entities are declared to be validly created interlocal cooperation entities under this chapter.
483 These bonds, whether previously or subsequently issued pursuant to these proceedings, are
484 validated, ratified, and confirmed and declared to constitute, if previously issued, or when issued,
485 the valid and legally binding obligations of the entity in accordance with their terms. Nothing in
486 this section shall be construed to affect or validate any bonds, or the organization of any entity, the
487 legality of which is being contested at the time this act takes effect.

488 (6) (a) The governing authority of each entity created under this section on or after May
489 4, 1998, shall, within 30 days of the creation, file a written notice of the creation with the State Tax
490 Commission.

491 (b) Each written notice required under Subsection (6)(a) shall:

492 (i) be accompanied by:

- 493 (A) a copy of the agreement creating the entity; and
494 (B) a map or plat that delineates a metes and bounds description of the area affected and
495 evidence that the information has been recorded by the county recorder; and
496 (ii) contain a certification by the governing authority that all necessary legal requirements
497 relating to the creation have been completed.

498 Section 14. Section **11-26-1** is amended to read:

499 **11-26-1. Definitions -- Ceiling on local charges based on gross revenues of public**
500 **service provider.**

501 (1) As used in this [part] chapter:

502 (a) (i) "Exchange access services" means telephone exchange lines or channels, and
503 services provided in connection with them, which are necessary to provide access from the
504 premises of a subscriber to the local switched public telecommunications network of the public
505 utility to effect communication or the transfer of information.

506 (ii) "Exchange access services" does not include:

507 (A) private line services;

508 (B) long distance toll services;

509 (C) carrier access services;

510 (D) telephonic services that are not regulated by the Utah Public Service Commission; and

511 (E) services that emulate functions available in customer premises equipment.

512 (b) "Local charge" means one or more of the following charges paid by a public service
513 provider to a county or municipality:

514 (i) a tax;

515 (ii) a license;

516 (iii) a fee;

517 (iv) a license fee;

518 (v) a license tax; or

519 (vi) a charge similar to Subsections (1)(b)(i) through (v).

520 (c) "Public service provider" means:

521 (i) a public utility; or

522 (ii) a person or entity engaged in the business of supplying:

523 (A) telephone service; or

- 524 (B) taxable energy as defined in Section 10-1-303.
- 525 (2) A county or a municipality may not impose upon, charge, or collect from a public
526 service provider local charges:
- 527 (a) imposed on the basis of the gross revenues of the public service provider;
- 528 (b) derived from sales, use, or both sales and use of the service within the county or
529 municipality; and
- 530 (c) in a total amount that is greater than 6% of gross revenues.
- 531 (3) The determination of gross revenues under this section may not include:
- 532 (a) the sale of gas or electricity as special fuel for motor vehicles;
- 533 (b) the sale of telephone service provided by a public utility regulated by the Utah Public
534 Service Commission other than:
- 535 (i) exchange access services;
- 536 (ii) extended area service;
- 537 (iii) customer access line charges; and
- 538 (iv) any services for which a tax or other charge was being paid pursuant to this section
539 as of January 1, 1992; or
- 540 (c) a local charge.
- 541 (4) This section may not be construed to:
- 542 (a) affect or limit the power of counties or municipalities to impose sales and use taxes
543 under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, or Title 10, Chapter 1, Part 3,
544 Municipal Energy Sales and Use Tax Act; or
- 545 (b) grant any county or municipality the power to impose a local charge not otherwise
546 provided for by law.
- 547 (5) This section takes precedence over any conflicting provision of law.
- 548 Section 15. Section **13-8-5** is amended to read:
- 549 **13-8-5. Definitions -- Limitation on retention proceeds withheld -- Deposit in**
550 **interest-bearing escrow account -- Release of proceeds -- Payment to subcontractors --**
551 **Penalty -- No waiver.**
- 552 (1) As used in this section:
- 553 (a) (i) "Construction contract" means a written agreement between the parties relative to
554 the design, construction, alteration, repair, or maintenance of a building, structure, highway,

555 appurtenance, appliance, or other improvements to real property, including moving, demolition,
556 and excavating for nonresidential commercial or industrial construction projects.

557 (ii) If the construction contract is for construction of a project that is part residential and
558 part nonresidential, this section applies only to that portion of the construction project that is
559 nonresidential as determined pro rata based on the percentage of the total square footage of the
560 project that is nonresidential.

561 ~~[(e)]~~ (b) "Construction lender" means any person, including a bank, trust company, savings
562 bank, industrial bank, land bank, safe deposit company, private banker, savings and loan
563 association, credit union, cooperative bank, small loan company, sales finance company,
564 investment company, or any other financial institution that advances monies to a borrower for the
565 purpose of making alterations or improvements to real property. A construction lender does not
566 include a person or entity who is acting in the capacity of contractor, original contractor, or
567 subcontractor.

568 ~~[(b)]~~ (c) "Contractor" means a person who, for compensation other than wages as an
569 employee, undertakes any work in a construction trade, as defined in Section 58-55-102 and
570 includes:

571 (i) any person engaged as a maintenance person who regularly engages in activities set
572 forth in Section 58-55-102 as a construction trade; or

573 (ii) a construction manager who performs management and counseling services on a
574 construction project for a fee.

575 (d) "Original contractor" is as provided in Section 38-1-2.

576 (e) "Owner" means the person who holds any legal or equitable title or interest in property.
577 Owner does not include a construction lender unless the construction lender has an ownership
578 interest in the property other than solely as a construction lender.

579 (f) "Public agency" means any state agency or political subdivision of the state that enters
580 into a construction contract for an improvement of public property.

581 (g) "Retention payment" means release of retention proceeds as defined in Subsection
582 (1)(h).

583 (h) "Retention proceeds" means monies earned by a contractor or subcontractor but
584 retained by the owner or public agency pursuant to the terms of a construction contract to
585 guarantee payment or performance by the contractor or subcontractor of the construction contract.

- 586 (i) "Subcontractor" is as defined in Section 38-1-2.
- 587 (j) "Successful party" has the same meaning as it does under Section 38-1-18.
- 588 (2) (a) This section is applicable to all construction contracts relating to construction work
589 or improvements entered into on or after July 1, 1999, between:
- 590 (i) an owner or public agency and an original contractor;
- 591 (ii) an original contractor and a subcontractor; and
- 592 (iii) subcontractors under a contract described in Subsection (2)(a)(i) or (ii).
- 593 (b) This section does not apply to a construction lender.
- 594 (3) (a) Notwithstanding Section 58-55-603, the retention proceeds withheld and retained
595 from any payment due under the terms of the construction contract may not exceed 5% of the
596 payment:
- 597 (i) by the owner or public agency to the original contractor;
- 598 (ii) by the original contractor to any subcontractor; or
- 599 (iii) by a subcontractor.
- 600 (b) The total retention proceeds withheld may not exceed 5% of the total construction
601 price.
- 602 (c) The percentage of the retention proceeds withheld and retained pursuant to a
603 construction contract between the original contractor and a subcontractor or between
604 subcontractors shall be the same retention percentage as between the owner and the original
605 contractor if:
- 606 (i) the retention percentage in the original construction contract between an owner and the
607 original contractor is less than 5%; or
- 608 (ii) after the original construction contract is executed but before completion of the
609 construction contract the retention percentage is reduced to less than 5%.
- 610 (4) (a) If any payment on a contract with a private contractor, firm, or corporation to do
611 work for an owner or public agency is retained or withheld by the owner or the public agency, as
612 retention proceeds, it shall be placed in an interest-bearing account.
- 613 (b) The interest accrued under Subsection (4)(a) shall be:
- 614 (i) for the benefit of the contractor and subcontractors; and
- 615 (ii) paid after the project is completed and accepted by the owner or the public agency.
- 616 (c) The contractor shall ensure that any interest accrued on the retainage is distributed by

617 the contractor to subcontractors on a pro rata basis.

618 (5) Any retention proceeds retained or withheld pursuant to this section and any accrued
619 interest shall be released pursuant to a billing statement from the contractor within 45 days from
620 the later of:

621 (a) the date the owner or public agency receives the billing statement from the contractor;

622 (b) the date that a certificate of occupancy or final acceptance notice is issued to:

623 (i) the original contractor who obtained the building permit from the building inspector
624 or public agency;

625 (ii) the owner or architect; or

626 (iii) the public agency;

627 (c) the date that a public agency or building inspector having authority to issue its own
628 certificate of occupancy does not issue the certificate but permits partial or complete occupancy
629 of a newly constructed or remodeled building; or

630 (d) the date the contractor accepts the final pay quantities.

631 (6) If only partial occupancy of a building is permitted, any retention proceeds withheld
632 and retained pursuant to this section and any accrued interest shall be partially released within 45
633 days under the same conditions as provided in Subsection (5) in direct proportion to the value of
634 the part of the building occupied.

635 (7) The billing statement from the contractor as provided in Subsection (5)(a) shall include
636 documentation of lien releases or waivers.

637 (8) (a) Notwithstanding Subsection (3):

638 (i) if a contractor or subcontractor is in default or breach of the terms and conditions of the
639 construction contract documents, plans, or specifications governing construction of the project, the
640 owner or public agency may withhold from payment for as long as reasonably necessary an amount
641 necessary to cure the breach or default of the contractor or subcontractor; or

642 (ii) if a project or a portion of the project has been substantially completed, the owner or
643 public agency may retain until completion up to twice the fair market value of the work of the
644 original contractor or of any subcontractor that has not been completed:

645 (A) in accordance with the construction contract documents, plans, and specifications; or

646 (B) in the absence of plans and specifications, to generally accepted craft standards.

647 (b) An owner or public agency that refuses payment under Subsection (8)(a) shall describe

648 in writing within 45 days of withholding such amounts what portion of the work was not
649 completed according to the standards specified in Subsection (8)(a).

650 (9) (a) Except as provided in Subsection (9)(b), an original contractor or subcontractor
651 who receives retention proceeds shall pay each of its subcontractors from whom retention has been
652 withheld each subcontractor's share of the retention received within ten days from the day that all
653 or any portion of the retention proceeds is received:

654 (i) by the original contractor from the owner or public agency; or

655 (ii) by the subcontractor from:

656 (A) the original contractor; or

657 (B) a subcontractor.

658 (b) Notwithstanding Subsection (9)(a), if a retention payment received by the original
659 contractor is specifically designated for a particular subcontractor, payment of the retention shall
660 be made to the designated subcontractor.

661 (10) (a) In any action for the collection of the retained proceeds withheld and retained in
662 violation of this section, the successful party is entitled to:

663 (i) attorney's fees; and

664 (ii) other allowable costs.

665 (b) (i) Any owner, public agency, original contractor, or subcontractor who knowingly and
666 wrongfully withholds a retention shall be subject to a charge of 2% per month on the improperly
667 withheld amount, in addition to any interest otherwise due.

668 (ii) The charge described in Subsection (10)(b)(i) shall be paid to the contractor or
669 subcontractor from whom the retention proceeds have been wrongfully withheld.

670 (11) A party to a construction contract may not require any other party to waive any
671 provision of this section.

672 Section 16. Section **15-7-12** is amended to read:

673 **15-7-12. Obligations subject to chapter.**

674 (1) Unless the official or official body of the issuer determines otherwise before or at the
675 time of the original issuance of a registered public obligation, this act is applicable to such
676 registered public obligation. When this act is applicable, the provisions of this act prevail over any
677 inconsistent provision under any other law. Pursuant to Section 11-14-22, this act is specifically
678 made applicable to registered public obligations issued under ~~the~~ Title 11, Chapter 14, Utah

679 Municipal Bond Act, in accordance with Section 11-14-16.

680 (2) Nothing in this act limits or prevents the issuance of obligations in any other form or
681 manner authorized by law.

682 (3) Unless determined otherwise pursuant to Subsection (1), this act is applicable with
683 respect to obligations which have been approved before enactment of this act by vote, referendum,
684 or hearing, which authorized or permitted the authorization of obligations in bearer and registered
685 form, or in bearer form only, and such obligations need not be resubmitted for a further vote,
686 referendum or hearing, for the purpose of authorizing or permitting the authorization of registered
687 public obligations under this act.

688 Section 17. Section **16-4-12** is amended to read:

689 **16-4-12. Notice of delinquency -- Form.**

690 If any portion of the assessment mentioned in the notice remains unpaid on the day
691 specified therein when the stock shall be delinquent, the secretary shall, unless otherwise ordered
692 by the board of directors, cause to be published in the same newspapers in which the notice
693 hereinbefore provided for shall have been published a notice in the following form:

694 (Name of corporation in full; location of principal place of business). Notice. There are
695 delinquent upon the following described stock, on account of assessment levied on [the]
696 _____(month/day/year), (and assessment levied previously thereto, if any) the several
697 amounts set opposite the names of the respective shareholders as follows: (Names, number of
698 certificate, number of shares, and amount) and in accordance with law[;] (and an order of the board
699 of directors made on [the] _____(month/day/year), if any such order shall have been made)
700 so many shares of each parcel of the stock as may be necessary will be sold at the (particular place)
701 on [the] _____(month/day/year), at the hour of ____, to pay the delinquent assessments
702 thereon, together with the cost of advertising and expenses of the sale. (Name of secretary, with
703 location of office).

704 Section 18. Section **16-6a-809 (Effective 04/30/01)** is amended to read:

705 **16-6a-809 (Effective 04/30/01). Removal of directors by judicial proceeding.**

706 (1) (a) The applicable court may remove a director in a proceeding commenced either by
707 the nonprofit corporation or by voting members holding at least 10% of the votes entitled to be cast
708 in the election of the director's successor if the court finds that:

709 (i) the director engaged in:

710 (A) fraudulent or dishonest conduct; or
711 (B) gross abuse of authority or discretion with respect to the nonprofit corporation; or
712 (ii) (A) a final judgment has been entered finding that the director has violated a duty set
713 forth in this Part [4] 8; and

714 (B) removal is in the best interests of the nonprofit corporation.

715 (b) For purposes of this Subsection (1), the applicable court is the:

716 (i) district court of the county in this state where a nonprofit corporation's principal office
717 is located; or

718 (ii) if the nonprofit corporation has no principal office in this state:

719 (A) the district court of the county in which its registered office is located; or

720 (B) if the nonprofit corporation has no registered office, the district court for Salt Lake
721 County.

722 (2) The court that removes a director may bar the director for a period prescribed by the
723 court from:

724 (a) reelection;

725 (b) reappointment; or

726 (c) designation.

727 (3) If voting members commence a proceeding under Subsection (1), the voting members
728 shall make the nonprofit corporation a party defendant.

729 (4) A director who is removed pursuant to this section may deliver to the division for filing
730 a statement to that effect pursuant to Section 16-6a-1608.

731 Section 19. Section **17-18-1** is amended to read:

732 **17-18-1. Powers -- Duties of county attorney -- Prohibitions.**

733 (1) (a) In each county which is not within a prosecution district, the county attorney is a
734 public prosecutor and shall:

735 (i) conduct on behalf of the state all prosecutions for public offenses committed within the
736 county, except for prosecutions undertaken by the city attorney under Section 10-3-928 and appeals
737 from them;

738 (ii) institute proceedings before the proper magistrate for the arrest of persons charged with
739 or reasonably suspected of any public offense when in possession of information that the offense
740 has been committed, and for that purpose shall attend court in person or by deputy in cases of

741 arrests when required; and

742 (iii) when it does not conflict with other official duties, attend to all legal business required
743 in the county by the attorney general without charge when the interests of the state are involved.

744 (b) All the duties and powers of public prosecutor shall be assumed and discharged by the
745 county attorney.

746 (2) The county attorney:

747 (a) shall appear and prosecute for the state in the district court of the county in all criminal
748 prosecutions;

749 (b) may~~[- subject to Title 67, Chapter 23, Public Attorneys Act,]~~ appear and prosecute in
750 all civil cases in which the state may be interested; and

751 (c) shall render assistance as required by the attorney general in all cases that may be
752 appealed to the Supreme Court and shall prosecute the appeal from any crime charged by the
753 county attorney as a misdemeanor in the district court.

754 (3) The county attorney shall:

755 (a) attend the deliberations of the grand jury;

756 (b) draw all indictments and informations for offenses against the laws of this state within
757 the county;

758 (c) cause all persons indicted or informed against to be speedily arraigned;

759 (d) cause all witnesses for the state to be subpoenaed to appear before the court or grand
760 jury;

761 (e) examine carefully into the sufficiency of all appearance bonds that may be tendered to
762 the district court of the county;

763 (f) upon the order of the court, institute proceedings in the name of the state for recovery
764 upon the forfeiture of any appearance or other bonds running to the state and enforce the collection
765 of them; and

766 (g) perform other duties as required by law.

767 (4) The county attorney shall:

768 (a) ascertain by all practicable means what estate or property within the county has
769 escheated or reverted to the state;

770 (b) require the assessor of taxes of the county to furnish annually a list of all real or
771 personal property that may have so escheated or reverted; and

- 772 (c) file a copy of the list in the office of the state auditor and of the attorney general.
- 773 (5) The county attorney shall:
 - 774 (a) each year on the first business day of August file a report with the attorney general
 - 775 covering the preceding fiscal year, stating the number of criminal prosecutions in the district, the
 - 776 character of the offenses charged, the number of convictions, the amount of fines and penalties
 - 777 imposed, and the amount collected; and
 - 778 (b) call attention to any defect in the operation of the laws and suggest amendments to
 - 779 correct the defect.
 - 780 (6) The county attorney shall:
 - 781 (a) appear and prosecute for the state in the juvenile court of the county in any proceeding
 - 782 involving delinquency;
 - 783 (b) represent the state in any proceeding pending before the juvenile court if any rights to
 - 784 the custody of any juvenile are asserted by any third person; and
 - 785 (c) prosecute before the court any person charged with abuse, neglect, or contributing to
 - 786 the delinquency or dependency of a juvenile.
 - 787 (7) [~~Subject to the requirements of Title 67, Chapter 23, Public Attorneys Act, the~~] The
 - 788 county attorney shall:
 - 789 (a) defend all actions brought against the county;
 - 790 (b) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing
 - 791 to the county;
 - 792 (c) give, when required and without fee, an opinion in writing to county, district, and
 - 793 precinct officers on matters relating to the duties of their respective offices;
 - 794 (d) deliver receipts for money or property received in an official capacity and file
 - 795 duplicates with the county treasurer; and
 - 796 (e) on the first Monday of each month file with the auditor an account verified by oath of
 - 797 all money received in an official capacity during the preceding month, and at the same time pay
 - 798 it over to the county treasurer.
 - 799 (8) A county attorney may not:
 - 800 (a) in any manner consult, advise, counsel, or defend within this state any person charged
 - 801 with any crime, misdemeanor, or breach of any penal statute or ordinance;
 - 802 (b) be qualified to prosecute or dismiss in the name of the state any case in which the

803 county attorney has previously acted as counsel for the accused on the pending charge; or

804 (c) in any case compromise any cause or enter a nolle prosequi after the filing of an
805 indictment or information without the consent of the court.

806 (9) If at any time after investigation by the district judge involved, the judge finds and
807 recommends that the county attorney in any county is unable to satisfactorily and adequately
808 perform the duties in prosecuting a criminal case without additional legal assistance, the attorney
809 general shall provide the additional assistance.

810 Section 20. Section **17-18-1.5** is amended to read:

811 **17-18-1.5. Powers -- Duties of county attorney within a prosecution district --**
812 **Prohibitions.**

813 (1) In each county which is within a state prosecution district, the county attorney is a
814 public prosecutor only for the purpose of prosecuting violations of county ordinances or as
815 otherwise provided by law and shall:

816 (a) conduct on behalf of the county all prosecutions for violations of county ordinances
817 committed within the county;

818 (b) have authority to grant transactional immunity for violations of county ordinances
819 committed within the county;

820 (c) institute proceedings before the proper magistrate for the arrest of persons charged with
821 or reasonably suspected of violations of county ordinances when in possession of information that
822 the violation has been committed, and for that purpose shall attend court in person or by deputy
823 in cases of arrests when required; and

824 (d) when it does not conflict with other official duties, attend to all legal business required
825 in the county by the attorney general without charge when the interests of the state are involved.

826 (2) [~~Subject to Title 67, Chapter 23, Public Attorneys Act, the~~] The county attorney:

827 (a) may appear and prosecute in all civil cases in which the state may be interested; and

828 (b) shall render assistance as required by the attorney general in all civil cases that may be
829 appealed to the Supreme Court and prosecute the appeal from any violation of a county ordinance.

830 (3) The county attorney shall:

831 (a) draw all informations for violations of a county ordinance;

832 (b) cause all persons informed against to be speedily arraigned;

833 (c) cause all witnesses for the county to be subpoenaed to appear before the court;

834 (d) upon the order of the court, institute proceedings in the name of the county for recovery
835 upon the forfeiture of any appearance or other bonds running to the county and enforce the
836 collection of them; and

837 (e) perform other duties as required by law.

838 (4) The county attorney shall:

839 (a) ascertain by all practicable means what estate or property within the county has
840 escheated or reverted to the state;

841 (b) require the assessor of taxes of the county to furnish annually a list of all real or
842 personal property that may have so escheated or reverted; and

843 (c) file a copy of the list in the office of the state auditor and of the attorney general.

844 (5) [~~Subject to Title 67, Chapter 23, Public Attorneys Act, the~~] The county attorney shall:

845 (a) defend all actions brought against the county;

846 (b) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing
847 to the county;

848 (c) give, when required and without fee, an opinion in writing to county, district, precinct,
849 and prosecution district officers on matters relating to the duties of their respective offices;

850 (d) deliver receipts for money or property received in an official capacity and file
851 duplicates with the county treasurer; and

852 (e) on the first Monday of each month file with the auditor an account verified by oath of
853 all money received in an official capacity during the preceding month, and at the same time pay
854 it over to the county treasurer.

855 (6) A county attorney may not:

856 (a) in any manner consult, advise, counsel, or defend within this state any person charged
857 with any crime, misdemeanor, or breach of any penal statute or ordinance;

858 (b) be qualified to prosecute or dismiss in the name of the county any case in which the
859 county attorney has previously acted as counsel for the accused on the pending charge; or

860 (c) in any case compromise any cause or enter a nolle prosequi after the filing of an
861 information without the consent of the court.

862 (7) The county attorney or his deputy may be sworn as a deputy district attorney for the
863 purpose of public convenience for a period of time and subject to limitations specified by the
864 district attorney.

865 Section 21. Section **17A-2-306** is amended to read:

866 **17A-2-306. Bonds.**

867 (1) The board of trustees may, at any time after its organization, adopt a resolution
868 determining it desirable to issue the bonds of the district for purposes and in amounts stated in the
869 resolution. The resolution shall specify whether the bonds are payable from taxes or from the
870 operating revenues of the district, or both. Where the bonds are payable from taxes, in whole or
871 in part, the board of trustees shall call a bond election. If at the election, the proposition to issue
872 the bonds is approved, the board of trustees shall issue the bonds in the manner provided in ~~the~~
873 Title 11, Chapter 14, Utah Municipal Bond Act. If the bonds are payable solely from the operating
874 revenues of the district, no election is required to approve their issuance, and such bonds shall be
875 issued pursuant to the resolution and in the manner provided in Title 11, Chapter 14, Utah
876 Municipal Bond Act. The board may reduce the amount of bonds.

877 (2) Any bonds authorized prior to April 28, 1986, by an electric service district created
878 pursuant to Chapter 2, Part 3, County Improvement Districts for Water, ~~Sewage~~ Sewerage, Flood
879 Control, Electric and Gas ~~Systems~~, are considered valid and binding if all of the following
880 conditions have been met:

881 (a) a resolution has been adopted by the board of trustees of the electric service district,
882 prior to April 28, 1986, for the purpose of authorizing the bonds, whether or not these bonds have
883 been issued;

884 (b) the bonds are delivered and paid for;

885 (c) the electric service district which authorized the bonds complied with all of the
886 requirements for electric service districts set forth in Section 17A-2-305; and

887 (d) the requirements of Subsection (1) are met.

888 (3) If any bonds have been authorized under the conditions described in Subsection (2),
889 prior to April 28, 1986, the board of trustees of the electric service district may make any necessary
890 changes in the specifications of the bonds or the proceedings authorizing the bonds.

891 Section 22. Section **17A-2-307** is amended to read:

892 **17A-2-307. Resolution calling bond election -- Precincts and polling places.**

893 If, under the provisions of Section 17A-2-306, the board shall determine to call an election
894 on the issuance of the bonds, the board shall adopt a resolution directing that an election be held
895 in the district for the purpose of determining whether bonds in the amount, for the purpose, and

896 with the maximum maturity specified in the resolution, shall be issued. The resolution calling the
897 election shall be adopted, notice of the election shall be given, the election shall be held, voters'
898 qualifications shall be determined, and the results thereof canvassed in the manner and subject to
899 the conditions provided for in ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act. The board
900 may for purposes of the election treat the entire district as a single precinct or may divide the
901 district into such precincts and fix such polling places as it may see fit.

902 Section 23. Section **17A-2-309** is amended to read:

903 **17A-2-309. Results of bond election -- Resolution -- Issuance of bonds -- Maximum**
904 **bonded indebtedness.**

905 (1) The results of the bond election shall be canvassed by the board of trustees and a
906 resolution adopted by the board declaring the results, and a certified copy of the resolution filed
907 in the records of the district. The results of all subsequent elections shall be similarly canvassed
908 by the board of trustees and resolutions declaring the results of the elections adopted and filed.

909 (2) If, at the bond election, a majority of the qualified voters voting on any bond
910 proposition vote in favor of the issuance of the bonds, the board of trustees shall proceed to issue
911 the bonds. Bonds may be issued for the purpose of constructing or acquiring any improvement
912 provided in Section 17A-2-301, or any part or combination of them, or for improving and
913 extending the improvement or combination of improvements, and may include the payment of all
914 legal, engineering, and fiscal agent expenses reasonably incurred in connection with the
915 construction, acquisition, improving, and extending of these improvements and with the
916 authorization and issuance of the bonds. The bonds shall be fully negotiable for all purposes and
917 may not be issued in an amount which, together with all other existing indebtedness of the district
918 then outstanding, will exceed in total principal amount 2.4% of the taxable value of taxable
919 property in the district as computed from the last equalized assessment roll for county purposes
920 made and completed prior to the issuance of the bonds. The taxable value of all tax equivalent
921 property, as defined in Subsection 59-3-102(2), shall be included as a part of the total taxable value
922 of taxable property in the district for purposes of the limitations. Bonds issued in the manner that
923 they are payable solely from revenues to be derived from the operation of all or part of the facilities
924 of the district may not be included as bonded indebtedness of the district for the purpose of this
925 computation. All bonds not payable solely from revenues shall be the general obligations of the
926 district, and the full faith, credit, and resources of the district shall be pledged for their payment;

927 and regardless of any limitations contained elsewhere in the laws of Utah and this part, including
928 Section 17A-2-312, the board of trustees shall cause to be levied annually on all taxable property
929 in the district taxes sufficient to pay principal and interest on general obligation bonds as principal
930 and interest fall due, or if the bonds are payable primarily from revenues, then anticipate and make
931 up any amounts which may be necessary to pay the principal and interest by reason of deficiencies
932 in revenues. The bonds shall be issued and sold in compliance with [~~the~~] Title 11, Chapter 14,
933 Utah Municipal Bond Act.

934 Section 24. Section **17A-2-423** is amended to read:

935 **17A-2-423. Resolution calling election for issuing general obligation and revenue**
936 **bonds.**

937 (1) If under the foregoing provisions the board is authorized to call an election on the
938 issuance of the bonds, the board shall adopt a resolution directing that an election be held in the
939 county or service area, as the case may be, for the purpose of determining whether bonds in the
940 amount, for the purpose, and with the maximum maturity specified in the resolution, shall be
941 issued. A proposition for issuing general obligation bonds and a proposition for issuing revenue
942 bonds, or any combination thereof, may be submitted at the same election.

943 (2) Adoption of the resolution calling the election, determination of voters' qualifications,
944 notice and conduct of the election, and the canvass of election results shall be accomplished in the
945 manner prescribed in [~~the~~] Title 11, Chapter 14, Utah Municipal Bond Act. The board, for
946 purposes of the election, may treat the entire district as a single precinct or divide the district into
947 several precincts and it may fix such polling places as it [~~deems~~] considers appropriate.

948 Section 25. Section **17A-2-543** is amended to read:

949 **17A-2-543. Contractual powers -- Bond issues -- Elections -- Limitations -- Uses.**

950 Whenever the board of trustees considers it expedient it shall have power, for the purpose
951 of constructing drains, drainage canals and other required improvements necessary to drain lands
952 in the district or conserve the public health or welfare, to make a contract or contracts with the
953 United States providing for the repayment of the principal and such other sums due thereunder at
954 such times as may be agreed upon, or to issue bonds of the district to run not less than five years
955 nor more than 40 years, and to bear interest, payable semiannually, at a rate not exceeding 8% per
956 annum to be called "drainage district bonds," which bonds shall not be sold for less than 90% of
957 their par value, and the proceeds of which shall be used for no other purpose than paying the cost

958 of constructing such drains, drainage canals, or other like work considered necessary to drain lands
959 within the district, or conserve the public health or welfare. Before such contract or contracts shall
960 be made or bonds shall be issued, the board of trustees shall request the county legislative body
961 to order, and the county legislative body shall at once order a special election on the question of
962 the issuance of bonds. The persons authorized to vote in, the giving of notice, the forms of ballots,
963 and the manner of holding the election, and canvassing the results of the election, shall be as
964 provided in ~~[the]~~ Title 11, Chapter 14, Utah Municipal Bond Act. The expenses of such election
965 shall be paid out of the funds belonging to the drainage district. The terms and times of payment
966 of the bonds so issued shall be fixed by the board of trustees. The bonds shall be issued for the
967 benefit of the district authorizing the issue and shall bear the name and number of the district. The
968 board of trustees shall keep a record of the bonds issued and sold or otherwise disposed of, and
969 such record will also show the lands embraced in the district. In no case shall the amount of bonds
970 exceed the benefits assessed. Each bond issued shall show expressly upon its face that it is to be
971 paid by a tax assessed, levied, and collected on the lands within the drainage district. The board
972 of trustees shall, by resolution, provide for the issuance and disposal of such bonds and for the
973 payment of the interest thereon, the creation of a sinking fund for the ultimate redemption thereof,
974 and for the date and manner of the redemption of the bonds. The board of ~~[supervisors]~~ trustees
975 may sell or dispose of the bonds either at public or private sale. Before making any such sale,
976 either private or public, the board of trustees shall give due notice of their intention to sell or
977 dispose of the bonds, by publishing notice of sale at least once a week for four consecutive weeks
978 in some newspaper having general circulation in the state and in the county where the district is
979 situated, and by publishing in any other publication they consider advisable. The notice shall state
980 that sealed proposals will be received by the board of trustees at their office, for the purchase of
981 the bonds, until the day and hour fixed by the board of trustees. At the time appointed the board
982 of trustees shall open the proposals, and award the purchase of the bonds to the highest responsible
983 bidder, or may reject all bids. In case no bid is made and accepted as above provided, the board
984 of trustees is hereby authorized to use the bonds for the construction of any ditches, drain or drains,
985 drainage canal or drainage canals, or any other required improvement considered necessary to drain
986 lands or for the public health or welfare.

987 Section 26. Section **17A-2-556** is amended to read:

988 **17A-2-556. Form of release and discharge.**

989 The release and discharge shall be substantially in the following form:

990 Release and discharge from liability for payment of the bonded indebtedness of ____
991 drainage district in ____ county, Utah, and from the lien of the equalized assessment of benefits
992 and taxes and the benefit assessment roll.

993 Whereas, on [the] _____(month\day\year), ____ (the owner, part owner, mortgagee
994 or other lien holders, as the case may be) paid to the county treasurer of ____ county, (in lawful
995 money of the United States, or bonds, notes, warrants or matured interest coupons of the district,
996 as the case may be) the sum of \$____, being the total amount of the unpaid drainage district
997 equalized assessment of benefits and taxes levied and assessed against that certain tract, lot or
998 parcel of land located in ____ drainage district in ____ county, Utah, and particularly bounded and
999 described as follows, to wit: (Insert description of property) ____ and, ____.

1000 Whereas, there is on file with the treasurer of this drainage district a receipt showing
1001 payment in full,

1002 Now, Therefore, in consideration of such payment and pursuant to law, the undersigned
1003 drainage district does by these presents release and discharge the above described tract, lot or
1004 parcel of land from the lien of and from the payment of all of the bonded indebtedness now
1005 existing against the same, and from the payment of any bonds now issued or that may hereafter be
1006 issued to refund the same, or any part thereof, and from the payment of any notes or warrants of
1007 the district heretofore issued or that may hereafter be issued in payment of interest on the
1008 indebtedness or refunded indebtedness, and releases and discharges said tract, lot or parcel of land
1009 from the payment of any of the unpaid equalized assessment of benefits and taxes levied or
1010 assessed against the same and from the lien of the benefit assessment roll of said drainage district.

1011 In Witness Whereof, the said drainage district has executed this instrument and caused its
1012 corporate name and corporate seal to be hereunto affixed by its chair and secretary this
1013 _____(month\day\year), pursuant to a resolution of its board of trustees.

1014 Attest:

1015 (Name of drainage district.)

1016 By _____,

1017 President

1018 _____

1019 Secretary.

1020 The written release and discharge may be acknowledged before any officer authorized to
1021 take acknowledgments of deeds. The form of acknowledgment shall be substantially as follows:

1022 State of Utah, ss.

1023 County of _____

1024 On [the] _____(month\day\year), personally appeared before me _____, who being
1025 by me duly sworn, did say that he is the chair of _____ drainage district which executed the above
1026 and foregoing instrument and that the instrument was signed in behalf of the drainage district by
1027 authority of a resolution of its board of trustees, and _____ acknowledged to me that the drainage
1028 district executed the same.

1029 _____

1030 Notary Public.

1031 My Commission expires: _____(month\day\year) Residing at: _____.

1032 Section 27. Section **17A-2-712** is amended to read:

1033 **17A-2-712. Additional powers of board.**

1034 (1) In addition to any of the powers granted in this part, the board of trustees of any
1035 irrigation district may acquire, purchase, construct, improve, enlarge, and operate, or contract for
1036 the construction, improvement, enlargement, and operation of:

1037 (a) reservoir sites, reservoirs, water, water filings, water rights, canals, ditches, and all
1038 other related structures and works necessary or proper for the storage and conveyance of water for
1039 irrigation purposes and all other structures and facilities necessary or proper for the purposes of
1040 the irrigation district; and

1041 (b) facilities for the generation of hydroelectric power and all other related structures and
1042 works necessary or proper for the generation of electricity, including hydroelectric power plants,
1043 turbine generators, penstocks, transformers, electrical equipment, and other facilities related to
1044 hydroelectric production plants, not including transmission facilities related to hydroelectric
1045 production plants.

1046 (2) In addition to any of the powers granted in this part, the board of trustees of any
1047 irrigation district may enter into contracts for the sale of all or a portion of the electric power
1048 generated at a hydroelectric power plant, whether or not the electric power to be sold is surplus to
1049 the needs of the district, for the periods of time and under the terms and conditions the board
1050 deems necessary in order to accomplish the purposes of the district. Any sale of the electric power

1051 may be for the period and upon the terms and conditions as may be provided in contracts
1052 authorized by the board and entered into by the district and any purchaser of the electric power
1053 having, at the time of the commencement of the acquisition and construction of the electric power
1054 plant by the district, a system for distributing the electric power. Any revenues received by the
1055 district pursuant to power sale contracts may be used and pledged for the payment of the principal
1056 of and interest and any premium on bonds or notes of the district issued to pay all or part of the
1057 cost of acquiring, constructing, improving, or enlarging the facilities from which the hydroelectric
1058 power is generated, or for any other lawful purpose of the district. The boards of trustees of any
1059 two or more irrigation districts may, by appropriate resolutions, enter into agreements with one
1060 another by which the districts may jointly or cooperatively exercise any of the powers conferred
1061 by this section.

1062 (3) The board may issue revenue bonds of the district, in the manner provided in this
1063 section:

1064 (a) to pay for all or part of the costs of the acquisition, construction, improvement, or
1065 enlargement of any facilities described in Subsection (1) and other related structures and works and
1066 to pay expenses preliminary and incidental thereto;

1067 (b) to pay interest on the bonds during acquisition, construction, improvement, or
1068 enlargement; and

1069 (c) to provide for necessary reserves and to pay costs of issuance and sale of the bonds,
1070 including, without limitation, printing, registration, and transfer costs, legal, financial advisor's,
1071 and rating agency fees, insurance premiums, and underwriter's discount.

1072 (4) The board may provide that any revenue bonds issued and sold under this section shall
1073 be payable solely out of a special fund into which the district issuing the revenue bonds shall be
1074 obligated to deposit, as from time to time received, all or a designated portion of the proceeds from
1075 the sale of the services furnished by the facilities of the irrigation district, including the facilities
1076 to be so acquired, constructed, improved, or enlarged, all pursuant to contracts to be entered into
1077 as authorized in this section.

1078 (5) Revenue bonds of the district issued under the authority of this section shall be issued
1079 and sold in compliance with Title 11, Chapter 14, Utah Municipal Bond Act, and may be in the
1080 form and denominations and have the provisions and details as are permitted by ~~the~~ Title 11,
1081 Chapter 14, Utah Municipal Bond Act. The bonds and any evidences of participation interests in

1082 the bonds may be issued, executed, authenticated, registered, transferred, exchanged, and otherwise
1083 made to comply with Title 15, Chapter 7, Registered Public Obligations Act, or any other statute
1084 relating to the registration of bonds enacted to meet the requirements of Section 149(a) of the
1085 Internal Revenue Code of 1986, or any similar or successor federal law, and applicable regulations.
1086 Bonds may be issued under the authority of this section at one time or from time to time. If more
1087 than one issue or series of bonds is delivered under the authority of this section, the bonds of the
1088 respective issue or series shall have the priorities of payment as provided in the proceedings
1089 authorizing the bonds.

1090 (6) Any resolution authorizing revenue bonds may contain covenants with the future
1091 holders of the bonds as to:

1092 (a) the management and operation of the facilities of the irrigation district, including the
1093 facilities acquired, constructed, improved, enlarged, or operated pursuant to this section;

1094 (b) the imposition and collection of rates for the services furnished thereby;

1095 (c) the disposition of the revenues;

1096 (d) the issuance of future bonds and the creation of future liens and encumbrances against
1097 these facilities and the revenues thereof;

1098 (e) the carrying of insurance on these facilities and the disposition of the proceeds of
1099 insurance;

1100 (f) the sale, disposal, or alienation of these facilities; and

1101 (g) other pertinent matters deemed necessary or proper by the board to assure the
1102 merchantability of the bonds. These covenants and agreements may not be inconsistent with this
1103 section.

1104 (7) When a district has issued revenue bonds and pledged for the payment thereof any
1105 revenues of the facilities of the irrigation district, including the facilities acquired, constructed,
1106 improved, enlarged, or operated pursuant to this section, the district shall establish rates and collect
1107 fees and charges for the services furnished by these facilities in that amount and at those rates
1108 which will be fully sufficient at all times to pay the expenses of operating and maintaining these
1109 facilities, to provide a special fund sufficient to assure the prompt payment of principal of and
1110 interest on the bonds as principal and interest fall due, and to provide funds for reserves and
1111 contingencies and for a depreciation fund for repairs, extensions, and improvements to these
1112 facilities as considered necessary to assure adequate and efficient service, all as required by the

1113 bond resolution. No board or commission other than the board of trustees of the district has
1114 authority over or is required to approve the making or fixing of the fees and charges or the
1115 acquisition of property by the district or the issuance of its bonds.

1116 (8) Any restrictions, limitations, or regulations in any other section of this part relative to
1117 the issuance of bonds or the execution of contracts pursuant to the authority contained in this
1118 section do not apply to the revenue bonds issued under this section or the execution of contracts
1119 under the authority of this section. Sections 17A-2-750, 17A-2-751, 17A-2-752, and 17A-2-753
1120 do not apply to any contract entered into by an irrigation district under this section, nor to the
1121 issuance of any revenue bonds by an irrigation district under this section.

1122 Section 28. Section **17A-2-747** is amended to read:

1123 **17A-2-747. Returns and canvass of election.**

1124 The board of trustees shall name a day for canvassing the returns of election, and if it
1125 appears that a majority of the votes cast are "For Dissolution -- Yes," then the board of trustees
1126 shall declare the district to be disorganized, and shall certify to the county clerk of the county in
1127 which the office of the district is located, stating the number of signers to the petition and the
1128 number of acre-feet of water allotted to them; that the election was called and set for [~~the~~ _____
1129 day of _____ month of _____ year] _____ (month/day/year), that the election was
1130 held and that so many votes (stating the number) had been cast for, and that so many votes (stating
1131 the number) had been cast against the proposition; the certificates to bear the seal of the district,
1132 and the signatures of the chair and secretary of the board of trustees. And it shall be the duty of
1133 the clerk to have such certificate recorded with the county recorder of the respective counties
1134 embracing any lands of the district. Should it appear that a majority of the votes cast at the election
1135 were "For Dissolution -- No," then the board of directors shall declare the proposition lost and shall
1136 cause the result and the vote to be made a part of the records of the irrigation district.

1137 Section 29. Section **17A-2-826** is amended to read:

1138 **17A-2-826. Sale of bonds.**

1139 Bonds issued under this part shall be sold in compliance with the provisions of [~~the~~] Title
1140 11, Chapter 14, Utah Municipal Bond Act.

1141 Section 30. Section **17A-2-1037** is amended to read:

1142 **17A-2-1037. Elections.**

1143 All district elections shall be held in accordance with the provisions of the elections code

1144 of the state of Utah as they now exist or may be amended for the holding of elections in general
1145 law cities in so far as the same are not in conflict with this part; provided all elections upon the
1146 issuance of bonds of a district shall be called, held, and conducted pursuant to the provisions of
1147 [the] Title 11, Chapter 14, Utah Municipal Bond Act, and the provisions of the election code shall
1148 not be applicable to any such bond election.

1149 Section 31. Section **17A-2-1038** is amended to read:

1150 **17A-2-1038. Board of trustees -- Appointment -- Apportionment -- Qualifications --**
1151 **Quorum -- Compensation -- Terms.**

1152 (1) (a) All powers, privileges, and duties vested in any incorporated district shall be
1153 performed by a board of trustees.

1154 (b) The board may delegate the exercise of any duty to any of the offices created under this
1155 part.

1156 (2) If 200,000 people or [less] fewer reside within the district boundaries:

1157 (a) the board of trustees shall consist of trustees appointed by the legislative bodies of each
1158 municipality, county, or unincorporated area within any county on the basis of one trustee for each
1159 full unit of regularly scheduled passenger routes proposed to be served by the district in each
1160 municipality or unincorporated area within any county in the following calendar year;

1161 (b) the number of service miles comprising a unit shall be determined jointly by the
1162 legislative bodies of the municipalities or counties comprising the district;

1163 (c) trustees shall be appointed and added to the board or omitted from the board at the time
1164 scheduled routes are changed, or as municipalities, counties, or unincorporated areas of counties
1165 annex to or withdraw from the district using the same appointment procedures; and

1166 (d) municipalities, counties, and unincorporated areas of counties in which regularly
1167 scheduled passenger routes proposed to be served by the district in the following calendar year is
1168 less than a full unit, as defined in Subsection (2)(a), may combine with any other similarly situated
1169 municipality or unincorporated area to form a whole unit and may appoint one trustee for each
1170 whole unit formed.

1171 (3) If more than 200,000 people reside within the district boundaries, the board of trustees
1172 shall consist of 15 trustees appointed as described under Subsections (4) and (5).

1173 (4) (a) Except as provided under Subsections (4)(b) and (c), the board shall apportion
1174 members to each county within the district based on:

1175 (i) from the effective date of this act until the apportionment following the year 2000
1176 decennial United States Census Bureau report, the proportion of population included in the district
1177 and residing within each county, rounded to the nearest 1/15 of the total transit district population;
1178 and

1179 (ii) beginning with the first apportionment following the year 2000 decennial United States
1180 Census Bureau report, an average of:

1181 (A) the proportion of population included in the district and residing within each county,
1182 rounded to the nearest 1/15 of the total transit district population; and

1183 (B) the proportion of transit sales and use tax collected from areas included in the district
1184 and within each county, rounded to the nearest 1/15 of the total transit sales and use tax collected
1185 for the transit district.

1186 (b) The board shall join an entire or partial county not apportioned a member under this
1187 subsection with an adjacent county for representation. The combined apportionment basis
1188 included in the district of both counties shall be used for the apportionment.

1189 (c) If rounding to the nearest 1/15 of the total transit district apportionment basis under
1190 Subsection (4)(a) results in an apportionment of:

1191 (i) more than 15 members, the county or combination of counties with the smallest
1192 additional fraction of a whole member proportion shall have one less member apportioned to it;
1193 or

1194 (ii) less than 15 members, the county or combination of counties with the largest additional
1195 fraction of a whole member proportion shall have one more member apportioned to it.

1196 (5) (a) If the unincorporated area of a county is at least 1/15 of the district's population, the
1197 county executive, with the advice and consent of the county legislative body, shall appoint one
1198 trustee to represent each 1/15 of the district's population within a county's unincorporated area
1199 population.

1200 (b) If a municipality's population is at least 1/15 of the district's population, the chief
1201 municipal executive, with the advice and consent of the municipal legislative body, shall appoint
1202 one trustee to represent each 1/15 of the district's population within a municipality.

1203 (c) The number of trustees appointed from a county and municipalities within a county
1204 under Subsections (5)(a) and (b) shall be subtracted from the county's total member apportionment
1205 under Subsection (4).

1206 (d) If the entire county is within the district, the remaining trustees for the county shall
1207 represent the county or combination of counties if Subsection (4)(b) applies, or the municipalities
1208 within the county.

1209 (e) If the entire county is not within the district, and the county is not joined with another
1210 county under Subsection (4)(b), the remaining trustees for the county shall represent a municipality
1211 or combination of municipalities.

1212 (f) Except as provided under Subsections (5)(a) and (b), trustees representing counties,
1213 combinations of counties if Subsection (4)(b) applies, or municipalities within the county shall be
1214 designated and appointed by a simple majority of the chief executives of the municipalities within
1215 the county or combinations of counties if Subsection (4)(b) applies. The appointments shall be
1216 made by joint written agreement of the appointing municipalities, with the consent and approval
1217 of the county legislative body of the county that has at least 1/15 of the district's apportionment
1218 basis.

1219 (g) Trustees representing a municipality or combination of municipalities shall be
1220 designated and appointed by the chief executive officer of the municipality or simple majority of
1221 chief executive officers of municipalities with the consent of the legislative body of the
1222 municipality or municipalities.

1223 (h) The appointment of trustees shall be made without regard to partisan political
1224 affiliation from among citizens in the community.

1225 (i) Each trustee shall be a bona fide resident of the municipality, county, or unincorporated
1226 area or areas which the trustee is to represent for at least six months before the date of
1227 appointment, and must continue in that residency to remain qualified to serve as a trustee.

1228 (j) (i) Each trustee whose term has not expired and is serving on the effective date of this
1229 act shall continue to serve as a trustee until the expiration of the term for which the trustee was
1230 appointed, subject to the term limitations under which the trustee was initially appointed.

1231 (ii) Beginning on the effective date of this act, any vacancy for which the successor has
1232 not taken the oath of office shall be filled in the following order:

1233 (A) by a municipality eligible to make an appointment under Subsection (5)(b);

1234 (B) by a county eligible to make an appointment for its unincorporated area under
1235 Subsection (5)(a); and

1236 (C) as otherwise provided under this section.

1237 (k) (i) All population figures used under this section shall be derived from the most recent
1238 official census or census estimate of the United States Bureau of the Census.

1239 (ii) If population estimates are not available from the United States Bureau of Census,
1240 population figures shall be derived from the estimate from the Utah Population Estimates
1241 Committee.

1242 (iii) All transit sales and use tax totals shall be obtained from the Tax Commission.

1243 (l) After the initial apportionment immediately following the effective date of this act, the
1244 board shall be apportioned as provided under this section in conjunction with the decennial United
1245 States Census Bureau report every ten years.

1246 (6) (a) Except the initial trustees, the terms of office of the trustees shall be three years or
1247 until their successors are appointed, qualified, seated, and have taken the oath of office.

1248 (b) At the first meeting of the initial trustees, the directors shall designate by the drawing
1249 of lots 1/3 of their number to serve for one-year terms, 1/3 for two-year terms, and 1/3 for
1250 three-year terms.

1251 (c) A trustee may not be appointed for more than two successive full terms.

1252 (7) (a) Vacancies shall be filled by the official appointing the member creating the vacancy
1253 for the unexpired term, unless the official fails to fill the vacancy within 90 days.

1254 (b) If the appointing official under Subsection (2) does not fill the vacancy within 90 days,
1255 the board of trustees of the authority shall fill the vacancy.

1256 (c) If the appointing official under Subsection (5) does not fill the vacancy within 90 days,
1257 the governor, with the advice and consent of the Senate, shall fill the vacancy.

1258 (8) (a) Each trustee may cast one vote on all questions, orders, resolutions, and ordinances
1259 coming before the board of trustees.

1260 (b) A majority of all members of the board of trustees are a quorum for the transaction of
1261 business.

1262 (c) The affirmative vote of a majority of all trustees present at any meeting at which a
1263 quorum was initially present shall be necessary and, except as otherwise provided, is sufficient to
1264 carry any order, resolution, ordinance, or proposition before the board of trustees.

1265 (9) The district shall pay to each trustee:

1266 (a) an attendance fee of \$50 per board or committee meeting attended, not to exceed \$200
1267 in any calendar month to any trustee; and

1268 (b) reasonable mileage and expenses necessarily incurred to attend board or committee
1269 meetings.

1270 (10) (a) Members of the initial board of trustees shall convene at the time and place fixed
1271 by the chief executive officer of the entity initiating the proceedings.

1272 (b) Immediately upon convening, the board of trustees shall elect from its membership a
1273 president, vice president, and secretary who shall serve for a period of two years or until their
1274 successors shall be elected and qualified.

1275 (11) At the time of a trustee's appointment or during a trustee's tenure in office, a trustee
1276 may not hold:

1277 (a) any elected public office with the United States, the state, or any political subdivision
1278 of either; or

1279 (b) any employment, except as an independent contractor, with a county or municipality
1280 within the district.

1281 Section 32. Section **17A-2-1058** is amended to read:

1282 **17A-2-1058. District may issue bonds.**

1283 Any district organized under this part may, in the manner and subject to the limitations and
1284 restrictions contained in [~~the Utah Municipal Bond Act,~~] Title 11, Chapter 14, Utah Municipal
1285 Bond Act, authorize, issue and dispose of its negotiable bonds for purposes of paying all or part
1286 of the cost of acquiring, improving, or extending any one or more improvements, facilities, or
1287 property authorized to be acquired under this part.

1288 Section 33. Section **17A-2-1225** is amended to read:

1289 **17A-2-1225. Adoption, rejection, or modification of plan -- Plan submitted to voters**
1290 **-- When rejection required -- Petition for alternative plan.**

1291 (1) Once the hearings have been held, the legislative body may proceed to adopt, reject,
1292 or modify the project area redevelopment plan. The project area redevelopment plan may not be
1293 modified so as to add any real property to the project area without the legislative body holding a
1294 new hearing to consider the matter, notice of which shall be given in the same manner as provided
1295 in Section 17A-2-1222.

1296 (2) (a) If the owners of 40% of the area of the property included within the project area
1297 proposed in the redevelopment plan, excluding property owned by public agencies or dedicated
1298 to public use, make objections in writing prior to or at the hearing and the objections are not

1299 withdrawn at or prior to the hearing, the plan may not be adopted until the proposition to so adopt
1300 the plan has been approved by a majority of the registered voters of the community voting thereon
1301 at an election called for this purpose.

1302 (b) This election may be held on the same day and with the same election officials as any
1303 primary or general election held in the community and shall be held as nearly as practicable in
1304 conformity with the general election laws of the state.

1305 (c) Upon the approval by the voters as set forth in Subsection (2)(a), the project area
1306 redevelopment plan shall be [~~deemed~~] considered adopted and the legislative body shall confirm
1307 the adoption by ordinance.

1308 (3) If the owners of [~~two-thirds~~] 2/3 of the area of the property included within any project
1309 area proposed in the redevelopment plan, excluding property owned by public agencies or
1310 dedicated to public use, make objections in writing at or prior to the hearing, the legislative body
1311 may not adopt the project, and the proposed project may not be reconsidered by the legislative
1312 body for a period of three years.

1313 (4) (a) Projects for which a preliminary plan has been prepared after April 1, 1993, and for
1314 which any of the following have occurred after July 1, 1993: the completion of the agency blight
1315 study, and the good faith commencement of the hearing by the agency under Section 17A-2-1221,
1316 must adopt a plan within one year after a project area is designated under Section 17A-2-1206 for
1317 a redevelopment plan where the purpose is the elimination of blight, and within one year after a
1318 preliminary plan is prepared for a redevelopment plan where the purpose is economic development
1319 or education housing development.

1320 (b) If the plan will be submitted to an election for approval by the registered voters of a
1321 community, the time limit for the plan adoption shall be increased by the time between the close
1322 of the public hearing held pursuant to Section 17A-2-1221 and the date of the next general election
1323 within the community.

1324 (5) A majority of the owners of the area of the property included within the project area,
1325 excluding property owned by public agencies or dedicated to public use, may file a written petition
1326 requesting an alternative preliminary plan be formulated pursuant to Section 17A-2-1211.

1327 Section 34. Section **17A-2-1236** is amended to read:

1328 **17A-2-1236. Actions on validity or enforceability of bonds -- Time for bringing**
1329 **action.**

1330 (1) In any suit, action, or proceeding involving the validity or enforceability of any bond
1331 issued under this part or the security for them, any such bond reciting in substance that it has been
1332 issued by the agency in connection with an area redevelopment, education housing development,
1333 or economic development project shall be conclusively [~~deemed~~] considered to have been issued
1334 for that purpose and the project shall be conclusively [~~deemed~~] considered to have been planned,
1335 located, and carried out in accordance with the provisions of this part.

1336 (2) For a period of 30 days after the publication of the resolution authorizing the bonds,
1337 or a notice of bonds to be issued by the agency containing those items described in Subsection
1338 11-14-21(3) in a newspaper having general circulation in the area of operation, any person may
1339 contest the legality of the resolution authorizing any bonds or any provisions made for the security
1340 and payment of the bonds. After the 30-day period no one has any cause of action to contest the
1341 regularity, formality, or legality of the bonds for any cause whatsoever.

1342 Section 35. Section **17A-2-1264** is amended to read:

1343 **17A-2-1264. Affordable housing funds under redevelopment plans adopted on or**
1344 **after July 1, 1998.**

1345 (1) As used in this section:

1346 (a) "Affordable housing" has the meaning as defined under Subsection 17A-2-1263(6).

1347 (b) "Annual income" has the meaning as defined under regulations of the U.S. Department
1348 of Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by
1349 replacement regulations.

1350 (c) "Board" means the Olene Walker Housing Trust Fund Board, established under Title
1351 9, Chapter 4, Part 7, Olene Walker Housing Trust Fund.

1352 (d) "Fair share ratio" means the ratio derived by:

1353 (i) for a city or town, comparing the percentage of all housing units within the city or town
1354 that are publicly subsidized income targeted housing units to the percentage of all housing units
1355 within the whole county that are publicly subsidized income targeted housing units; or

1356 (ii) for the unincorporated part of a county, comparing the percentage of all housing units
1357 within the unincorporated county that are publicly subsidized income targeted housing units to the
1358 percentage of all housing units within the whole county that are publicly subsidized income
1359 targeted housing units.

1360 (e) "Family" has the meaning as defined under regulations of the U.S. Department of

1361 Housing and Urban Development, 24 CFR, Part 813, as amended or as superseded by replacement
1362 regulations.

1363 (f) "Housing funds" means the funds allocated in the project area budget under Subsection
1364 (2)(a) for the purposes provided in Subsection (3).

1365 (g) "Income targeted housing" means housing to be owned or occupied by a family whose
1366 annual income is at or below 80% of the median annual income for the county in which the
1367 housing is located.

1368 (h) "Unincorporated" means not within a city or town.

1369 (2) (a) A project area budget for a redevelopment plan that is adopted on or after July 1,
1370 1998, may allocate tax increment funds payable to the agency over the life of the redevelopment
1371 plan for use as provided in Subsection (3).

1372 (b) (i) Beginning May 1, 2000, before an agency may adopt a project area budget that
1373 allocates tax increment funds under Subsection (2)(a), the agency shall prepare and adopt a
1374 housing plan showing the uses for the housing funds and provide a copy of the plan to the taxing
1375 agency committee and board.

1376 (ii) If an agency amends a housing plan prepared under Subsection (2)(b)(i), the agency
1377 shall provide a copy of the amendment to the taxing agency committee and board.

1378 (c) (i) If an agency fails to provide housing funds in accordance with the project area
1379 budget and the housing plan, if applicable, the board may bring legal action to compel the agency
1380 to provide the housing funds.

1381 (ii) In an action under Subsection (2)(c)(i), the court:

1382 (A) shall award the board a reasonable attorney's fee, unless the court finds that the action
1383 was frivolous; and

1384 (B) may not award the agency its attorney's fees, unless the court finds that the action was
1385 frivolous.

1386 (3) (a) Each agency shall use all housing funds allocated under Subsection (2)(a) to:

1387 (i) pay part or all of the cost of land or construction of income targeted housing within the
1388 community that created the agency, if practicable in a mixed income development or area;

1389 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the
1390 community that created the agency;

1391 (iii) pay part or all of the cost of land or installation, construction, or rehabilitation of any

1392 building, facility, structure, or other housing improvement, including infrastructure improvements,
1393 related to housing located in a redevelopment project area where blight has been found to exist;

1394 (iv) replace housing units lost as a result of the redevelopment, education housing
1395 development, or economic development;

1396 (v) make payments on or establish a reserve fund for bonds:

1397 (A) issued by the agency, the community, or the housing authority that provides income
1398 targeted housing within the community; and

1399 (B) all or part of the proceeds of which are used within the community for the purposes
1400 stated in Subsection (3)(a)(i), (ii), (iii), or (iv); or

1401 (vi) if the community's fair share ratio at the time of the first adoption of the project area
1402 budget is at least 1.1 to 1.0, make payments on bonds:

1403 (A) that were previously issued by the agency, the community, or the housing authority
1404 that provides income targeted housing within the community; and

1405 (B) all or part of the proceeds of which were used within the community for the purposes
1406 stated in Subsection (3)(a)(i), (ii), (iii), or (iv).

1407 (b) As an alternative to the requirements of Subsection (3)(a), an agency may pay all
1408 housing funds to:

1409 (i) the community for use as provided under Subsection (3)(a);

1410 (ii) the housing authority that provides income targeted housing within the community for
1411 use in providing income targeted housing within the community; or

1412 (iii) the Olene Walker Housing Trust Fund, established under Title 9, Chapter 4, Part 7,
1413 Olene Walker Housing Trust Fund, for use in providing income targeted housing within the
1414 community.

1415 (4) The agency or community shall hold the housing funds, together with all interest
1416 earned by the housing funds and all payments or repayments for loans, advances, or grants from
1417 the housing funds, in a separately designated account until the funds are used pursuant to this
1418 section.

1419 (5) In using housing funds under Subsection (3)(a), an agency may lend, grant, or
1420 contribute housing funds to a person, public body, housing authority, private entity or business,
1421 or nonprofit organization for use as provided in Subsection (3)(a).

1422 (6) An agency may:

1423 (a) issue bonds from time to time to finance a housing undertaking under this section,
1424 including the payment of principal and interest upon advances for surveys and plans or preliminary
1425 loans; and

1426 (b) issue refunding bonds for the payment or retirement of bonds under Subsection (6)(a)
1427 previously issued by the agency.

1428 (7) Expenditures or obligations incurred by an agency under this section shall constitute
1429 an indebtedness incurred by the agency.

1430 Section 36. Section **17A-2-1312** is amended to read:

1431 **17A-2-1312. General obligation bonds authorized by petition of property owners --**
1432 **Contest.**

1433 (1) With respect to any service district established under this part, if there is no individual
1434 residing in the service district, such that compliance with the election requirements of Article XIV,
1435 Section 8, Utah Constitution, and Section 11-14-2 is otherwise impossible, then, 75% of the
1436 owners of real property located in the district, as shown on the most recent assessment roll of the
1437 county or municipality, as the case may be, may by written petition require the governing body of
1438 the county or municipality which established the service district to issue general obligation bonds
1439 pledging the full faith and credit of the district in an amount which may lawfully be issued by the
1440 district but not to exceed the amount set forth in the petition. Except for the election provisions
1441 of ~~[the]~~ Title 11, Chapter 14, Utah Municipal Bond Act, the bonds required to be issued shall be
1442 issued in accordance with ~~[the]~~ Title 11, Chapter 14, Utah Municipal Bond Act. Any such petition
1443 to require issuance of bonds shall be equivalent to and have the same force and effect as an
1444 election approving the issuance of the bonds by a majority of the qualified electors of the district.

1445 (2) Upon receiving the petition described in Subsection (1), the governing body of the
1446 county or municipality which established the district shall proceed to issue the bonds in accordance
1447 with ~~[the]~~ Title 11, Chapter 14, Utah Municipal Bond Act.

1448 (3) The determination by the governing body that 75% of the owners of real property
1449 located in the district have duly filed a written petition requiring the issuance of bonds as provided
1450 in Subsection (1), shall be conclusive in any action or proceeding involving the validity of the
1451 petition or the district's authority to issue the bonds instituted after the expiration of the period
1452 provided in Subsection (4), for the filing of actions contesting the validity of the bonds and after
1453 the date of delivery of and payment for any part of the bonds.

1454 (4) When the validity of any bond issue under this section is contested, the plaintiff or
1455 plaintiffs shall, within 40 days after the validity of the petition has been declared by the governing
1456 body, file with the clerk of the district court of the county in which the district is located, a verified
1457 written complaint setting forth specifically:

1458 (a) the name of the party contesting the issuance of the bonds, and that he is an owner of
1459 property within the district; and

1460 (b) the grounds of such contest. No such contest may be maintained and the issuance of
1461 the bonds may not be set aside or held invalid unless such a complaint is filed within the period
1462 prescribed in this section.

1463 Section 37. Section **17A-2-1316** is amended to read:

1464 **17A-2-1316. Borrowing power -- Issuance of bonds and notes -- Use of proceeds.**

1465 (1) A service district may borrow money and incur indebtedness, issuing its bonds or notes
1466 therefor, including, without limitation:

1467 (a) bonds payable in whole or in part from taxes levied on the taxable property in the
1468 service district;

1469 (b) bonds payable from revenues derived from the operation of revenue-producing
1470 facilities of the service district;

1471 (c) bonds payable from both such revenues and taxes;

1472 (d) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property
1473 in the service district;

1474 (e) tax anticipation notes;

1475 (f) bond anticipation notes;

1476 (g) refunding bonds; and

1477 (h) bonds payable in whole or in part from mineral lease payments as provided in Section
1478 11-14-17.6.

1479 (2) Tax anticipation notes are notes issued in anticipation of the collection of taxes and
1480 other revenues of a service district which are due and payable in not more than one year from their
1481 date of issue and, together with all other such notes then outstanding, do not exceed the estimated
1482 amount of taxes and other revenues to be collected from the date of issue until maturity.

1483 (3) Bond anticipation notes are notes issued in anticipation of the receipt of the proceeds
1484 of bonds of the service district.

1485 (4) All these bonds and notes shall be issued and sold in the manner, at either public or
1486 private sale, shall be in the form, and signed by the person or persons, who may, but need not, be
1487 officers of the county or municipality which established the service district and generally shall be
1488 issued in the manner and with the details as is provided for in proceedings of the governing
1489 authority of the service district authorizing the issuance of the bonds or notes; but all these bonds
1490 and notes and the interest on them shall be exempt from all taxation in this state, except for the
1491 corporate franchise tax, and all these bonds and notes may contain those terms and provisions as
1492 are permitted by and shall be issued in compliance with Title 11, Chapter 14, [the] Utah Municipal
1493 Bond Act.

1494 (5) The proceeds of bonds or notes issued under the authority of this part shall be used to
1495 pay the costs of acquisition or construction of service district facilities or the providing of services
1496 including, without limitation:

1497 (a) all costs of planning, designing, acquiring, and constructing a facility, including
1498 architectural, planning, engineering, legal, and fiscal advisor's costs;

1499 (b) all costs incident to the authorization and issuance of the bonds or notes, including
1500 accountants' fees, attorneys' fees, financial advisors' fees, underwriting fees, including underwriting
1501 fees or bond discount, and other professional services and printing costs;

1502 (c) interest estimated to accrue on bonds or notes for a reasonable time before, during, and
1503 for a reasonable time after the completion of the acquisition or construction of the facilities or
1504 services; and

1505 (d) all amounts deemed necessary to establish one or more bond reserves and maintenance,
1506 repair, replacement, contingency funds and accounts, and all amounts necessary to provide
1507 working capital for the facility.

1508 Section 38. Section **17A-2-1322** is amended to read:

1509 **17A-2-1322. Tax levy and bonds -- Approval by majority of electors voting in**
1510 **election -- Procedure for election.**

1511 (1) The governing authority of a county or municipality which has established a service
1512 district may levy a tax on all taxable property within the service district in addition to all other
1513 taxes on such property levied or imposed by the county or municipality or by any other public
1514 corporation, district, or political subdivision in which the service district is located, and may also
1515 issue bonds payable in whole or in part from these taxes. No tax may be levied and no bonds or

1516 guaranteed bonds shall be issued, however, unless authorized, except as otherwise provided in
1517 Section 17A-2-1325, by a majority of the qualified electors of the service district voting at an
1518 election for that purpose held as provided in this section.

1519 (2) The proposition to levy the tax or to issue the bonds shall be submitted to the qualified
1520 electors of the service district at an election called and held and for which notice is given in the
1521 same manner as is provided in ~~[the]~~ Title 11, Chapter 14, Utah Municipal Bond Act, for the
1522 holding of bond elections. The proposition shall state the purpose or purposes for which the taxes
1523 are to be levied or the bonds are to be issued. In addition, a proposition for the issuance of bonds
1524 shall state the maximum amount of bonds to be issued, the maximum number of years from their
1525 respective dates for which the bonds may run, and, if the bonds are to be payable in whole or in
1526 part from taxes, that fact and that taxes may be levied on all taxable property in the service district
1527 to pay the principal of and interest on the bonds. The purpose or purposes may be stated in general
1528 terms and need not specify the particular projects or services for which the taxes are to be levied
1529 or the bonds are to be issued nor the specific amount of the proceeds of the taxes or of the bonds
1530 to be expended for each project or service. If bonds are to be payable in part from tax proceeds
1531 and in part from the operating revenues of the service district or from any combination of them,
1532 the proposition shall so indicate but need not specify how the bonds are to be divided as to source
1533 of payment. If the bonds are to be issued as guaranteed bonds, the proposition shall also clearly
1534 state that fact together with the name or names of the guarantors. A proposition for the levy of
1535 taxes and for the issuance of bonds may be combined as a single proposition.

1536 Section 39. Section **17A-2-1413** is amended to read:

1537 **17A-2-1413. District powers -- Powers of board of trustees -- Other provisions**
1538 **applicable.**

1539 (1) (a) Each water conservancy district established under this part:

1540 (i) shall have perpetual succession; and

1541 (ii) except as provided in Subsection (1)(b), may exercise the power of eminent domain,
1542 as provided by law, to take any property necessary to exercise powers granted to the district.

1543 (b) Notwithstanding Subsection (1)(a)(ii), a water conservancy district may not:

1544 (i) exercise the power of eminent domain to acquire title to or beneficial use of vested
1545 water rights for transmountain diversion; and

1546 (ii) carry or transport water in transmountain diversion, the title to which has been acquired

1547 by a municipality by virtue of eminent domain proceedings.

1548 (2) The board of trustees may, on behalf of the district:

1549 (a) take by appropriation, grant, purchase, bequest, devise, or lease, and hold and enjoy
1550 water, waterworks, water rights, sources of water supply, and any real and personal property within
1551 or without the district necessary or convenient to exercise fully its powers;

1552 (b) sell, lease, encumber, alienate, or otherwise dispose of water, waterworks, water rights,
1553 and sources of water supply for any beneficial use within or without the district, and fix rates and
1554 terms for the sale, lease, or other disposal of water;

1555 (c) acquire, construct, operate, control, and use any works or facilities within or without
1556 the district necessary or convenient to exercise its powers;

1557 (d) construct, establish, or maintain works or facilities:

1558 (i) across or along any public street or highway;

1559 (ii) in, upon, or over any vacant public lands which are now, or may become, the property
1560 of this state in accordance with Title 53C, School and Institutional Trust Lands Management Act,
1561 and Title 65A, State Lands, except that any such action upon school or institutional trust lands may
1562 only be undertaken with the consent of the director of the School and Institutional Trust Lands
1563 Administration, acting pursuant to Sections 53C-1-102 and 53C-1-303; or

1564 (iii) across any streams of water or watercourses;

1565 (e) contract with any agency of the United States, person, or corporation, public or private,
1566 for the construction, preservation, operation, or maintenance of tunnels, drains, pipelines,
1567 reservoirs, regulating basins, diversion canals and works, dams, power plants, and any necessary
1568 incidental works;

1569 (f) acquire perpetual rights to the use of water from the works referred to in Subsection
1570 (2)(e) and to sell perpetual rights to the use of water from those works to persons and corporations,
1571 public and private;

1572 (g) list in separate ownership the lands within the district which are susceptible of
1573 irrigation from district sources and to make an allotment of water to all those lands, which
1574 allotment of water may not exceed the maximum amount that the board determines could be
1575 beneficially used on the lands;

1576 (h) levy assessments, as provided for by this part, against lands within the district to which
1577 water is allotted on the basis of:

- 1578 (i) a uniform district-wide value per acre-foot of irrigation water; or
1579 (ii) a uniform unit-wide value per acre-foot of irrigation water provided that the board
1580 divides the district into units and fixes a different value per acre-foot of water in the respective
1581 units;
- 1582 (i) fix rates for the sale, lease, or other disposal of water, other than irrigation water, at
1583 rates that are equitable, although not necessarily equal or uniform, for like classes of service;
- 1584 (j) adopt and modify plans and specifications for the works for which the district was
1585 organized;
- 1586 (k) investigate and promote water development;
- 1587 (l) appropriate and otherwise acquire water and water rights within or without the state;
- 1588 (m) develop, store, and transport water;
- 1589 (n) acquire stock in canal companies, water companies, and water users' associations;
- 1590 (o) make and adopt plans for and to acquire, construct, operate, and maintain dams,
1591 reservoirs, canals, conduits, pipelines, tunnels, power plants, and any works, facilities,
1592 improvements, and property necessary or convenient for those purposes;
- 1593 (p) generate, distribute, or sell electric power from hydroelectric power plants owned,
1594 operated, licensed, or leased by the district if, as determined by the board, the electric power plant
1595 was acquired or constructed as an incidental and not the primary purpose of a project for the
1596 conservation, development, storage, transportation, or distribution of water;
- 1597 (q) invest any surplus money in the district treasury pursuant to Title 51, Chapter 7, State
1598 Money Management Act;
- 1599 (r) refund bonded indebtedness incurred by the district pursuant to rules prescribed by the
1600 board;
- 1601 (s) borrow money and to issue bonds or other evidence of indebtedness;
- 1602 (t) construct works and improvements on land not subject to acquisition by condemnation
1603 held by the district for a term of not less than 50 years under lease, easement, or otherwise and to
1604 issue bonds to pay the costs for which bonds may be issued as in this part;
- 1605 (u) acquire, construct, operate, or maintain works for the irrigation of land;
- 1606 (v) sell water and water services to individual customers and to charge sufficient rates for
1607 the water and services supplied; however, no sale of water for domestic or culinary use shall be
1608 made to a customer located within the limits of any incorporated municipality without the consent

1609 of the municipality, except as provided by Subsection 17A-2-1439(7);

1610 (w) make and collect fees for customer connections to the works of the district and for
1611 permitting and supervising the making of the connections;

1612 (x) use the proceeds of connection charges for any lawful corporate purpose, including the
1613 construction or acquisition of facilities, payment of principal of and interest on bonds, and the
1614 creation of a reserve for such purposes;

1615 (y) own property for its corporate purposes within the boundaries of incorporated
1616 municipalities; and

1617 (z) adopt a fiscal year, which may end June 30 or December 31.

1618 (3) (a) The provisions of Title 17B, Chapter 2, Part 4, Board of Trustees, except Section
1619 17B-2-402, apply to each water conservancy district to the same extent as if the water conservancy
1620 district were a local district under Title 17B, Chapter 2, Local Districts.

1621 (b) (i) If a change in the expiration date of the term of a board of trustees member is
1622 necessary to comply with the requirements of Subsection 17B-2-403(1), the term of each board
1623 member whose term expires on a day other than the first Monday in January shall be extended to
1624 the first Monday in January after the normal expiration date next following the special district
1625 election date under Section 17A-1-305.

1626 (ii) If a change in the length of the term of a board of trustees member is necessary to
1627 comply with the requirements of Subsection 17B-2-403(2), the change may not take effect until
1628 the expiration of the term of the member whose term length is to be changed.

1629 Section 40. Section **17A-2-1414** is amended to read:

1630 **17A-2-1414. Who may enter into contracts -- Permissible purposes of contracts --**
1631 **Agreements and leases -- Elections for water purchase contracts.**

1632 (1) Any water conservancy district and any incorporated municipality located within or
1633 without the boundaries of the district or other district created under any law of this state are
1634 expressly authorized and empowered to enter into contracts with each other and with any other
1635 person or corporation, public or private, for any of the following purposes:

1636 (a) the joint operation of water facilities owned by any district or municipality;

1637 (b) the exchange of water, water rights, or facilities;

1638 (c) the leasing of water or water facilities; or

1639 (d) the sale of water.

1640 (2) (a) Any agreement about the operation or use of water facilities owned by a
1641 municipality or district by another municipality or district, the joint operation of facilities, or the
1642 lease of water or water facilities, may provide for the joint use of water facilities owned by one of
1643 the contracting parties under appropriate arrangements for reasonable compensation.

1644 (b) Any agreement may provide for the renting or loan of water by one contracting party
1645 to the other or for the sale of water by one party and its purchase by another. No limitation
1646 contained in any existing law requiring the water of any district to be supplied to its own residents
1647 on a priority basis shall be applicable to any contract made under this section.

1648 (c) Any contract for the sale of water may run for a term of years as may be specified. The
1649 contract may require the purchasing party to pay for a minimum amount of water annually,
1650 provided the water is available, without regard to actual taking or use. The contract may provide
1651 for the payment for water sold or contracted to be sold from any of the following sources of
1652 revenue:

- 1653 (i) the general funds or other funds of the purchasing municipality or district;
1654 (ii) the proceeds of class B assessments imposed under the Water Conservancy Act;
1655 (iii) the proceeds of water distributed and sold through the distribution system of the
1656 purchasing district or municipality; or
1657 (iv) any combination of these sources of payment.

1658 (d) The governing body of any municipality agreeing to purchase water under a contract,
1659 for the purpose of complying with any pertinent constitutional requirement or for any other reason,
1660 may call an election for that purpose. The election shall be conducted in the manner provided in
1661 ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act.

1662 Section 41. Section **17A-2-1439** is amended to read:

1663 **17A-2-1439. Contracts providing for payment in installments -- Issuance and sale**
1664 **of bonds -- Sinking fund -- Covenants -- Default -- Revenue obligations -- Refunding bonds.**

1665 (1) (a) (i) To pay for construction, operation, and maintenance of works, and expenses
1666 preliminary and incidental to them, the board may enter into contracts with the United States of
1667 America or its agencies, providing for payment in installments.

1668 (ii) To pay for all or part of the cost of the construction or acquisition of any works, to pay
1669 for the improvement and extension of them, to pay expenses preliminary and incidental to them,
1670 to pay interest on the bonds during acquisition and construction, to provide for necessary reserves,

1671 and to pay costs of issuance and sale of the bonds (including, without limitation, printing,
1672 registration and transfer costs, legal fees, financial advisor's fees, and underwriter's discount), the
1673 board may issue the bonds of the district as provided in this section.

1674 (b) The indebtedness or obligation represented by any bonds issued by or any contract
1675 entered into by the board may be payable in whole or in part from all or part of the revenues
1676 derived by the district from the operation of all or any designated portion of its works, from the
1677 proceeds of assessments and taxes levied under this part, or from any combination of those
1678 revenues, assessments, and taxes.

1679 (c) The indebtedness or obligation represented by any bonds issued by or any contract
1680 entered into by the board may be incurred for the acquisition, construction, or both, of all or part
1681 of any works, for the improvement or extension of any works, or for a system of works for the
1682 distribution of water or for the treatment of water or both, whether or not the works of the district
1683 so acquired, constructed, improved, or extended include a source of water supply.

1684 (d) (i) These bonds shall be issued and sold in compliance with Title 11, Chapter 14, Utah
1685 Municipal Bond Act, and may be in the form and denominations and have provisions and details
1686 permitted by ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act, except that the bonds shall
1687 mature serially or otherwise and contract payment installments shall fall due at any time or times
1688 not later than 50 years from their date.

1689 (ii) The bonds and any evidences of participation interests in the bonds may be issued,
1690 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
1691 Title 15, Chapter 7, Registered Public Obligations Act, or any other statute relating to the
1692 registration of bonds enacted to meet the requirements of Section 103 of the Internal Revenue
1693 Code of 1954, as amended, or any similar or successor federal law, and applicable regulations.

1694 (2) (a) Bonds may be issued hereunder at one time or from time to time.

1695 (b) If more than one issue or series of bonds is delivered hereunder, the bonds of the
1696 respective issues or series shall have priorities of payment as provided in the proceedings
1697 authorizing the bonds.

1698 (3) (a) Any resolution authorizing the issuance of bonds or the entering into of a contract
1699 indebtedness or obligation payable in installments hereunder shall provide for the creation of a
1700 sinking fund into which shall be paid from the revenues, assessments, and taxes, any or all,
1701 pledged to the payment in the authorizing resolution sums fully sufficient to pay the principal of

1702 and interest on the bonds or on the contract indebtedness or obligation and to create a reserve for
1703 contingencies as required by the resolution.

1704 (b) Any resolution so authorizing bonds or the entering into of a contract indebtedness or
1705 obligation may contain those covenants with the future holders of the bonds or the other
1706 contracting party as to the management and operation of the properties and works of the district,
1707 the imposition and collection of fees and charges, including taxes and assessments, for the water
1708 and services furnished thereby, the disposition of the fees and revenues, the issuance of future
1709 bonds and the incurring of future contract indebtedness or obligations and the creation of future
1710 liens and encumbrances against the works and the revenues thereof, the carrying of insurance on
1711 the works and the disposition of the proceeds of insurance, the sale, disposal, or alienation of the
1712 works, and other pertinent matters considered necessary or proper by the board to assure the
1713 merchantability of the bonds or the execution of the contract.

1714 (c) These covenants and agreements may not be inconsistent with this section.

1715 (4) (a) It may be provided in the resolution that any holder of the bonds or any contracting
1716 party may by appropriate legal action compel performance of all duties required of the board and
1717 the officials of the district by this part and the resolution authorizing the bonds or contract.

1718 (b) If any bond issued or any contract entered into hereunder is permitted to go into default
1719 as to any installment of principal or interest, any court of competent jurisdiction may, pursuant to
1720 the application of the holder of any bond or of the other contracting party, appoint a receiver to
1721 operate the works of the district and to collect and distribute the revenues thereof under the
1722 resolution, this part, and as the court may direct.

1723 (5) (a) When the district has issued bonds or entered into a contract and pledged any
1724 revenues of the works for the payment of them as provided in this part, the district shall impose
1725 and collect fees and charges for water and services furnished by the works in that amount and at
1726 those rates fully sufficient at all times (in conjunction with the proceeds of available taxes and
1727 assessments if the bonds or contract indebtedness or obligation are also payable in part from the
1728 proceeds of assessments and taxes levied under this part) to pay the expenses of operating and
1729 maintaining the works, to provide a sinking fund sufficient to assure the prompt payment of
1730 principal of and interest on the bonds or contract indebtedness or obligation as principal and
1731 interest fall due, and to provide those funds for reserves and contingencies and for a depreciation
1732 fund for repairs, extensions, and improvements to the works as considered necessary to assure

1733 adequate and efficient service, all as may be required by the resolution.

1734 (b) No board or commission other than the board of trustees of the district has authority
1735 over or is required to approve the making or fixing of fees and charges, the acquisition of property
1736 by the district, the issuance of its bonds, or the entering into of a contract.

1737 (6) (a) The board of any district that issues or has issued any bonds under this part, or that
1738 enters or has entered into any contracts under this part, may issue bonds hereunder for the purpose
1739 of refunding all or any part of the outstanding bonds, or the outstanding indebtedness or obligation
1740 represented by the contracts, or in part for the purpose of the refunding and in part for the purpose
1741 of acquiring, constructing, improving, or extending works for the district.

1742 (b) If bonds are issued solely for refunding purposes, the election required by Section
1743 17A-2-1440 is not a condition precedent to the issuance of the bonds.

1744 (c) Refunding bonds so authorized:

1745 (i) may be sold and the proceeds thereof applied to or deposited in an escrow and invested
1746 pending the retirement of the outstanding bonds; or

1747 (ii) may be delivered in exchange for the outstanding bonds.

1748 (d) The refunding bonds shall be authorized and secured in the manner herein provided
1749 for the issuance and securing of other bonds and may, but are not required to, have the same source
1750 of security and payment as the bonds refunded.

1751 (7) (a) If bonds have been issued or a contract indebtedness or obligation has been incurred
1752 hereunder payable in whole or in part from revenues to be derived from supplying water to the
1753 inhabitants of territory which was not at the time of the issuance of the bonds or the entering into
1754 of the contract contained within the corporate limits of any municipality or any other district
1755 created for the purpose of supplying water to the territory, the district shall thereafter be the sole
1756 public corporation or political subdivision authorized to supply water to this area.

1757 (b) No municipal corporation or other district into which any part of the territory is
1758 incorporated or included has authority either to supply water to the inhabitants of the corporation
1759 or district or to grant a franchise for the supplying of the water.

1760 (c) Nothing contained in this Subsection (7) prevents the modification of this restriction
1761 contained by the district if modification does not in any way jeopardize the prompt payment of
1762 principal of and interest on the bonds of the district then outstanding or of the payment of
1763 installments of indebtedness or obligation under a contract.

1764 Section 42. Section **17A-2-1448** is amended to read:

1765 **17A-2-1448. Validation of proceedings -- Changes.**

1766 (1) If proceedings have been adopted under authority of this part purporting to create any
1767 conservancy district thereunder, all proceedings had in connection with the creation of each such
1768 district are hereby validated, ratified and confirmed notwithstanding any failure to comply with
1769 any one or more pertinent statutory provisions and each such district is declared to be a validly
1770 created and existing district under authority of the law.

1771 (2) It is expressly found and determined that all taxable property lying in each such district
1772 will be benefitted by the construction of the improvements to be constructed by such district to an
1773 amount not less than the aggregate of the taxes and assessments to be levied against such property
1774 to pay for the cost of such improvements.

1775 (3) All proceedings had in connection with the appointment election and organization of
1776 board of trustees for each such district are ratified and approved and each such board of trustees
1777 is declared to be de facto and de jure governing body of each such district. If in any such district
1778 an election has been held on the approval of a contract with the United States of America or on the
1779 issuance of the bonds of the district or both, all proceedings had in connection with the calling and
1780 holding of each such election are validated, ratified and confirmed despite any irregularity which
1781 may have occurred therein and any contract so approved by any such election and any bonds so
1782 authorized at any such election are validated and confirmed and the board of trustees and officers
1783 of each such district are authorized and empowered to proceed to do all things necessary to the
1784 execution of such contract or to the issuance of such bonds as the case may be and each such
1785 contract when duly executed and all such bonds when delivered and paid for are declared to be
1786 valid and binding obligations of such district in accordance with the terms thereof and to be fully
1787 negotiable for all purposes.

1788 (4) All construction contracts heretofore entered into by any such district for the
1789 construction or acquisition of works or facilities for such district are validated, ratified, and
1790 confirmed and declared to be valid obligations of such district in accordance with the terms
1791 thereof. The board of [~~directors~~] trustees of any such district may make such changes in any
1792 contract or in any bond proceedings or bonds hereby validated as may in its opinion be desirable
1793 for the best interests of such district without in any wise impairing or making ineffective any of
1794 the curative effect of this section. Any such change or changes may be so made despite the fact

1795 that such change or changes may be inconsistent with the proceedings at which any such contract,
1796 if voted at an election, or any such bonds, where voted, and no new election to approve or
1797 authorize such change or changes shall be necessary.

1798 Section 43. Section **17A-2-1449** is amended to read:

1799 **17A-2-1449. Validation of proceedings and actions -- Changes in validated contracts,**
1800 **bond proceedings or bonds authorized.**

1801 (1) All proceedings that have been adopted and actions taken before May 13, 1969, under
1802 authority of this part, purporting to create any water conservancy district thereunder or purporting
1803 to provide for the inclusion of any additional area or areas in any such district, including all
1804 petitions filed and all notices given, published and mailed in connection with any such creation and
1805 any such inclusion, are hereby validated, ratified and confirmed, notwithstanding any failure to
1806 comply with any one or more pertinent statutory provisions and each such district as so created or
1807 enlarged is declared to be a validly created and existing district.

1808 (2) It is expressly determined that all taxable property lying in each such district shall be
1809 benefitted by any improvements constructed before or after this part takes effect to an amount not
1810 less than the aggregate of the taxes and assessments levied against such property to pay for the cost
1811 of such improvements.

1812 (3) All proceedings and actions taken with respect to the appointment, election and
1813 organization of a board of trustees and officers thereof for each such district are validated, ratified
1814 and confirmed and each such board of trustees is declared to be the de facto and de jure governing
1815 body of each such district. If in any such district an election has been held, before May 13, 1969,
1816 on the question of approving a contract with the United States of America or on the question of
1817 the issuance of the bonds of the district, or both, all proceedings and actions concerned with the
1818 calling, holding and conduct of any such elections are validated, ratified and confirmed despite any
1819 irregularities which may have occurred in connection therewith.

1820 (4) Any contract so approved at such an election and any bonds so authorized at such an
1821 election are validated, ratified and confirmed. The board of trustees and officers of each such
1822 district may do all things necessary to execute any such contract or issue such bonds, and each such
1823 contract when executed and all such bonds when delivered and paid for shall be valid and binding
1824 obligations of such district in accordance with the tenor and terms thereof. Any contracts made
1825 by such district for the construction or acquisition of works or facilities for such district are

1826 validated, ratified and confirmed and shall be valid obligations of such district in accordance with
1827 the terms thereof. Changes made after May 13, 1969 by the board of [~~directors~~] trustees of any
1828 such district in any contract, bond proceedings or bonds hereby validated shall be considered not
1829 to nullify any curative effect of this section.

1830 Section 44. Section **19-6-505** is amended to read:

1831 **19-6-505. Long-term agreements for joint action -- Construction, acquisition, or sale**
1832 **of interest in management facilities -- Issuance of bonds.**

1833 (1) (a) Two or more public entities, which for the purposes of this section shall only
1834 include any political subdivision of the state, the state and its agencies, and the United States and
1835 its agencies, may enter into long-term agreements with one another pursuant to Title 11, Chapter
1836 13, Interlocal Cooperation Act, and any one or more public entities may enter into long-term
1837 agreements with any private entity or entities for joint or cooperative action related to the
1838 acquisition, construction, ownership, operation, maintenance, and improvement of solid waste
1839 management facilities, regardless of whether the facilities are owned or leased by a public entity
1840 or entities, private entity or entities, or combination of them and pursuant to which solid waste of
1841 one or more public entities, any private entity or entities, or combination of them, are made
1842 available for solid waste management pursuant to the terms, conditions, and consideration
1843 provided in the agreement.

1844 (b) Any payments made by a public entity for services received under the agreement are
1845 not an indebtedness of the public entity within the meaning of any constitutional or statutory
1846 restriction, and no election is necessary for the authorization of the agreement.

1847 (c) Any public entity or any public entity in combination with a private entity agreeing to
1848 make solid waste management facilities available may, in the agreement, agree to make available
1849 to other public entities a specified portion of the capacity of the solid waste management facilities,
1850 without regard to its future need of the specified capacity for its own use and may in the agreement
1851 agree to increase the capacity of its solid waste management facilities from time to time, as
1852 necessary, in order to take care of its own needs and to perform its obligations to the other parties
1853 to the agreement.

1854 (2) (a) Two or more public entities or any one or more public entities together with any
1855 private entity or entities may construct or otherwise acquire joint interests in solid waste
1856 management facilities, or any part of them, for their common use, or may sell to any other public

1857 or private entity or entities a partial interest or interests in its solid waste management facility.

1858 (b) Any public entity otherwise qualifying under [~~the~~] Title 11, Chapter 14, Utah
1859 Municipal Bond Act or [~~the~~] Title 11, Chapter 17, Utah Industrial Facilities and Development Act
1860 may issue its bonds pursuant to these acts for the purpose of acquiring a joint interest in solid waste
1861 management facilities, or any part thereof, whether the joint interest is to be acquired through
1862 construction of new facilities or the purchase of an interest in existing facilities.

1863 Section 45. Section **19-6-804** is amended to read:

1864 **19-6-804. Restrictions on disposal of tires -- Penalties.**

1865 (1) (a) After January 1, 1994, an individual, including a waste tire transporter, may not
1866 dispose of more than four whole tires at one time in a landfill or any other location in the state
1867 authorized by the executive secretary to receive waste tires, except for purposes authorized by
1868 board rule.

1869 (b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater
1870 than 24.5 inches.

1871 (c) No person, including a waste tire transporter, may dispose of waste tires or store waste
1872 tires in any manner not allowed under this [~~chapter~~] part or rules made under this part.

1873 (2) The operator of the landfill or other authorized location shall direct that the waste tires
1874 be disposed in a designated area to facilitate retrieval if a market becomes available for the
1875 disposed waste tires or material derived from waste tires.

1876 (3) An individual, including a waste tire transporter, may dispose of shredded waste tires
1877 in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, dispose
1878 in a landfill materials derived from waste tires that do not qualify for reimbursement under Section
1879 19-6-812, but the landfill shall dispose of the material in accordance with Section 19-6-812.

1880 (4) (a) An individual, including a waste tire transporter, violating this section is subject
1881 to enforcement proceedings and a civil penalty of not more than \$100 per waste tire or per
1882 passenger tire equivalent disposed of in violation of this section. A warning notice may be issued
1883 prior to taking further enforcement action under this Subsection (4).

1884 (b) A civil proceeding to enforce this section and collect penalties under this section may
1885 be brought in the district court where the violation occurred by the board, the local health
1886 department, or the county attorney having jurisdiction over the location where the tires were
1887 disposed in violation of this section.

1888 (c) Penalties collected under this section shall be deposited in the trust fund.

1889 Section 46. Section **20A-3-304** is amended to read:

1890 **20A-3-304. Application for absentee ballot -- Time for filing and voting.**

1891 (1) As used in this section, "absent elector" means a person who:

1892 (a) is physically, emotionally, or mentally impaired;

1893 (b) will be serving as an election judge or who has election duties in another voting
1894 precinct;

1895 (c) is detained or incarcerated in a jail or prison as a penalty for committing a
1896 misdemeanor;

1897 (d) suffers a legal disability;

1898 (e) is prevented from voting in a particular location because of religious tenets or other
1899 strongly held personal values;

1900 (f) is called for jury duty in state or federal court; or

1901 (g) otherwise expects to be absent from the voting precinct during the hours the polls are
1902 open on election day.

1903 (2) A registered voter who is or will be an absent elector may file an absentee ballot
1904 application with the appropriate election officer for an official absentee ballot.

1905 (3) (a) Except as provided in Subsection (3)(b), each election officer shall prepare blank
1906 applications for absentee ballot applications in substantially the following form:

1907 "I, _____, a qualified elector, in full possession of my mental faculties, residing at _____
1908 Street, _____ City, _____ County, Utah [~~and~~] to my best knowledge and belief am entitled to vote
1909 by absentee ballot at the next election.

1910 I apply for an official absentee ballot to be voted by me at the election.

1911 Date _____ (month\day\year) Signed _____

1912 Voter"

1913 (b) Each election officer shall prepare blank applications for absentee ballot applications
1914 for regular primary elections and for the Western States Presidential Primary in substantially the
1915 following form:

1916 "I, _____, a qualified elector, in full possession of my mental faculties, residing at _____
1917 Street, _____ City, _____ County, Utah to my best knowledge and belief am entitled to vote by
1918 absentee ballot at the next election.

1919 I apply for an official absentee ballot for the _____ political party to be voted
1920 by me at the primary election.

1921 I understand that I must be affiliated with or authorized to vote the political party's ballot
1922 that I request.

1923 Dated _____ (month\day\year) ____ Signed _____
1924 Voter"

1925 If requested by the applicant, the election officer shall:

1926 (i) mail or fax the application blank to the absentee voter; or

1927 (ii) deliver the application blank to any voter who personally applies for it at the office of
1928 the election officer.

1929 (4) (a) (i) Except as provided in Subsections (4)(a)(ii) and (iii), the voters shall file the
1930 application for an absentee ballot with the appropriate election officer no later than the Friday
1931 before election day.

1932 (ii) Overseas applicants shall file their applications with the appropriate election officer
1933 no later than 20 days before the day of election.

1934 (iii) Voters applying for an absentee ballot for the Western States Presidential Primary
1935 shall file the application for an absentee ballot with the appropriate election officer not later than
1936 the Tuesday before election day.

1937 (b) Persons voting an absentee ballot at the office of the election officer shall apply for and
1938 cast their ballot no later than the day before the election.

1939 (5) (a) A county clerk may establish a permanent absentee voter list.

1940 (b) The clerk shall place on the list the name of any person who:

1941 (i) requests permanent absentee voter status; and

1942 (ii) meets the requirements of this section.

1943 (c) (i) Each year, the clerk shall mail a questionnaire to each person whose name is on the
1944 absentee voter list.

1945 (ii) The questionnaire shall allow the absentee person to verify the voter's residence and
1946 inability to vote at the voting precinct on election day.

1947 (iii) The clerk may remove the names of any voter from the absentee voter registration list
1948 if:

1949 (A) the voter is no longer listed in the official register; or

1950 (B) the voter fails to verify the voter's residence and absentee status.

1951 (d) The clerk shall provide a copy of the permanent absentee voter list to election officers
1952 for use in elections.

1953 Section 47. Section **20A-5-404** is amended to read:

1954 **20A-5-404. Election forms -- Preparation and contents.**

1955 (1) (a) For each election, the election officer[~~:(a)~~] shall prepare, for each voting precinct,

1956 a:

1957 (i) ballot disposition form;

1958 (ii) total votes cast form;

1959 (iii) tally sheet form; and

1960 (iv) pollbook.

1961 (b) For each election, the election officer shall:

1962 (i) provide a copy of each form to each of those precincts using paper ballots; and

1963 (ii) provide a copy of the ballot disposition form and a pollbook to each of those voting

1964 precincts using an automated voting system.

1965 (2) The election officer shall ensure that the ballot disposition form contains a space for
1966 the judges to identify:

1967 (a) the number of ballots voted;

1968 (b) the number of substitute ballots voted, if any;

1969 (c) the number of ballots delivered to the voters;

1970 (d) the number of spoiled ballots;

1971 (e) the number of registered voters listed in the official register;

1972 (f) the total number of voters voting according to the pollbook; and

1973 (g) the number of unused ballots.

1974 (3) The election officer shall ensure that the total votes cast form contains:

1975 (a) the name of each candidate appearing on the ballot, the office for which the candidate

1976 is running, and a blank space for the election judges to record the number of votes that the

1977 candidate received;

1978 (b) for each office, blank spaces for the election judges to record the names of write-in

1979 candidates, if any, and a blank space for the election judges to record the number of votes that the

1980 write-in candidate received;

1981 (c) a heading identifying each ballot proposition and blank spaces for the election judges
1982 to record the number of votes for and against each proposition; and

1983 (d) a certification, in substantially the following form, to be signed by the judges when
1984 they have completed the total votes cast form:

1985 "TOTAL VOTES CAST

1986 At an election held at ____ in ____ voting precinct in _____(name of entity
1987 holding the election) and State of Utah, on _____(month\day\year), the following named
1988 persons received the number of votes annexed to their respective names for the following
1989 described offices: Total number of votes cast were as follows:

1990 Certified by us ____, ____, ____, Judges of Election."

1991 (4) The election officer shall ensure that the tally sheet form contains:

1992 (a) for each office, the names of the candidates for that office, and blank spaces to tally the
1993 votes that each candidate receives;

1994 (b) for each office, blank spaces for the election judges to record the names of write-in
1995 candidates, if any, and a blank space for the election judges to tally the votes for each write-in
1996 candidate;

1997 (c) for each ballot proposition, a heading identifying the ballot proposition and the words
1998 "Yes" and "No" or "For" and "Against" on separate lines with blank spaces after each of them for
1999 the election judges to tally the ballot proposition votes; and

2000 (d) a certification, in substantially the following form, to be signed by the judges when
2001 they have completed the tally sheet form:

2002 "Tally Sheet

2003 We the undersigned election judges for voting precinct # _____,

2004 _____(entity holding the election) certify that this is a true and correct list of all
2005 persons voted for and ballot propositions voted on at the election held in that voting precinct on
2006 _____(date of election) and is a tally of the votes cast for each of those
2007 persons. Certified by us ____, ____, ____, Judges of Election."

2008 (5) The election officer shall ensure that the pollbook:

2009 (a) identifies the voting precinct number on its face; and

2010 (b) contains:

2011 (i) a section to record persons voting on election day, with columns entitled "Ballot

2012 Number" and "Voter's Name";

2013 (ii) another section in which to record absentee ballots;

2014 (iii) a section in which to record voters who are challenged; and

2015 (iv) a certification, in substantially the following form:

2016 "We, the undersigned, judges of an election held at _____ voting precinct, in _____
2017 County, state of Utah, on _____(month\day\year), having first been sworn according to law,
2018 certify that the information listed in this book is a true statement of the number and names of the
2019 persons voting in the voting precinct at the election, and that the total number of persons voting
2020 at the election was ____."

2021 _____
2022 _____
2023 _____

Judges of Election

2024
2025 Section 48. Section **21-2-8** is amended to read:

2026 **21-2-8. Fees of county officers.**

2027 (1) As used in this section, "county officer" means all of the county officers enumerated
2028 in Section 17-53-101 except county recorders, county constables, and county sheriffs.

2029 (2) (a) Each county officer shall collect, in advance, for exclusive county use and benefit:

2030 (i) all fees established by the county legislative body under [~~this section~~] Section
2031 17-53-211; and

2032 (ii) any other fees authorized or required by law.

2033 (b) As long as the displaced homemaker program is authorized by Section 35A-3-114, the
2034 county clerk shall:

2035 (i) assess \$20 in addition to whatever fee for a marriage license is established under
2036 authority of this section; and

2037 (ii) transmit \$20 from each marriage license fee to the Division of Finance to be credited
2038 to the displaced homemaker program.

2039 (c) As long as the Children's Legal Defense Account is authorized by Section 63-63a-8,
2040 the county clerk shall:

2041 (i) assess \$10 in addition to whatever fee for a marriage license is established under
2042 authority of this section and in addition to the \$20 assessed for the displaced homemaker program;

2043 and

2044 (ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in
2045 the Children's Legal Defense Account.

2046 (3) This section does not apply to any fees currently being assessed by the state but
2047 collected by county officers.

2048 Section 49. Section **23-13-2** is amended to read:

2049 **23-13-2. Definitions.**

2050 As used in this title:

2051 (1) "Activity regulated under this title" means any act, attempted act, or activity prohibited
2052 or regulated under any provision of Title 23 or the rules, and proclamations promulgated
2053 thereunder pertaining to protected wildlife including:

2054 (a) fishing;

2055 (b) hunting;

2056 (c) trapping;

2057 (d) taking;

2058 (e) permitting any dog, falcon, or other domesticated animal to take;

2059 (f) transporting;

2060 (g) possessing;

2061 (h) selling;

2062 (i) wasting;

2063 (j) importing;

2064 (k) exporting;

2065 (l) rearing;

2066 (m) keeping;

2067 (n) utilizing as a commercial venture; and

2068 (o) releasing to the wild.

2069 (2) "Aquatic animal" has the meaning provided in Section 4-37-103.

2070 (3) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or
2071 amphibians.

2072 (4) "Aquaculture facility" has the meaning provided in Section 4-37-103.

2073 (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that

2074 one person may legally take during one day.

2075 (6) "Big game" means species of hooved protected wildlife.

2076 (7) "Carcass" means the dead body of an animal or its parts.

2077 (8) "Certificate of registration" means a document issued under this title, or any rule or
2078 proclamation of the Wildlife Board granting authority to engage in activities not covered by a
2079 license, permit, or tag.

2080 (9) "Closed season" means the period of time during which the taking of protected wildlife
2081 is prohibited.

2082 (10) "Conservation officer" means a full-time, permanent employee of the Division of
2083 Wildlife Resources who is POST certified as a peace or a special function officer.

2084 (11) "Dedicated hunter program" means a program that provides:

2085 (a) expanded hunting opportunities;

2086 (b) opportunities to participate in projects that are beneficial to wildlife; and

2087 (c) education in hunter ethics and wildlife management principles.

2088 (12) "Division" means the Division of Wildlife Resources.

2089 (13) (a) "Domicile" means the place:

2090 (i) where an individual has a fixed permanent home and principal establishment;

2091 (ii) to which the individual if absent, intends to return; and

2092 (iii) in which the individual, and the individual's family voluntarily reside, not for a special
2093 or temporary purpose, but with the intention of making a permanent home.

2094 (b) To create a new domicile an individual must:

2095 (i) abandon the old domicile; and

2096 (ii) be able to prove that a new domicile has been established.

2097 (14) "Endangered" means wildlife designated as such pursuant to Section 3 of the federal
2098 Endangered Species Act of 1973.

2099 (15) "Fee fishing facility" has the meaning provided in Section 4-37-103.

2100 (16) "Feral" means an animal which is normally domesticated but has reverted to the wild.

2101 (17) "Fishing" means to take fish or crayfish by any means.

2102 (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and
2103 Castoridae families, except coyote and cougar.

2104 (19) "Game" means wildlife normally pursued, caught, or taken by sporting means for

2105 human use.

2106 (20) (a) "Guide" means a person who receives compensation or advertises services for
2107 assisting another person to take protected wildlife.

2108 (b) Assistance under Subsection (20)(a) includes the provision of food, shelter, or
2109 transportation, or any combination of these.

2110 (21) "Guide's agent" means a person who is employed by a guide to assist another person
2111 to take protected wildlife.

2112 (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any
2113 means.

2114 (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or
2115 diminish the efforts of an officer in the performance of the officer's duty.

2116 (24) "Nonresident" means a person who does not qualify as a resident.

2117 (25) "Open season" means the period of time during which protected wildlife may be
2118 legally taken.

2119 (26) "Pecuniary gain" means the acquisition of money or something of monetary value.

2120 (27) "Permit" means a document, including a stamp, which grants authority to engage in
2121 specified activities under this title or a rule or proclamation of the Wildlife Board.

2122 (28) "Person" means an individual, association, partnership, government agency,
2123 corporation, or an agent of the foregoing.

2124 (29) "Possession" means actual or constructive possession.

2125 (30) "Possession limit" means the number of bag limits one individual may legally possess.

2126 (31) (a) "Private fish installation" means a body of water where privately owned, protected
2127 aquatic wildlife are propagated or kept.

2128 (b) "Private fish installation" does not include any aquaculture facility or fee fishing
2129 facility.

2130 (32) "Private wildlife farm" means an enclosed place where privately owned birds or
2131 furbearers are propagated or kept and which restricts the birds or furbearers from:

2132 (a) commingling with wild birds or furbearers; and

2133 (b) escaping into the wild.

2134 (33) "Proclamation" means the publication used to convey a statute, rule, policy, or
2135 pertinent information as it relates to wildlife.

- 2136 (34) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in Subsection (3),
2137 except as provided in Subsection (34)(b).
- 2138 (b) "Protected aquatic wildlife" does not include aquatic insects.
- 2139 (35) (a) "Protected wildlife" means wildlife as defined in Subsection (49), except as
2140 provided in Subsection (35)(b).
- 2141 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel, jack
2142 rabbit, muskrat, and raccoon.
- 2143 (36) "Released to the wild" means to [~~turn~~] be turned loose from confinement.
- 2144 (37) (a) "Resident" means a person who:
- 2145 (i) has been domiciled in the state of Utah for six consecutive months immediately
2146 preceding the purchase of a license; and
- 2147 (ii) does not claim residency for hunting, fishing, or trapping in any other state or country.
- 2148 (b) A Utah resident retains Utah residency if that person leaves this state:
- 2149 (i) to serve in the armed forces of the United States or for religious or educational
2150 purposes; and
- 2151 (ii) complies with Subsection (37)(a)(ii).
- 2152 (c) (i) A member of the armed forces of the United States and dependents are residents for
2153 the purposes of this chapter as of the date the member reports for duty under assigned orders in the
2154 state if the member:
- 2155 (A) is not on temporary duty in this state; and
- 2156 (B) complies with Subsection (37)(a)(ii).
- 2157 (ii) A copy of the assignment orders must be presented to a wildlife division office to
2158 verify the member's qualification as a resident.
- 2159 (d) A nonresident attending an institution of higher learning in this state as a full-time
2160 student may qualify as a resident for purposes of this chapter if the student:
- 2161 (i) has been present in this state for 60 consecutive days immediately preceding the
2162 purchase of the license; and
- 2163 (ii) complies with Subsection (37)(a)(ii).
- 2164 (e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping
2165 is purchased in any other state or country.
- 2166 (f) An absentee landowner paying property tax on land in Utah does not qualify as a

2167 resident.

2168 (38) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of
2169 selling, bartering, exchanging, or trading.

2170 (39) "Small game" means species of protected wildlife:

2171 (a) commonly pursued for sporting purposes; and

2172 (b) not classified as big game, aquatic wildlife, or furbearers and excluding cougar and
2173 bear.

2174 (40) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for human
2175 consumption.

2176 (41) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or other
2177 artificial light on any highway or in any field, woodland, or forest while having in possession a
2178 weapon by which protected wildlife may be killed.

2179 (42) "Tag" means a card, label, or other identification device issued for attachment to the
2180 carcass of protected wildlife.

2181 (43) "Take" means to:

2182 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected
2183 wildlife; or

2184 (b) attempt any action referred to in Subsection (43)(a).

2185 (44) "Threatened" means wildlife designated as such pursuant to Section 3 of the federal
2186 Endangered Species Act of 1973.

2187 (45) "Trapping" means taking protected wildlife with a trapping device.

2188 (46) "Trophy animal" means an animal described as follows:

2189 (a) deer - any buck with an outside antler measurement of 24 inches or greater;

2190 (b) elk - any bull with six points on at least one side;

2191 (c) bighorn, desert, or rocky mountain sheep - any ram with a curl exceeding half curl;

2192 (d) moose - any bull;

2193 (e) mountain goat - any male or female;

2194 (f) pronghorn antelope - any buck with horns exceeding 14 inches; or

2195 (g) bison - any bull.

2196 (47) "Waste" means to abandon protected wildlife or to allow protected wildlife to spoil
2197 or to be used in a manner not normally associated with its beneficial use.

2198 (48) "Water pollution" means the introduction of matter or thermal energy to waters within
2199 this state which:

2200 (a) exceeds state water quality standards; or

2201 (b) could be harmful to protected wildlife.

2202 (49) "Wildlife" means:

2203 (a) crustaceans, including brine shrimp and crayfish;

2204 (b) mollusks; and

2205 (c) vertebrate animals living in nature, except feral animals.

2206 Section 50. Section **30-3-35** is amended to read:

2207 **30-3-35. Minimum schedule for visitation for children 5 to 18 years of age.**

2208 (1) The visitation schedule in this section applies to children 5 to 18 years of age.

2209 (2) If the parties do not agree to a visitation schedule, the following schedule shall be
2210 considered the minimum visitation to which the noncustodial parent and the child shall be entitled:

2211 (a) (i) one weekday evening to be specified by the noncustodial parent or the court from
2212 5:30 p.m. until 8:30 p.m.; or

2213 (ii) at the election of the noncustodial parent, one weekday from the time the child's school
2214 is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection
2215 (2)(a)(i);

2216 (b) (i) alternating weekends beginning on the first weekend after the entry of the decree
2217 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year; or

2218 (ii) at the election of the noncustodial parent, from the time the child's school is regularly
2219 dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection
2220 (2)(b)(i);

2221 (c) holidays take precedence over the weekend visitation, and changes shall not be made
2222 to the regular rotation of the alternating weekend visitation schedule;

2223 (d) if a holiday falls on a regularly scheduled school day, the noncustodial parent shall be
2224 responsible for the child's attendance at school for that school day;

2225 (e) (i) if a holiday falls on a weekend or on a Friday or Monday and the total holiday period
2226 extends beyond that time so that the child is free from school and the parent is free from work, the
2227 noncustodial parent shall be entitled to this lengthier holiday period; or

2228 (ii) at the election of the noncustodial parent, visitation over a scheduled holiday weekend

2229 may begin from the time the child's school is regularly dismissed at the beginning of the holiday
2230 weekend until 7 p.m. on the last day of the holiday weekend;

2231 (f) in years ending in an odd number, the noncustodial parent is entitled to the following
2232 holidays:

2233 (i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until
2234 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the
2235 birthday;

2236 (ii) [~~Human Rights~~] Martin Luther King, Jr. Day beginning 6 p.m. on Friday until Monday
2237 at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent
2238 is completely entitled;

2239 (iii) spring break or Easter holiday beginning at 6 p.m. on the day school lets out for the
2240 holiday until 7 p.m. on the Sunday before school resumes;

2241 (iv) Memorial Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday
2242 extends for a lengthier period of time to which the noncustodial parent is completely entitled;

2243 (v) July 24th beginning 6 p.m. on the day before the holiday until 11 p.m. on the holiday;

2244 (vi) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the
2245 holiday; and

2246 (vii) the first portion of the Christmas school vacation as defined in Subsection
2247 30-3-32(3)(b) plus Christmas Eve and Christmas Day until 1 p.m., so long as the entire holiday is
2248 equally divided;

2249 (g) in years ending in an even number, the noncustodial parent is entitled to the following
2250 holidays:

2251 (i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion
2252 of the noncustodial parent, he may take other siblings along for the birthday;

2253 (ii) [~~President's~~] Washington and Lincoln Day beginning at 6 p.m. on Friday until 7 p.m.
2254 on Monday unless the holiday extends for a lengthier period of time to which the noncustodial
2255 parent is completely entitled;

2256 (iii) July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. on the holiday;

2257 (iv) Labor Day beginning at 6 p.m. on Friday until Monday at 7 p.m. unless the holiday
2258 extends for a lengthier period of time to which the noncustodial parent is completely entitled;

2259 (v) the fall school break, if applicable, commonly known as U.E.A. weekend beginning

2260 at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period
2261 of time to which the noncustodial parent is completely entitled;

2262 (vi) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the
2263 holiday;

2264 (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m; and

2265 (viii) the second portion of the Christmas school vacation as defined in Subsection
2266 30-3-32(3)(b) plus Christmas day beginning at 1 p.m. until 9 p.m., so long as the entire Christmas
2267 holiday is equally divided;

2268 (h) Father's Day shall be spent with the natural or adoptive father every year beginning at
2269 9 a.m. until 7 p.m. on the holiday;

2270 (i) Mother's Day shall be spent with the natural or adoptive mother every year beginning
2271 at 9 a.m. until 7 p.m. on the holiday;

2272 (j) extended visitation with the noncustodial parent may be:

2273 (i) up to four weeks consecutive at the option of the noncustodial parent;

2274 (ii) two weeks shall be uninterrupted time for the noncustodial parent; and

2275 (iii) the remaining two weeks shall be subject to visitation for the custodial parent
2276 consistent with these guidelines;

2277 (k) the custodial parent shall have an identical two-week period of uninterrupted time
2278 during the children's summer vacation from school for purposes of vacation;

2279 (l) if the child is enrolled in year-round school, the noncustodial parent's extended
2280 visitation shall be 1/2 of the vacation time for year-round school breaks, provided the custodial
2281 parent has holiday and phone visits;

2282 (m) notification of extended visitation or vacation weeks with the child shall be provided
2283 at least 30 days in advance to the other parent; and

2284 (n) telephone contact shall be at reasonable hours and for reasonable duration.

2285 (3) Any elections required to be made in accordance with this section by either parent
2286 concerning visitation shall be made a part of the decree and made a part of the visitation order.

2287 Section 51. Section **30-6-1** is amended to read:

2288 **30-6-1. Definitions.**

2289 As used in this chapter:

2290 (1) "Abuse" means attempting to cause, or intentionally or knowingly causing to an adult

2291 or minor physical harm or intentionally placing another in fear of imminent physical harm.

2292 (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person who
2293 is 16 years of age or older who:

- 2294 (a) is or was a spouse of the other party;
2295 (b) is or was living as if a spouse of the other party;
2296 (c) is related by blood or marriage to the other party;
2297 (d) has one or more children in common with the other party;
2298 (e) is the biological parent of the other party's unborn child; or
2299 (f) resides or has resided in the same residence as the other party.

2300 (3) Notwithstanding Subsection (2), "cohabitant" does not include:

- 2301 (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
2302 (b) the relationship between natural, adoptive, step, or foster siblings who are under 18
2303 years of age.

2304 (4) "Court clerk" means a district court clerk or juvenile court clerk.

2305 (5) "Department" means the Department of Human Services.

2306 (6) "Domestic violence" means the same as that term is defined in Section 77-36-1.

2307 (7) "Ex parte protective order" means an order issued without notice to the defendant in
2308 accordance with this chapter.

2309 (8) "Foreign protective order" means a protective order issued by another state, territory,
2310 or possession of the United States, tribal lands of the United States, the Commonwealth of Puerto
2311 Rico, or the District of Columbia which shall be given full faith and credit in Utah, if the protective
2312 order is similar to a protective order issued in compliance with Title 30, Chapter 6, Cohabitant
2313 Abuse Act, or Title 77, Chapter 36, Cohabitant Abuse Procedures Act, and includes the following
2314 requirements:

2315 (a) the requirements of due process were met by the issuing court, including subject matter
2316 and personal jurisdiction;

2317 (b) the respondent received reasonable notice; and

2318 (c) the respondent had an opportunity for a hearing regarding the protective order.

2319 (9) "Law enforcement unit" or "law enforcement agency" means any public agency having
2320 general police power and charged with making arrests in connection with enforcement of the
2321 criminal statutes and ordinances of this state or any political subdivision.

2322 (10) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace Officer
2323 Classifications.

2324 (11) "Protective order" means a restraining order issued pursuant to this chapter
2325 subsequent to a hearing on the petition, of which the petitioner has given notice in accordance with
2326 this chapter.

2327 Section 52. Section **31A-22-625** is amended to read:

2328 **31A-22-625. Catastrophic coverage of mental health conditions.**

2329 (1) As used in this section:

2330 (a) (i) "Catastrophic mental health coverage" means coverage in a health insurance policy
2331 or health maintenance organization contract that does not impose any lifetime limit, annual
2332 payment limit, episodic limit, inpatient or outpatient service limit, or maximum out-of-pocket limit
2333 that places a greater financial burden on an insured for the evaluation and treatment of a mental
2334 health condition than for the evaluation and treatment of a physical health condition.

2335 (ii) "Catastrophic mental health coverage" may include a restriction on cost sharing factors,
2336 such as deductibles, copayments, or coinsurance, prior to reaching any maximum out-of-pocket
2337 limit.

2338 (iii) "Catastrophic mental health coverage" may include one maximum out-of-pocket limit
2339 for physical health conditions and another maximum out-of-pocket limit for mental health
2340 conditions, provided that, if separate out-of-pocket limits are established, the out-of-pocket limit
2341 for mental health conditions may not exceed the out-of-pocket limit for physical health conditions.

2342 (b) (i) "50/50 mental health coverage" means coverage in a health insurance policy or
2343 health maintenance organization contract that pays for at least 50% of covered services for the
2344 diagnosis and treatment of mental health conditions.

2345 (ii) "50/50 mental health coverage" may include a restriction on episodic limits, inpatient
2346 or outpatient service limits, or maximum out-of-pocket limits.

2347 (c) "Large employer" means an employer that does not come within the definition of
2348 "small employer."

2349 (d) (i) "Mental health condition" means any condition or disorder involving mental illness
2350 that falls under any of the diagnostic categories listed in the Diagnostic and Statistical Manual, as
2351 periodically revised.

2352 (ii) "Mental health condition" does not include the following when diagnosed as the

2353 primary or substantial reason or need for treatment:

2354 (A) marital or family problem;

2355 (B) social, occupational, religious, or other social maladjustment;

2356 (C) conduct disorder;

2357 (D) chronic adjustment disorder;

2358 (E) psychosexual disorder;

2359 (F) chronic organic brain syndrome;

2360 (G) personality disorder;

2361 (H) specific developmental disorder or learning disability; or

2362 (I) mental retardation.

2363 (e) "Small employer" is as defined in Section 31A-30-103.

2364 (2) (a) At the time of purchase and renewal, an insurer shall offer to each small employer
2365 that it insures or seeks to insure a choice between catastrophic mental health coverage and 50/50
2366 mental health coverage.

2367 (b) In addition to Subsection (2)(a), an insurer may offer to provide:

2368 (i) catastrophic mental health coverage, 50/50 mental health coverage, or both at levels that
2369 exceed the minimum requirements of this section; or

2370 (ii) coverage that excludes benefits for mental health conditions.

2371 (c) A small employer may, at its option, choose either catastrophic mental health coverage,
2372 50/50 mental health coverage, or coverage offered under Subsection (2)(b), regardless of the
2373 employer's previous coverage for mental health conditions.

2374 (d) An insurer is exempt from the 30% index rating restriction in Subsection
2375 31A-30-106(1)(b) and, for the first year only that catastrophic mental health coverage is chosen,
2376 the 15% annual adjustment restriction in Subsection 31A-30-106(1)(c)(ii), for any small employer
2377 with 20 or less enrolled employees who chooses coverage that meets or exceeds catastrophic
2378 mental health coverage.

2379 (3) (a) At the time of purchase and renewal, an insurer shall offer catastrophic mental
2380 health coverage to each large employer that it insures or seeks to insure.

2381 (b) In addition to Subsection (3)(a), an insurer may offer to provide catastrophic mental
2382 health coverage at levels that exceed the minimum requirements of this section.

2383 (c) A large employer may, at its option, choose either catastrophic mental health coverage,

2384 coverage that excludes benefits for mental health conditions, or coverage offered under Subsection
2385 (3)(b).

2386 (4) (a) An insurer may provide catastrophic mental health coverage through a managed
2387 care organization or system in a manner consistent with the provisions in Chapter 8, Health
2388 Maintenance Organizations and Limited Health Plans, regardless of whether the policy or contract
2389 uses a managed care organization or system for the treatment of physical health conditions.

2390 (b) (i) Notwithstanding any other provision of this title, an insurer may:

2391 (A) establish a closed panel of providers for catastrophic mental health coverage; and

2392 (B) refuse to provide any benefit to be paid for services rendered by a nonpanel provider
2393 unless:

2394 (I) the insured is referred to a nonpanel provider with the prior authorization of the insurer;
2395 and

2396 (II) the nonpanel provider agrees to follow the insurer's protocols and treatment guidelines.

2397 (ii) If an insured receives services from a nonpanel provider in the manner permitted by
2398 Subsection (4)(b)(i)(B), the insurer shall reimburse the insured for not less than 75% of the average
2399 amount paid by the insurer for comparable services of panel providers under a noncapitated
2400 arrangement who are members of the same class of health care providers.

2401 (iii) Nothing in this Subsection (4)(b) may be construed as requiring an insurer to authorize
2402 a referral to a nonpanel provider.

2403 (c) To be eligible for catastrophic mental health coverage, a diagnosis or treatment of a
2404 mental health condition must be rendered:

2405 (i) by a mental health therapist as defined in Section 58-60-102; or

2406 (ii) in a health care facility licensed or otherwise authorized to provide mental health
2407 services pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or
2408 Title 62A, Chapter 2, Licensure of Programs and Facilities, that provides a program for the
2409 treatment of a mental health condition pursuant to a written plan.

2410 (5) The commissioner may disapprove any policy or contract that provides mental health
2411 coverage in a manner that is inconsistent with the provisions of this section.

2412 (6) The commissioner shall:

2413 (a) adopt rules as necessary to ensure compliance with this section; and

2414 (b) provide general figures on the percentage of contracts and policies that include no

2415 mental health coverage, 50/50 mental health coverage, catastrophic mental health coverage, and
2416 coverage that exceeds the minimum requirements of this section.

2417 (7) The Health and Human Services Interim Committee shall review:

2418 (a) the impact of this section on insurers, employers, providers, and consumers of mental
2419 health services before January 1, 2004; and

2420 (b) make a recommendation as to whether the provisions of this section should be
2421 modified and whether the cost-sharing requirements for mental health conditions should be the
2422 same as for physical health conditions.

2423 (8) (a) An insurer shall offer catastrophic mental health coverage as part of a health
2424 maintenance organization contract that is governed by Chapter 8, Health Maintenance
2425 Organizations and Limited Health Plans, that is in effect on or after January 1, 2001.

2426 (b) An insurer shall offer catastrophic mental health coverage as a part of a health
2427 insurance policy that is not governed by Chapter 8, Health Maintenance Organizations and Limited
2428 Health Plans, that is in effect on or after July 1, 2001.

2429 (c) This section does not apply to the purchase or renewal of an individual insurance policy
2430 or contract.

2431 (d) Notwithstanding Subsection (8)(c), nothing in this section may be construed as
2432 discouraging or otherwise preventing insurers from continuing to provide mental health coverage
2433 in connection with an individual policy or contract.

2434 (9) This section shall be repealed in accordance with Section 63-55-231.

2435 Section 53. Section **31A-23-102** is amended to read:

2436 **31A-23-102. Definitions.**

2437 As used in this chapter:

2438 (1) Except as provided in Subsection (2):

2439 (a) "Escrow" is a license category that allows a person to conduct escrows, settlements,
2440 or closings on behalf of a title insurance agency or a title insurer.

2441 (b) "Limited license" means a license that is issued for a specific product of insurance and
2442 limits an individual or agency to transact only for those products.

2443 (c) "Search" is a license category that allows a person to issue title insurance commitments
2444 or policies on behalf of a title insurer.

2445 (d) "Title marketing representative" means a person who:

2446 (i) represents a title insurer in soliciting, requesting, or negotiating the placing of:
2447 (A) title insurance; or
2448 (B) escrow, settlement, or closing services; and
2449 (ii) does not have a search or escrow license.

2450 (2) The following persons are not acting as agents, brokers, title marketing representatives,
2451 or consultants when acting in the following capacities:

2452 (a) any regular salaried officer, employee, or other representative of an insurer or licensee
2453 under this chapter who devotes substantially all of the officer's, employee's, or representative's
2454 working time to activities other than those described in Subsection (1) and Subsections
2455 31A-1-301(51), (52), and (54) including the clerical employees of persons required to be licensed
2456 under this chapter;

2457 (b) a regular salaried officer or employee of a person seeking to purchase insurance, who
2458 receives no compensation that is directly dependent upon the amount of insurance coverage
2459 purchased;

2460 (c) a person who gives incidental advice in the normal course of a business or professional
2461 activity, other than insurance consulting, if neither that person nor that person's employer receives
2462 direct or indirect compensation on account of any insurance transaction that results from that
2463 advice;

2464 (d) a person who, without special compensation, performs incidental services for another
2465 at the other's request, without providing advice or technical or professional services of a kind
2466 normally provided by an agent, broker, or consultant;

2467 (e) a holder of a group insurance policy, or any other person involved in mass marketing,
2468 but only:

2469 (i) with respect to administrative activities in connection with that type of policy, including
2470 the collection of premiums; and
2471 (ii) if the person receives no compensation for the activities described in Subsection
2472 (2)(e)(i) beyond reasonable expenses including a fair payment for the use of capital; and

2473 (f) a person who gives advice or assistance without direct or indirect compensation or any
2474 expectation of direct or indirect compensation.

2475 (3) "Actuary" means a person who is a member in good standing of the American
2476 Academy of Actuaries.

2477 (4) "Agency" means a person other than an individual, and includes a sole proprietorship
2478 by which a natural person does business under an assumed name.

2479 [~~(6)~~] (5) "Bail bond agent" means any individual:

2480 (a) appointed by an authorized bail bond surety insurer or appointed by a licensed bail
2481 bond surety company to execute or countersign undertakings of bail in connection with judicial
2482 proceedings; and

2483 (b) who receives or is promised money or other things of value for this service.

2484 [~~(5)~~] (6) "Broker" means an insurance broker or any other person, firm, association, or
2485 corporation that for any compensation, commission, or other thing of value acts or aids in any
2486 manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of
2487 an insured other than itself.

2488 (7) "Captive insurer" means:

2489 (a) an insurance company owned by another organization whose exclusive purpose is to
2490 insure risks of the parent organization and affiliated companies; or

2491 (b) in the case of groups and associations, an insurance organization owned by the insureds
2492 whose exclusive purpose is to insure risks of member organizations, group members, and their
2493 affiliates.

2494 (8) "Controlled insurer" means a licensed insurer that is either directly or indirectly
2495 controlled by a broker.

2496 (9) "Controlling broker" means a broker who either directly or indirectly controls an
2497 insurer.

2498 (10) "Controlling person" means any person, firm, association, or corporation that directly
2499 or indirectly has the power to direct or cause to be directed, the management, control, or activities
2500 of a reinsurance intermediary.

2501 (11) "Insurer" is as defined in Section 31A-1-301, except the following persons or similar
2502 persons are not insurers for purposes of Part 6, Broker Controlled Insurers:

2503 (a) all risk retention groups as defined in:

2504 (i) the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499;

2505 (ii) the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq.; and

2506 (iii) Title 31A, Chapter 15, Part II, Risk Retention Groups Act;

2507 (b) all residual market pools and joint underwriting authorities or associations; and

2508 (c) all captive insurers.

2509 (12) (a) "Managing general agent" means any person, firm, association, or corporation that:

2510 (i) manages all or part of the insurance business of an insurer, including the management
2511 of a separate division, department, or underwriting office;

2512 (ii) acts as an agent for the insurer whether it is known as a managing general agent,
2513 manager, or other similar term;

2514 (iii) with or without the authority, either separately or together with affiliates, directly or
2515 indirectly produces and underwrites an amount of gross direct written premium equal to, or more
2516 than 5% of, the policyholder surplus as reported in the last annual statement of the insurer in any
2517 one quarter or year; and

2518 (iv) either adjusts or pays claims in excess of an amount determined by the commissioner,
2519 or that negotiates reinsurance on behalf of the insurer.

2520 (b) Notwithstanding Subsection (12)(a), the following persons may not be considered as
2521 managing general agent for the purposes of this chapter:

2522 (i) an employee of the insurer;

2523 (ii) a U.S. manager of the United States branch of an alien insurer;

2524 (iii) an underwriting manager that, pursuant to contract:

2525 (A) manages all the insurance operations of the insurer;

2526 (B) is under common control with the insurer;

2527 (C) is subject to Title 31A, Chapter 16, Insurance Holding Companies; and

2528 (D) is not compensated based on the volume of premiums written; and

2529 (iv) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer
2530 or inter-insurance exchange under powers of attorney.

2531 (13) "Producer" is a person who arranges for insurance coverages between insureds and
2532 insurers.

2533 (14) "Qualified U.S. financial institution" means an institution that:

2534 (a) is organized or, in the case of a U.S. office of a foreign banking organization licensed,
2535 under the laws of the United States or any state;

2536 (b) is regulated, supervised, and examined by U.S. federal or state authorities having
2537 regulatory authority over banks and trust companies; and

2538 (c) has been determined by either the commissioner, or the Securities Valuation Office of

2539 the National Association of Insurance Commissioners, to meet the standards of financial condition
2540 and standing that are considered necessary and appropriate to regulate the quality of financial
2541 institutions whose letters of credit will be acceptable to the commissioner.

2542 (15) "Reinsurance intermediary" means a reinsurance intermediary-broker or a reinsurance
2543 intermediary-manager as these terms are defined in Subsections (16) and (17).

2544 (16) "Reinsurance intermediary-broker" means a person other than an officer or employee
2545 of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places
2546 reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power
2547 to bind reinsurance on behalf of the insurer.

2548 (17) (a) "Reinsurance intermediary-manager" means a person, firm, association, or
2549 corporation who:

2550 (i) has authority to bind or who manages all or part of the assumed reinsurance business
2551 of a reinsurer, including the management of a separate division, department, or underwriting
2552 office; and

2553 (ii) acts as an agent for the reinsurer whether the person, firm, association, or corporation
2554 is known as a reinsurance intermediary-manager, manager, or other similar term.

2555 (b) Notwithstanding Subsection (17)(a), the following persons may not be considered
2556 reinsurance intermediary-managers for the purpose of this chapter with respect to the reinsurer:

2557 (i) an employee of the reinsurer;

2558 (ii) a U.S. manager of the United States branch of an alien reinsurer;

2559 (iii) an underwriting manager that, pursuant to contract:

2560 (A) manages all the reinsurance operations of the reinsurer;

2561 (B) is under common control with the reinsurer;

2562 (C) is subject to Title 31A, Chapter 16, Insurance Holding Companies; and

2563 (D) is not compensated based on the volume of premiums written; and

2564 (iv) the manager of a group, association, pool, or organization of insurers that:

2565 (A) engage in joint underwriting or joint reinsurance; and

2566 (B) are subject to examination by the insurance commissioner of the state in which the
2567 manager's principal business office is located.

2568 (18) "Reinsurer" means any person, firm, association, or corporation duly licensed in this
2569 state as an insurer with the authority to assume reinsurance.

2570 (19) "Surplus lines broker" means a person licensed under Subsection 31A-23-204(5) to
2571 place insurance with unauthorized insurers in accordance with Section 31A-15-103.

2572 (20) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

2573 Section 54. Section **31A-29-103** is amended to read:

2574 **31A-29-103. Definitions.**

2575 As used in this chapter:

2576 (1) "Board" means the board of directors of the pool created in Section 31A-29-104.

2577 (2) "Health care facility" means any entity providing health care services which is licensed
2578 under Title 26, Chapter 21.

2579 (3) "Health care provider" has the same meaning as provided in Section 78-14-3.

2580 (4) "Health care services" means any service or product used in furnishing to any
2581 individual medical care or hospitalization, or incidental to furnishing medical care or
2582 hospitalization, and any other service or product furnished for the purpose of preventing,
2583 alleviating, curing, or healing human illness or injury.

2584 (5) (a) "Health insurance" means any:

2585 (i) hospital and medical expense-incurred policy;

2586 (ii) nonprofit health care service plan contract; and

2587 (iii) health maintenance organization subscriber contract.

2588 (b) "Health insurance" does not include any insurance arising out of the Workers'
2589 Compensation Act or similar law, automobile medical payment insurance, or insurance under
2590 which benefits are payable with or without regard to fault and which is required by law to be
2591 contained in any liability insurance policy[?].

2592 (6) "Health maintenance organization" has the same meaning as provided in Section
2593 31A-8-101.

2594 (7) "Health plan" means any arrangement by which a person, including a dependent or
2595 spouse, covered or making application to be covered under the pool has access to hospital and
2596 medical benefits or reimbursement including group or individual insurance or subscriber contract;
2597 coverage through a health maintenance organization, preferred provider prepayment, group
2598 practice, or individual practice plan; coverage under an uninsured arrangement of group or
2599 group-type contracts including employer self-insured, cost-plus, or other benefits methodologies
2600 not involving insurance; coverage under a group type contract which is not available to the general

2601 public and can be obtained only because of connection with a particular organization or group; and
2602 coverage by medicare or other governmental benefit. The term includes coverage through health
2603 insurance.

2604 (8) "Insured" means an individual resident of this state who is eligible to receive benefits
2605 from any insurer, health maintenance organization, or other health plan.

2606 (9) "Insurer" means an insurance company authorized to transact disability insurance
2607 business in this state, health maintenance organization, and a self-insurer not subject to federal
2608 preemption.

2609 (10) "Medicaid" means coverage under Title XIX of the Social Security Act, 42 U.S.C.
2610 Sec. 1396 et seq., as amended.

2611 (11) "Medicare" means coverage under both Part A and B of Title XVIII of the Social
2612 Security Act, 42 U.S.C. 1395 et seq., as amended.

2613 (12) "Plan of operation" means the plan developed by the board in accordance with Section
2614 31A-29-105 and includes the articles, bylaws, and operating rules adopted by the board under
2615 Section 31A-29-106.

2616 (13) "Pool" means the Utah Comprehensive Health Insurance Pool created in Section
2617 31A-29-104.

2618 (14) "Pool Fund" means the Comprehensive Health Insurance Pool Enterprise Fund
2619 created in Section 31A-29-120.

2620 (15) "Pool policy" means an insurance policy issued under this chapter.

2621 (16) "Third-party administrator" has the same meaning as provided in Section 31A-1-301.
2622 Section 55. Section **31A-35-608** is amended to read:

2623 **31A-35-608. Premiums and authorized charges.**

2624 (1) A bail bond surety or bail bond agent may not, in any bail transaction or in connection
2625 with that transaction, directly or indirectly, charge or collect money or other valuable consideration
2626 from any person except to:

2627 (a) pay the premium on the bail at the rates established by the bail bond surety;

2628 (b) provide collateral;

2629 (c) reimburse himself for actual expenses, as described in Subsection (2), incurred in
2630 connection with the bail bond transaction; or

2631 (d) to reimburse himself, or to establish a right of action against the principal or any

2632 indemnitor, for actual expenses the bail bond surety or bail bond agent incurred:

2633 (i) in good faith; and

2634 (ii) which were by reason of breach by the defendant of any of the terms of the written
2635 agreement under which the undertaking of bail or bail bond was written.

2636 (2) (a) A bail bond surety may bring an action in a court of law to enforce its equitable
2637 rights against the principal and the principal's indemnitors in exoneration if:

2638 (i) a bail bond agent did not establish a written agreement; or

2639 (ii) there is only an incomplete writing.

2640 (b) Reimbursement claimed under this Subsection (2) may not exceed the sum of:

2641 (i) the principal sum of the bail bond or undertaking; and

2642 (ii) any reasonable expenses that:

2643 (A) are verified by receipt;

2644 (B) in total do not amount to more than the principal sum of the bail bond or undertaking;

2645 and

2646 (C) are incurred in good faith by the bail bond surety, its agents, and employees by reason
2647 of the principal's breach.

2648 (3) This section does not affect or impede the right of a bail bond agent to execute
2649 undertaking of bail on behalf of a nonresident agent of the bail bond surety the bail bond agent
2650 represents.

2651 Section 56. Section **34A-1-309** is amended to read:

2652 **34A-1-309. Attorneys' fees.**

2653 (1) In all cases coming before the commission in which attorneys have been employed, the
2654 commission is vested with full power to regulate and fix the fees of the attorneys.

2655 (2) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, an attorney
2656 may file an application for hearing with the Division of Adjudication to appeal a decision or final
2657 order to the extent it concerns the award of attorney fees.

2658 (3) (a) The commission may award reasonable attorneys' fees on a contingency basis when
2659 disability or death benefits or interest on disability or death benefits are generated.

2660 (b) Attorney fees awarded under Subsection [~~(2)~~] (3)(a) shall be paid by the employer or
2661 its insurance carrier out of the award of disability or death benefits, or interest on disability or
2662 death benefits.

2663 (4) (a) If the commission orders that only medical benefits be paid, the commission may
2664 award reasonable attorneys' fee on a contingency basis for medical benefits ordered paid if:

2665 (i) the commission's informal dispute resolution mechanisms were fully used by the parties
2666 prior to adjudication; and

2667 (ii) at no time were disability or death benefits or interest on disability or death benefits at
2668 issue in the adjudication of the medical benefit claim.

2669 (b) Attorneys' fees awarded under Subsection (3)(a) shall be paid by the employer or its
2670 insurance carrier in addition to the payment of medical benefits ordered.

2671 Section 57. Section **34A-2-105** is amended to read:

2672 **34A-2-105. Exclusive remedy against employer, and officer, agent, or employee of**
2673 **employer – Employee leasing arrangements.**

2674 (1) The right to recover compensation pursuant to this chapter for injuries sustained by an
2675 employee, whether resulting in death or not, shall be the exclusive remedy against the employer
2676 and shall be the exclusive remedy against any officer, agent, or employee of the employer and the
2677 liabilities of the employer imposed by this chapter shall be in place of any and all other civil
2678 liability whatsoever, at common law or otherwise, to the employee or to the employee's spouse,
2679 widow, children, parents, dependents, next of kin, heirs, personal representatives, guardian, or any
2680 other person whomsoever, on account of any accident or injury or death, in any way contracted,
2681 sustained, aggravated, or incurred by the employee in the course of or because of or arising out of
2682 the employee's employment, and no action at law may be maintained against an employer or
2683 against any officer, agent, or employee of the employer based upon any accident, injury, or death
2684 of an employee. Nothing in this section, however, shall prevent an employee, or the employee's
2685 dependents, from filing a claim for compensation in those cases in accordance with Chapter 3,
2686 Utah Occupational Disease Act.

2687 (2) The exclusive remedy provisions of this section apply to both the client company and
2688 the employee leasing company in an employee leasing arrangement under Title 58, Chapter 59,
2689 Professional Employer Organization Licensing Act.

2690 (3) (a) For purposes of this section:

2691 (i) "Temporary employee" means an individual who for temporary work assignment is:

2692 (A) an employee of a temporary staffing company; or

2693 (B) registered by or otherwise associated with a temporary staffing company.

2694 (ii) "Temporary staffing company" means a company that engages in the assignment of
2695 individuals as temporary full-time or part-time employees to fill assignments with a finite ending
2696 date to another independent entity.

2697 (b) If the temporary staffing company secures the payment of workers' compensation in
2698 accordance with Section [~~35A-3-201~~] 34A-2-201 for all temporary employees of the temporary
2699 staffing company, the exclusive remedy provisions of this section apply to both the temporary
2700 staffing company and the client company and its employees and provide the temporary staffing
2701 company the same protection that a client company and its employees has under this section for
2702 the acts of any of the temporary staffing company's temporary employees on assignment at the
2703 client company worksite.

2704 Section 58. Section **35A-3-102** is amended to read:

2705 **35A-3-102. Definitions.**

2706 As used in this chapter:

2707 (1) "Applicant" means a person who requests assistance under this chapter.

2708 (2) "Average monthly number of families" means the average number of families who
2709 received cash assistance on a monthly basis during the previous federal fiscal year, starting from
2710 October 1, 1998 to September 30, 1999, and continuing each year thereafter.

2711 (3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive
2712 under Section 35A-3-302.

2713 (4) "Child care services" means care of a child for a portion of the day that is less than 24
2714 hours in a qualified setting, as defined by rule, by a responsible person who is not the child's parent
2715 or legal guardian.

2716 (5) "Date of enrollment" means the date on which the applicant was approved as eligible
2717 for cash assistance.

2718 (6) "Director" means the director of the division.

2719 (7) "Diversion" means a single payment of cash assistance under Section 35A-3-303 to a
2720 client who is eligible for but does not require extended cash assistance under Part 3, Family
2721 Employment Program.

2722 (8) "Division" means the Division of Employment Development.

2723 (9) "Education or training" means:

2724 (a) basic remedial education;

- 2725 (b) adult education;
- 2726 (c) high school education;
- 2727 (d) education to obtain the equivalent of a high school diploma;
- 2728 (e) education to learn English as a second language;
- 2729 (f) applied technology training;
- 2730 (g) employment skills training; or
- 2731 (h) on-the-job training.

2732 (10) "Full-time education or training" means training on a full-time basis as defined by the
2733 educational institution attended by the parent client.

2734 (11) "General assistance" means financial assistance provided to a person who is not
2735 otherwise eligible for cash assistance under Part 3, Family Employment Program, because that
2736 person does not live in a family with a related dependent child.

2737 (12) "Parent client" means a person who enters into an employment plan with the division
2738 to qualify for cash assistance under Part 3, Family Employment Program.

2739 ~~[(14)]~~ (13) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended
2740 primarily for operation on highways and used by an applicant or client to meet basic transportation
2741 needs and has a fair market value below 40% of the applicable amount of the federal luxury
2742 passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

2743 (b) "Passenger vehicle" does not include:

- 2744 (i) a commercial vehicle, as defined in Section 41-1a-102;
- 2745 (ii) an off-highway vehicle, as defined in Section 41-1a-102; or
- 2746 (iii) a motor home, as defined in Section 13-14-102.

2747 ~~[(13)]~~ (14) "Plan" or "state plan" means the state plan submitted to the Secretary of the
2748 United States Department of Health and Human Services to receive funding from the United States
2749 through the Temporary Assistance for Needy Families Block Grant.

2750 (15) "Single minor parent" means a person under 18 years of age who is not married and
2751 has a minor child in his care and custody.

2752 Section 59. Section **36-12-8** is amended to read:

2753 **36-12-8. Legislative Management Committee -- Research and General Counsel**
2754 **Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members --**
2755 **Meetings.**

2756 (1) There is created within the Legislative Management Committee three subcommittees
2757 having equal representation from each major political party. The subcommittees, their
2758 membership, and their functions are as follows:

2759 (a) The Research and General Counsel Subcommittee, comprising six members, shall
2760 recommend to the Legislative Management Committee a person or persons to hold the positions
2761 of director of the Office of Legislative Research and General Counsel and legislative general
2762 counsel.

2763 (b) The Budget Subcommittee, comprising six members, shall recommend to the
2764 Legislative Management Committee a person to hold the position of legislative fiscal analyst.

2765 (c) The Audit Subcommittee, comprising four members, shall:

2766 (i) recommend to the Legislative Management Committee a person to hold the position of
2767 legislative auditor general; and

2768 (ii) (A) review all ~~[request]~~ requests for audits;

2769 (B) prioritize those requests; and

2770 (C) hear all audit reports and refer those reports to other legislative committees for their
2771 further review and action as appropriate.

2772 (2) The members of each subcommittee of the Legislative Management Committee shall
2773 be appointed from the membership of the Legislative Management Committee by an appointments
2774 committee comprised of the speaker and the minority leader of the House of Representatives and
2775 the president and the minority leader of the Senate.

2776 (3) Each subcommittee of the Legislative Management Committee shall meet as often as
2777 necessary to perform its duties. They may meet during and between legislative sessions.

2778 Section 60. Section **41-22-2 (Effective 04/30/01)** is amended to read:

2779 **41-22-2 (Effective 04/30/01). Definitions.**

2780 As used in this chapter:

2781 (1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by
2782 the Board of Parks and Recreation.

2783 (2) "All-terrain type I vehicle" means any motor vehicle 50 inches or less in width, having
2784 an unladen dry weight of 800 pounds or less, traveling on three or more low pressure tires, having
2785 a seat designed to be straddled by the operator, and designed for or capable of travel over
2786 unimproved terrain.

2787 (3) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection
2788 (2), (9), or [~~(19)~~] (20), designed for or capable of travel over unimproved terrain. This term does
2789 not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically
2790 designed for recreational use, or farm tractors as defined under Section 41-1a-102.

2791 (4) "Board" means the Board of Parks and Recreation.

2792 (5) "Dealer" means a person engaged in the business of selling off-highway vehicles at
2793 wholesale or retail.

2794 (6) "Division" means the Division of Parks and Recreation.

2795 (7) "Low pressure tire" means any pneumatic tire six inches or more in width designed for
2796 use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of ten
2797 pounds per square inch or less as recommended by the vehicle manufacturer.

2798 (8) "Manufacturer" means a person engaged in the business of manufacturing off-highway
2799 vehicles.

2800 (9) "Motorcycle" means every motor vehicle having a saddle for the use of the operator
2801 and designed to travel on not more than two tires.

2802 (10) "Motor vehicle" means every vehicle which is self-propelled.

2803 (11) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain
2804 type II vehicle, or motorcycle.

2805 (12) "Off-highway implement of husbandry" means every all-terrain type I vehicle,
2806 motorcycle, or snowmobile which is used by the owner or his agent for agricultural operations.

2807 (13) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

2808 (14) "Operator" means the person who is in actual physical control of an off-highway
2809 vehicle.

2810 (15) "Organized user group" means an off-highway vehicle organization incorporated as
2811 a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit
2812 Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

2813 (16) "Owner" means a person, other than a person with a security interest, having a
2814 property interest or title to an off-highway vehicle and entitled to the use and possession of that
2815 vehicle.

2816 (17) "Public land" means land owned or administered by any federal or state agency or any
2817 political subdivision of the state.

2818 (18) "Register" means the act of assigning a registration number to an off-highway vehicle.

2819 (19) "Roadway" is used as defined in Section 41-6-1.

2820 (20) "Snowmobile" means any motor vehicle designed for travel on snow or ice and
2821 steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

2822 (21) "Street or highway" means the entire width between boundary lines of every way or
2823 place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

2824 Section 61. Section **41-22-2 (Superseded 04/30/01)** is amended to read:

2825 **41-22-2 (Superseded 04/30/01). Definitions.**

2826 As used in this chapter:

2827 (1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by
2828 the Board of Parks and Recreation.

2829 (2) "All-terrain type I vehicle" means any motor vehicle 50 inches or less in width, having
2830 an unladen dry weight of 800 pounds or less, traveling on three or more low pressure tires, having
2831 a seat designed to be straddled by the operator, and designed for or capable of travel over
2832 unimproved terrain.

2833 (3) "All-terrain type II vehicle" means any other motor vehicle, not defined in Subsection
2834 (2), (9), or [~~(19)~~] (20), designed for or capable of travel over unimproved terrain. This term does
2835 not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically
2836 designed for recreational use, or farm tractors as defined under Section 41-1a-102.

2837 (4) "Board" means the Board of Parks and Recreation.

2838 (5) "Dealer" means a person engaged in the business of selling off-highway vehicles at
2839 wholesale or retail.

2840 (6) "Division" means the Division of Parks and Recreation.

2841 (7) "Low pressure tire" means any pneumatic tire six inches or more in width designed for
2842 use on wheels with rim diameter of 12 inches or less and utilizing an operating pressure of ten
2843 pounds per square inch or less as recommended by the vehicle manufacturer.

2844 (8) "Manufacturer" means a person engaged in the business of manufacturing off-highway
2845 vehicles.

2846 (9) "Motorcycle" means every motor vehicle having a saddle for the use of the operator
2847 and designed to travel on not more than two tires.

2848 (10) "Motor vehicle" means every vehicle which is self-propelled.

2849 (11) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain
2850 type II vehicle, or motorcycle.

2851 (12) "Off-highway implement of husbandry" means every all-terrain type I vehicle,
2852 motorcycle, or snowmobile which is used by the owner or his agent for agricultural operations.

2853 (13) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

2854 (14) "Operator" means the person who is in actual physical control of an off-highway
2855 vehicle.

2856 (15) "Organized user group" means an off-highway vehicle organization incorporated as
2857 a nonprofit corporation in the state under Title 16, Chapter 6, Utah Nonprofit Corporation and
2858 Co-operative Association Act, for the purpose of promoting the interests of off-highway vehicle
2859 recreation.

2860 (16) "Owner" means a person, other than a person with a security interest, having a
2861 property interest or title to an off-highway vehicle and entitled to the use and possession of that
2862 vehicle.

2863 (17) "Public land" means land owned or administered by any federal or state agency or any
2864 political subdivision of the state.

2865 (18) "Register" means the act of assigning a registration number to an off-highway vehicle.

2866 (19) "Roadway" is used as defined in Section 41-6-1.

2867 (20) "Snowmobile" means any motor vehicle designed for travel on snow or ice and
2868 steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

2869 (21) "Street or highway" means the entire width between boundary lines of every way or
2870 place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

2871 Section 62. Section **46-4-105** is amended to read:

2872 **46-4-105. Use of electronic records and electronic signatures -- Variation by**
2873 **agreement.**

2874 (1) This chapter does not require a record or signature to be created, generated, sent,
2875 communicated, received, stored, or otherwise processed or used by electronic means or in
2876 electronic form.

2877 (2) (a) This chapter applies only to transactions between parties each of which has agreed
2878 to conduct transactions by electronic means.

2879 (b) Whether or not the parties agree to conduct a transaction by electronic means is

2880 determined from the context and surrounding circumstances, including the parties' conduct.

2881 (3) (a) A party that agrees to conduct a transaction by electronic means may refuse to
2882 conduct other transactions by electronic means.

2883 (b) The right granted by [this] Subsection (3)(a) may not be waived by agreement.

2884 (4) (a) Except as otherwise provided in this chapter, the effect of any of its provisions may
2885 be varied by agreement.

2886 (b) The presence in certain provisions of this chapter of the words "unless otherwise
2887 agreed," or words of similar import, does not imply that the effect of other provisions may not be
2888 varied by agreement.

2889 (5) Whether an electronic record or electronic signature has legal consequences is
2890 determined by this chapter and other applicable law.

2891 Section 63. Section **52-4-7.8** is amended to read:

2892 **52-4-7.8. Electronic meetings -- Authorization -- Requirements.**

2893 (1) As used in this section:

2894 (a) "Anchor location" means the physical location from which the electronic meeting
2895 originates or from which the participants are connected.

2896 (b) "Electronic meeting" means a public meeting convened or conducted by means of a
2897 telephonic, telecommunications, or computer conference.

2898 (c) "Electronic notice" means electronic mail or fax.

2899 (d) "Monitor" means to:

2900 (i) hear, live, by speaker, or by other equipment, all of the public statements of each
2901 member of the public body who is participating in a meeting; or

2902 (ii) see, by computer screen or other visual medium, all of the public statements of each
2903 member of the public body who is participating in a meeting.

2904 (e) "Participate" means the ability to communicate with all of the members of a public
2905 body, either verbally or electronically, so that each member of the public body can hear or see the
2906 communication.

2907 (f) "Public hearing" means a meeting at which comments from the public will be accepted.

2908 (g) "Public statement" means a statement made in the ordinary course of business of the
2909 public body with the intent that all other members of the public body receive it.

2910 (2) A public body may, by following the procedures and requirements of this section,

2911 convene and conduct an electronic meeting.

2912 (3) Each public body convening or conducting an electronic meeting shall:

2913 (a) give public notice of the meeting pursuant to Section 52-4-6 by:

2914 (i) posting written notice at the anchor location; and

2915 (ii) providing written or electronic notice to:

2916 (A) at least one newspaper of general circulation within the state; and

2917 (B) to a local media correspondent;

2918 (b) in addition to giving public notice required by Subsection ~~[(+)]~~ (3)(a), provide:

2919 (i) notice of the electronic meeting to the members of the public body at least 24 hours

2920 before the meeting so that they may participate in and be counted as present for all purposes,

2921 including the determination that a quorum is present; and

2922 (ii) a description of how the members will be connected to the electronic meeting;

2923 (c) establish written procedures governing the electronic meeting at which one or more

2924 members of a public body are participating by means of a telephonic or telecommunications

2925 conference;

2926 (d) establish one or more anchor locations for the public meeting, at least one of which is

2927 in the building and city where the public body would normally meet if they were not holding an

2928 electronic meeting;

2929 (e) provide space and facilities at the anchor location so that interested persons and the

2930 public may attend and monitor the open portions of the meeting; and

2931 (f) if the meeting is a public hearing, provide space and facilities at the anchor location so

2932 that interested persons and the public may attend, monitor, and participate in the open portions of

2933 the meeting.

2934 (4) Compliance with the provisions of this section by a public body constitutes full and

2935 complete compliance by the public body with the corresponding provisions of Sections 52-4-3 and

2936 52-4-6.

2937 Section 64. Section **53A-2-206** is amended to read:

2938 **53A-2-206. Exchange and interstate compact students -- Inclusion in attendance**

2939 **count -- Annual report -- Requirements for exchange student agencies.**

2940 (1) A school district may include membership and attendance of students for the purpose

2941 of apportionment of state monies if:

2942 (a) the student is an exchange student sponsored by an agency approved by the State Board
2943 of Education, and the enrollment is in compliance with rules and enrollment limits set by the state
2944 board; or

2945 (b) the student is enrolled under an interstate compact, established between the State Board
2946 of Education and the state education authority of another state, under which a student from one
2947 compact state would be permitted to enroll in a public school in the other compact state on the
2948 same basis as a resident student of the receiving state; or

2949 (c) the student is receiving services under the Compact on Placement of Children.

2950 (2) The board shall make an annual report to the Legislature on the number of exchange
2951 students and the number of interstate compact students sent to or received from public schools
2952 outside the state.

2953 (3) (a) The board shall require each approved exchange student agency to provide it with
2954 a sworn affidavit of compliance prior to the beginning of each school year.

2955 (b) The affidavit shall include the following assurances:

2956 (i) that the agency has complied with all applicable rules of the board;

2957 (ii) that a household study, including a background check of all adult residents, has been
2958 made of each household where an exchange student is to reside, and that the study was of
2959 sufficient scope to provide reasonable assurance that the exchange student will receive proper care
2960 and supervision in a safe environment;

2961 (iii) that host parents have received training appropriate to their positions, including
2962 information about enhanced criminal penalties under Subsection 76-5-406(10) for persons who
2963 are in a position of special trust;

2964 (iv) that a representative of the exchange student agency shall visit each student's place of
2965 residence at least once each month during the student's stay in Utah;

2966 (v) that the agency will cooperate with school and other public authorities to ensure that
2967 no exchange student becomes an unreasonable burden upon the public schools or other public
2968 agencies;

2969 (vi) that each exchange student will be given in [~~their~~] the exchange student's native
2970 language names and telephone numbers of agency representatives and others who could be called
2971 at any time if a serious problem occurs; and

2972 (vii) that alternate placements are readily available so that no student is required to remain

2973 in a household if conditions appear to exist which unreasonably endanger the student's welfare.

2974 (4) (a) The board shall provide each approved exchange student agency with a list of
2975 names and telephone numbers of individuals not associated with the agency who could be called
2976 by an exchange student in the event of a serious problem.

2977 (b) The agency shall make a copy of the list available to each of its exchange students in
2978 ~~their~~ the exchange student's native language.

2979 Section 65. Section **53A-15-305** is amended to read:

2980 **53A-15-305. Resolution of disputes in special education -- Hearing request --**

2981 **Timelines -- Levels -- Appeal process -- Recovery of costs.**

2982 (1) The Legislature finds that it is in the best interest of students with disabilities to
2983 provide for a prompt and fair final resolution of disputes which may arise over educational
2984 programs and rights and responsibilities of students with disabilities, their parents, and the public
2985 schools.

2986 (2) Therefore, the State Board of Education shall adopt rules meeting the requirements of
2987 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards
2988 for students with disabilities and their parents or guardians as to the provision of free, appropriate
2989 public education to those students.

2990 (3) The timelines established by the board shall provide adequate time to address and
2991 resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate
2992 public education for students with disabilities.

2993 (4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under
2994 this section shall make a good faith effort to resolve the dispute informally at the school building
2995 level.

2996 (5) (a) If the dispute is not resolved under Subsection (4), a party may request a due
2997 process hearing.

2998 (b) The hearing shall be conducted under rules adopted by the board in accordance with
2999 20 U.S.C. Section 1415.

3000 (6) (a) A party to the hearing may appeal the decision issued under Subsection (5) to a
3001 court of competent jurisdiction under 20 U.S.C. Section 1415~~(e)~~(i).

3002 (b) The party must file the judicial appeal within 30 days after issuance of the due process
3003 hearing decision.

3004 (7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking
3005 recovery of attorney fees under 20 U.S.C. Section 1415[(e)](i) for a special education
3006 administrative action shall file a court action within 30 days after issuance of a decision under
3007 Subsection (5).

3008 Section 66. Section **53A-18-101** is amended to read:

3009 **53A-18-101. School district tax anticipation notes.**

3010 (1) A local school board may borrow money in anticipation of the collection of taxes or
3011 other revenue of the school district so long as it complies with ~~the~~ Title 11, Chapter 14, Utah
3012 Municipal Bond Act.

3013 (2) The board may incur indebtedness under this section for any purpose for which district
3014 funds may be expended, but not in excess of the estimated district revenues for the current school
3015 year.

3016 (3) Revenues include all revenues of the district from the state or any other source.

3017 (4) The district may incur the indebtedness prior to imposing or collecting the taxes or
3018 receiving the revenues. The indebtedness bears interest at the lowest obtainable rate or rates.

3019 Section 67. Section **53A-18-102** is amended to read:

3020 **53A-18-102. Additional indebtedness -- Election.**

3021 A local school board may require the qualified electors of the district to vote on a
3022 proposition as to whether to incur indebtedness, subject to conditions provided in ~~the~~ Title 11,
3023 Chapter 14, Utah Municipal Bond Act, under the following circumstances:

3024 (1) if the debts of the district are equal to school taxes and other estimated revenues for
3025 the school year, and it is necessary to create and incur additional indebtedness in order to maintain
3026 and support schools within the district; or

3027 (2) the local school board determines it advisable to issue school district bonds to purchase
3028 school sites, buildings, or furnishings or to improve existing school property.

3029 Section 68. Section **53A-28-302** is amended to read:

3030 **53A-28-302. State financial assistance intercept mechanism -- State treasurer duties**
3031 **-- Interest and penalty provisions.**

3032 (1) (a) If one or more payments on bonds are made by the state treasurer as provided in
3033 Section 53A-28-301, the state treasurer shall:

3034 (i) immediately intercept any payments from the Uniform School Fund or from any other

3035 source of operating monies provided by the state to the board that issued the bonds that would
3036 otherwise be paid to the board by the state; and

3037 (ii) apply the intercepted payments to reimburse the state for payments made pursuant to
3038 the state's guaranty until all obligations of the board to the state arising from those payments,
3039 including interest and penalties, are paid in full.

3040 (b) The state has no obligation to the board or to any person or entity to replace any monies
3041 intercepted under authority of Subsection (1).

3042 (2) The board that issued bonds for which the state has made all or part of a debt service
3043 payment shall:

3044 (a) reimburse all monies drawn by the state treasurer on its behalf;

3045 (b) pay interest to the state on all monies paid by the state from the date the monies were
3046 drawn to the date they are repaid at a rate not less than the average prime rate for national money
3047 center banks plus 1%; and

3048 (c) pay all penalties required by this chapter.

3049 (3) (a) The state treasurer shall establish the reimbursement interest rate after considering
3050 the circumstances of any prior draws by the board on the state, market interest and penalty rates,
3051 and the cost of funds, if any, that were required to be borrowed by the state to make payment on
3052 the bonds.

3053 (b) The state treasurer may, after considering the circumstances giving rise to the failure
3054 of the board to make payment on its bonds in a timely manner, impose on the board a penalty of
3055 not more than 5% of the amount paid by the state pursuant to its guaranty for each instance in
3056 which a payment by the state is made.

3057 (4) (a) (i) If the state treasurer determines that amounts obtained under this section will not
3058 reimburse the state in full within one year from the state's payment of a board's scheduled debt
3059 service payment, the state treasurer shall pursue any legal action, including mandamus, against the
3060 board to compel it to:

3061 (A) levy and provide property tax revenues to pay debt service on its bonds when due as
3062 required by ~~the~~ Title 11, Chapter 14, Utah Municipal Bond Act; and

3063 (B) meet its repayment obligations to the state.

3064 (ii) In pursuing its rights under Subsection (4)(a), the state shall have the same substantive
3065 and procedural rights under Title 11, Chapter 14, Utah Municipal Bond Act, as would a holder of

3066 the bonds of a board.

3067 (b) The attorney general shall assist the state treasurer in these duties.

3068 (c) The board shall pay the attorney's fees, expenses, and costs of the state treasurer and
3069 the attorney general.

3070 (5) (a) Except as provided in Subsection (5)(c), any board whose operating funds were
3071 intercepted under this section may replace those funds from other board monies or from ad
3072 valorem property taxes, subject to the limitations provided in this subsection.

3073 (b) A board may use ad valorem property taxes or other monies to replace intercepted
3074 funds only if the ad valorem property taxes or other monies were derived from:

3075 (i) taxes originally levied to make the payment but which were not timely received by the
3076 board;

3077 (ii) taxes from a special levy made to make the missed payment or to replace the
3078 intercepted monies;

3079 (iii) monies transferred from the capital outlay fund of the board or the undistributed
3080 reserve, if any, of the board; or

3081 (iv) any other source of money on hand and legally available.

3082 (c) Notwithstanding the provisions of Subsections (5)(a) and (b), a board may not replace
3083 operating funds intercepted by the state with monies collected and held to make payments on
3084 bonds if that replacement would divert monies from the payment of future debt service on the
3085 bonds and increase the risk that the state's guaranty would be called upon a second time.

3086 Section 69. Section **54-4-28** is amended to read:

3087 **54-4-28. Merger, consolidation, or combination.**

3088 No public utility shall combine, merge nor consolidate with another public utility engaged
3089 in the same general line of business in this state, without the consent and approval of the Public
3090 [~~Utilities~~] Service Commission, which shall be granted only after investigation and hearing and
3091 finding that such proposed merger, consolidation or combination is in the public interest.

3092 Section 70. Section **54-4-29** is amended to read:

3093 **54-4-29. Acquiring voting stock or securities of like utility only on consent of**
3094 **commission.**

3095 Hereafter no public utility shall purchase or acquire any of the voting securities or the
3096 secured obligations of any other public utility engaged in the same general line of business without

3097 the consent and approval of the Public [~~Utilities~~] Service Commission, which shall be granted only
3098 after investigation and hearing and finding that such purchase and acquisition of such securities,
3099 or obligations, will be in the public interest.

3100 Section 71. Section **54-4-30** is amended to read:

3101 **54-4-30. Acquiring properties of like utility only on consent of commission.**

3102 Hereafter no public utility shall acquire by lease, purchase or otherwise the plants, facilities,
3103 equipment or properties of any other public utility engaged in the same general line of business in
3104 this state, without the consent and approval of the Public [~~Utilities~~] Service Commission. Such
3105 consent shall be given only after investigation and hearing and finding that said purchase, lease or
3106 acquisition of said plants, equipment, facilities and properties will be in the public interest.

3107 Section 72. Section **54-9-5** is amended to read:

3108 **54-9-5. Funding -- Power sales contracts -- Fee in lieu of ad valorem property taxes**
3109 **-- Bond issues -- Outlay declared for public purpose.**

3110 (1) A city or town participating in common facilities under authority contained in this
3111 chapter may furnish money and provide property, both real and personal, and, in addition to any
3112 other authority now existing, may issue and sell, either at public or privately negotiated sale,
3113 general obligation bonds or revenue bonds, pledging either the revenues of its entire electric
3114 system or only its interest or share of the revenues derived from the common facilities in order to
3115 pay its respective share of the costs of the planning, financing, acquisition, and construction.

3116 (2) Capacity or output derived by a city or town from its ownership share of common
3117 facilities not then required by the city or town for its own use and for the use of its customers may
3118 be sold or exchanged by the city or town for a consideration, for a period, and upon other terms
3119 and conditions as may be determined by the parties prior to the sale and as embodied in a power
3120 sales contract entered into by the city or town; and any revenues arising under the power sales
3121 contract may be pledged by the city or town to the payment of revenue bonds issued to pay its
3122 respective share of the costs of the common facilities. Each power sales contract entered into by
3123 a city or town with a consumer which is not exempt by Article XIII, Sec. 2, Utah Constitution, for
3124 the sale or exchange to the consumer of capacity or output derived by the city or town from its
3125 ownership share of common facilities shall contain a provision for payment of an annual fee to the
3126 city or town by the consumer in lieu of ad valorem property taxes based upon the taxable value of
3127 the percentage of the ownership share of the city or town in the common facilities which is used

3128 to produce the capacity or output that is sold or exchanged by the city or town to or with consumer,
3129 which fee in lieu of ad valorem property taxes shall be paid over by the city or town to the county
3130 treasurer for distribution as per distribution of other ad valorem tax revenues.

3131 (3) Any city or town acquiring or owning an undivided interest in common facilities may
3132 contract with a county or counties to pay, solely from the revenues derived from the interest of the
3133 city or town in the common facilities, to the county or counties in which the common facilities are
3134 located, an annual fee in lieu of ad valorem property taxes based upon the taxable value of the
3135 percentage of the ownership share of the city or town in the common facilities, which fee in lieu
3136 of ad valorem property taxes shall be paid over by the city or town to the county treasurer of the
3137 county or counties in which the common facilities are located for distribution as per distribution
3138 of other ad valorem tax revenues. Bonds shall be issued under the applicable provisions of ~~[the]~~
3139 Title 11, Chapter 14, Utah Municipal Bond Act, and of Title 55, Chapter 3, Public Works Program,
3140 authorizing the issuance of bonds for the acquisition and construction of electric public utility
3141 properties by cities or towns.

3142 (4) All moneys paid or property supplied by any city or town for the purpose of carrying
3143 out powers conferred by this chapter are declared to be for a public purpose; but before a city or
3144 cities, town or towns, or power utility undertakes the construction of transmission facilities in
3145 which it or they have a common ownership interest, the city or cities, town or towns, or power
3146 utility shall, if the construction results in a duplication, in whole or part, of existing transmission
3147 in purpose or function, before construction endeavor to attain the equivalent capacity for a
3148 comparable term and comparable cost by purchase or contract with the duplicated facility. If the
3149 contract cannot be executed within six months from the date the city or cities, town or towns, or
3150 power utility request to contract with the owner of the duplicated facility, then the city or cities,
3151 town or towns, or power utility may proceed to construct the proposed transmission facilities
3152 notwithstanding the duplication.

3153 Section 73. Section **54-13-1** is amended to read:

3154 **54-13-1. Definitions.**

3155 As used in this chapter, "intrastate pipeline transportation" and "pipeline facilities" have
3156 the definitions set forth in the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. Section ~~[1671~~
3157 ~~et seq]~~ 60101.

3158 Section 74. Section **55-3-2.5** is amended to read:

3159 **55-3-2.5. Bond issues governed by Municipal Bond Act.**

3160 Any county, city, or incorporated town may issue bonds under [the] Title 11, Chapter 14,
3161 Utah Municipal Bond Act, for the purpose of acquiring, through purchase, construction, or any
3162 combination of them, improving, enlarging, extending, or repairing any project or utility authorized
3163 in Section 55-3-1, or any combination of these projects and utilities. It is the purpose and intent
3164 of the Legislature that the procedures for the issuance of bonds and other matters relating to bonds
3165 issued for the purposes provided in Title 55, Chapter 3, Public Works Program, shall be hereafter
3166 governed by the provisions of [the] Title 11, Chapter 14, Utah Municipal Bond Act.

3167 Section 75. Section **55-5-6** is amended to read:

3168 **55-5-6. Definitions.**

3169 As used in this chapter:

3170 (1) "Food service" includes restaurant, cafeteria, snack bar, vending machines for food and
3171 beverages, and goods and services customarily offered in connection with them.

3172 (2) (a) "Public office building" means all county courthouses, all city or town halls, and
3173 all buildings used primarily for governmental offices of the state or any county, city, or town.

3174 (b) "Public office building" does not include capitol hill facilities as defined in Section
3175 [~~63A-7-102~~] 63C-9-102, public schools, state colleges, or state universities.

3176 Section 76. Section **57-1-5** is amended to read:

3177 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common.**

3178 (1) (a) Beginning on May 5, 1997, every ownership interest in real estate granted to two
3179 persons in their own right who are designated as husband and wife in the granting documents is
3180 presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or
3181 expressly declared in the grant to be otherwise.

3182 (b) Every ownership interest in real estate which does not qualify for the joint tenancy
3183 presumption as provided in this Subsection (1)(a)[;] is presumed to be a tenancy in common
3184 interest unless expressly declared in the grant to be otherwise.

3185 (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor
3186 of them" or words of similar import means a joint tenancy.

3187 (b) Use of words "tenancy in common" or "with no rights of survivorship" or "undivided
3188 interest" or words of similar import shall declare a tenancy in common.

3189 (3) A sole owner of real property shall create a joint tenancy in himself and another or

3190 others:

3191 (a) by making a transfer to himself and another or others as joint tenants by use of the
3192 words as provided in Subsection (2)(a); or

3193 (b) by conveying to another person or persons an interest in land in which an interest is
3194 retained by the grantor and by declaring the creation of a joint tenancy by use of the words as
3195 provided in Subsection (2)(a).

3196 (4) In all cases, the interest of joint tenants shall be equal and undivided.

3197 (5) A "joint tenancy" is converted into a "tenancy in common" by a joint tenant by making
3198 a bona fide conveyance of the joint tenant's interest in the property to himself and another which
3199 terminates the joint tenancy.

3200 (6) This act has no retrospective operation and shall govern instruments executed and
3201 recorded on or after May 5, 1997.

3202 Section 77. Section **59-1-503** is amended to read:

3203 **59-1-503. Assessment and payment of deficiency.**

3204 (1) Following a redetermination of a deficiency by the commission, the entire amount
3205 redetermined as the deficiency by the decision of the commission, which has become final, shall
3206 be assessed and shall be paid within 30 days from the date the notice and demand is sent from the
3207 commission.

3208 (2) If the taxpayer does not file a petition with the commission within the time prescribed
3209 for filing the petition, the deficiency, notice of which has been sent to the taxpayer, shall be
3210 assessed, and shall be paid within 30 days from the date the notice and demand is sent from the
3211 commission.

3212 Section 78. Section **59-1-703** is amended to read:

3213 **59-1-703. Collection procedure -- Review -- Bond for stay -- Sale of seized property.**

3214 (1) If any liability which is due and payable under Sections 59-1-701 and 59-1-702 is not
3215 paid, the collection shall be made in the same manner as is provided for the collection of
3216 delinquent taxes in Sections 59-7-526 and 59-7-527. In addition, the commission may issue a
3217 warrant of like terms, force, and effect directed to any legally authorized representative of the
3218 commission. In the execution of the warrant the authorized representative shall have all the
3219 powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual
3220 expenses paid in the performance of such duty.

3221 (2) The appropriateness of any termination or jeopardy assessment shall be reviewable
3222 under the procedures prescribed by the commission by rule. The amount of any termination or
3223 jeopardy assessment is reviewable only in the manner prescribed in Title 59, Chapter 1, Parts 5 and
3224 6.

3225 (3) In any proceeding brought to enforce payment of any liability made due and payable
3226 by virtue of this section or Section 59-1-701 or 59-1-702, the finding of the commission, whether
3227 made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of
3228 jeopardy.

3229 (4) After a petition has been filed with the commission and when the amount which the
3230 commission has determined to be assessable has become final, any unpaid portion which has been
3231 stayed by bond[;] shall be collected as part of the tax upon notice and demand from the
3232 commission, and any remaining portion of the assessment shall be abated. If the amount already
3233 collected exceeds the amount which should have been assessed, the excess shall be credited or
3234 refunded to the taxpayer without the filing of claim. If the amount the commission has determined
3235 to be assessable is greater than the amount actually assessed, the difference shall be assessed, and
3236 collected as part of the tax, upon notice and demand by the commission.

3237 (5) The commission may abate the jeopardy assessment if it finds that jeopardy does not
3238 exist. The abatement may not be made after a decision of the commission in respect of the
3239 deficiency has been rendered or, if no petition is filed with the commission, after the expiration
3240 of the period for filing petition. The period of limitation on making assessments and levies or a
3241 proceeding for collection, in respect of any deficiency, shall be determined as if the jeopardy
3242 assessment so abated had not been made. The running of the period of limitation shall be
3243 suspended from the date of such jeopardy assessments until the expiration of the 10th day after the
3244 assessment is abated.

3245 (6) The collection of all or any part of any jeopardy assessment may be stayed by filing
3246 with the commission a bond in the amount and under conditions established by the commission.
3247 The taxpayer has the right to waive the stay at any time in respect of all or part of the amount
3248 covered by the bond. If, as a result of the waiver, any part of the amount covered by the bond is
3249 paid, then the bond shall, at the request of the taxpayer, be proportionately reduced. If any portion
3250 of the jeopardy assessment is abated, or if a notice of deficiency is mailed to the taxpayer in a
3251 lesser amount, the bond shall, at the request of the taxpayer, be proportionately reduced.

3252 (7) If a bond is given before the taxpayer has filed his petition pursuant to Chapter 1, Part
3253 5, the bond shall contain a condition that the amount of the deficiency assessment, the collection
3254 of which is stayed by the bond, will be paid on notice and demand at any time after the expiration
3255 of such period, together with interest thereon from the date of the jeopardy notice and demand until
3256 the date of notice and demand under this subsection. The bond shall be conditioned upon the
3257 payment of that part of the assessment (collection of which is stayed by the bond) which is not
3258 abated by a decision of the commission and has become final. If the commission determines that
3259 the amount assessed is greater than the amount which should have been assessed, then the bond
3260 shall, at the request of the taxpayer, be proportionately reduced when the decision of the
3261 commission is rendered.

3262 (8) When a jeopardy assessment is made, the property seized for the collection of the tax
3263 may not be sold until a notice of deficiency is issued and the time for filing a petition for
3264 redetermination has expired. If a petition for redetermination is filed (whether before or after the
3265 making of the jeopardy assessment) the property may not be sold until the commission's decision
3266 on the petition becomes final unless the taxpayer consents to the sale, the commission determines
3267 that the expenses of conservation and maintenance would greatly reduce the net proceeds, or the
3268 property is perishable.

3269 Section 79. Section **59-1-704** is amended to read:

3270 **59-1-704. Restraint of collection restricted.**

3271 (1) Except as otherwise provided in Parts 5, 6, and 7 of Chapter 1 and Chapters 2, 6, 7, 10,
3272 and 12 and the rules promulgated thereunder, no suit for the purpose of restraining the assessment
3273 or collection of any tax, penalty, or interest imposed under Chapter 1, 2, 6, 7, 10, or 12 may be
3274 maintained in any court by any person, whether or not such person is the person against whom
3275 such tax was assessed.

3276 (2) No suit may be maintained in any court for the purpose of restraining the assessment
3277 or collection of the amount of the state tax liability[;] of a transferee or of a fiduciary of property
3278 of a taxpayer.

3279 Section 80. Section **59-1-1005** is amended to read:

3280 **59-1-1005. Suits against commission and its employees.**

3281 (1) A taxpayer may bring a civil suit against the commission for recovery of actual
3282 damages and costs incurred by the taxpayer if:

3283 (a) the commission or one of its employees intentionally or recklessly takes possession of
3284 a taxpayer's property in disregard [tø] of its published procedures, laws, or rules; or

3285 (b) otherwise intentionally or recklessly disregards published procedures, laws, or rules.

3286 (2) An award of actual damages and court costs in a suit under this section may not exceed
3287 \$100,000.

3288 (3) If the court finds that the civil action brought by the taxpayer is frivolous, the court may
3289 impose a penalty of up to \$10,000 against the taxpayer.

3290 Section 81. Section **59-2-507** is amended to read:

3291 **59-2-507. Land included as agricultural -- Site of farmhouse excluded -- Taxation**
3292 **of structures and site of farmhouse.**

3293 (1) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes, dams,
3294 ponds, streams, and irrigation ditches and like facilities is included in determining the total area
3295 of land actively devoted to agricultural use. Land which is under the farmhouse and land used in
3296 connection with the farmhouse[;] is excluded from that determination.

3297 (2) All structures which are located on land in agricultural use, the farmhouse and the land
3298 on which the farmhouse is located, and land used in connection with the farmhouse, shall be
3299 valued, assessed, and taxed using the same standards, methods, and procedures that apply to other
3300 taxable structures and other land in the county.

3301 Section 82. Section **59-2-509** is amended to read:

3302 **59-2-509. Change of ownership.**

3303 Continuance of valuation, assessment, and taxation under this part depends upon
3304 continuance of the land in agricultural use and compliance with the other requirements of this part,
3305 and not upon continuance in the same owner of title to the land. Liability [tø] for the rollback tax
3306 attaches when a change in use or other withdrawal of the land occurs, but not when a change in
3307 ownership of the title takes place, if the new owner both:

3308 (1) continues the land in agricultural use under the conditions prescribed in this part; and

3309 (2) files a new application for valuation, assessment, and taxation as provided in Section
3310 59-2-508.

3311 Section 83. Section **59-2-704** is amended to read:

3312 **59-2-704. Assessment studies -- Sharing of data -- Factoring assessment rates --**
3313 **Corrective action.**

3314 (1) Each year, to assist in the evaluation of appraisal performance of taxable real property,
3315 the commission shall conduct and publish studies to determine the relationship between the market
3316 value shown on the assessment roll and the market value of real property in each county. The
3317 studies shall include measurements of uniformity within counties and use statistical methods
3318 established by the commission. County assessors may provide sales information to the commission
3319 for purposes of the studies. The commission shall make the sales and appraisal information related
3320 to the studies available to the assessors upon request.

3321 (2) The commission shall, each year, order each county to adjust or factor its assessment
3322 rates using the most current studies so that the assessment rate in each county is in accordance with
3323 that prescribed in Section 59-2-103. The adjustment or factoring may include an entire county,
3324 geographical areas within a county, and separate classes of properties. Where significant value
3325 deviations occur, the commission shall also order corrective action.

3326 (3) If the commission determines that sales data in any county is insufficient to perform
3327 the studies required under Subsection (1), the commission may conduct appraisals of property
3328 within that county.

3329 (4) If a county fails to implement factoring or corrective action ordered under Subsection
3330 (2), the commission shall:

3331 (a) implement the factoring or corrective action; and

3332 (b) charge 100% of the reasonable implementation costs to that county.

3333 (5) If a county disputes the factoring or corrective action ordered under Subsection (2), the
3334 matter may be mediated by the Multicounty Appraisal Trust.

3335 (6) The commission may change the factor for any county which, after a hearing before
3336 the commission, establishes that the factor should properly be set at a different level for that
3337 county. The commission shall establish the method, procedure, and timetable for the hearings
3338 authorized under this section, including access to information to ensure a fair hearing. The
3339 commission may establish rules to implement this section.

3340 Section 84. Section **59-2-1351.5** is amended to read:

3341 **59-2-1351.5. Disposition of property struck off to county.**

3342 (1) (a) All property acquired by the county under this part may be disposed of for a price
3343 and upon terms determined by the county legislative body.

3344 (b) If property is sold under a contract of sale and title remains in the county, the equity

3345 of the purchaser shall be subject to taxation as other taxable property.

3346 (c) The county clerk may execute deeds for all property sold under this subsection in the
3347 name of the county and attest the same by seal, vesting in the purchaser all of the title of all taxing
3348 entities in the real estate so sold.

3349 (d) (i) Money received from the sale of property under this section shall first be applied
3350 to the cost of administering and supervising the property.

3351 (ii) Any remaining money shall be apportioned to state and other taxing entities with an
3352 interest in the taxes last levied upon the property in proportion to their respective interests in the
3353 taxes.

3354 (iii) The treasurer shall settle with the taxing entities on funds remaining as provided in
3355 Section 59-2-1366.

3356 (iv) Money in excess of claims under this subsection shall be paid to the state treasurer and
3357 treated as unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

3358 (2) (a) The county legislative body may rent or lease any property held in the name of the
3359 county any time after the tax sale for a price and upon terms determined by the governing body.

3360 (b) Lands leased may be sold at the discretion of the county executive, with the approval
3361 of the county legislative body, during the term of the lease, but any sale shall be made subject to
3362 the lease.

3363 (c) The county executive, with the approval of the county legislative body, may enter into
3364 leasehold terms for asphalt, oil, or gas that the county considers to be in the best interest of the
3365 county as long as:

3366 (i) the mineral, asphalt, oil, or gas is produced from, or attributable to, the property leased;
3367 and

3368 (ii) each lease for oil and gas reserves a royalty of not less than 12-1/2%.

3369 (d) If considered to be in the best interests of the county, the county executive may:

3370 (i) enter into agreements for the pooling or unitizing of acreage with others for unit
3371 operations for the production of oil or gas, or both, and for the apportionment of oil or gas
3372 royalties, or both, on an acreage or other equitable basis; and

3373 (ii) with the consent of its lessee, change any and all terms of leases issued by it to
3374 facilitate the efficient and economic production of oil and gas from the property under its
3375 jurisdiction.

3376 (e) All leases for mineral, asphalt, or oil and gas already entered into by county governing
3377 bodies are ratified.

3378 (3) (a) Money received as rents from the rental or leasing of property held in the name of
3379 the county shall first be applied to the cost of administering and supervising the property.

3380 (b) Any remaining money shall be apportioned to state and other taxing entities with an
3381 interest in the taxes last levied upon the property in proportion to their respective interests in the
3382 taxes.

3383 (c) The treasurer shall settle with the taxing entities on funds remaining as provided in
3384 Section 59-2-1366.

3385 (d) Money in excess of these claims shall be paid to the state treasurer and treated as
3386 unclaimed property under Title 67, Chapter 4a, Unclaimed Property Act.

3387 Section 85. Section **59-2-1354** is amended to read:

3388 **59-2-1354. Notice of intention to foreclose -- Service of notice.**

3389 Before the commencement of any action, 30 [~~days~~] days' written notice of intention to do
3390 so shall be given to the owner, if known, by enclosing the notice in an envelope plainly addressed
3391 to the owner at the owner's post-office address, as shown on the last assessment roll of the county
3392 in which the real estate is located, postage prepaid. If the post-office address of any owner does
3393 not appear on the assessment roll, notice shall be addressed to the owner at the general delivery
3394 at the post office in the city, town, or precinct where the real estate is located, postage prepaid.
3395 Service of the notice is complete when deposited in the United States mail.

3396 Section 86. Section **59-2-1361** is amended to read:

3397 **59-2-1361. Notice of findings -- Proceedings in district court -- Injunction --**
3398 **Determining taxes due -- Security during proceedings.**

3399 (1) (a) Notice that the commission has made a finding and declaration under Section
3400 59-2-1359 shall be given to the owner of the property in the same manner as is provided by law
3401 for the giving of the notice of assessment by the commission.

3402 (b) The notice required by this section shall include a notice of the location and time of
3403 the hearing in which the findings of the commission may be protested.

3404 (c) (i) The hearing must be scheduled at least ten days after the mailing of the notice.

3405 (ii) The owner, lessee, contractor, or operator of the property shall be afforded the
3406 opportunity to protest the commission's findings at the hearing.

3407 (2) After the scheduled hearing, the taxes shall become immediately due and payable if
3408 any of the following occur:

3409 (a) the owner, contractor, lessee, or operator of the property fails to appear at the hearing;
3410 or

3411 (b) the commission sustains the findings.

3412 (3) If the taxes are not paid within ten days from the date due, the commission may
3413 commence a proceeding in court in its name, but for the benefit of the state and the taxing entities
3414 interested in the taxes, in the district court of the county in which the property is located to
3415 determine the lien of the taxes and to foreclose the lien.

3416 (4) In any proceeding the court may order any of the following:

3417 (a) enjoin and restrain the destruction or removal of the property or any part of the
3418 property;

3419 (b) appoint a receiver to operate the property; and

3420 (c) order and direct that the proceeds from the property, or so much of it as may be
3421 necessary to pay the amount of the taxes, be withheld and impounded or paid on account of the
3422 taxes from time to time as the court may direct.

3423 (5) In determining the amount of taxes due for any year for which the levy has not been
3424 fixed and for the purposes of the proceeding in court, the commission shall use the levy prevailing
3425 within the taxing entity where the property is located for the last preceding year.

3426 (6) In any court proceeding brought to enforce the payment of taxes made due and payable
3427 under this section, the findings of the commission shall be for all purposes presumptive evidence
3428 of the necessity for the action for the protection of the public revenues and of the amount of taxes
3429 to be paid.

3430 (7) (a) Payment of taxes due under this section will not be enforced through the
3431 proceedings authorized by this section prior to the expiration of the time otherwise allowed for
3432 payment of taxes if the owner, lessee, contractor, or other person operating the property furnishes
3433 security approved by the commission that the person will timely submit all required returns and
3434 tax payments.

3435 (b) The commission may, from time to time, require additional security for the payment
3436 of taxes.

3437 (8) The commission may promulgate rules to implement this section.

3438 Section 87. Section **59-7-114** is amended to read:

3439 **59-7-114. Section 338, Internal Revenue Code -- Elections.**

3440 (1) Transactions for which an election has been made or considered to be made for federal
3441 purposes under Section 338, Internal Revenue Code, shall be treated as provided in this section.

3442 An election is not available for state purposes unless an election is made or considered to be made
3443 for federal purposes.

3444 (2) If an election is made or considered to be made for federal purposes under Section 338,
3445 Internal Revenue Code, other than under Subsection 338(h)(10):

3446 (a) the target corporation shall file a separate entity one-day tax return for state purposes,
3447 as is required for federal purposes, and shall include in such return the gain or loss on the deemed
3448 sale of assets in its adjusted income;

3449 (b) the gain or loss on the deemed sale of assets shall be apportioned to this state using the
3450 apportionment fraction of the target corporation calculated on a separate entity basis for the most
3451 recent preceding taxable year consisting of 180 days or more; and

3452 (c) the due date of the one-day return shall be the same as the due date of the return which
3453 includes the taxable period of the target corporation which immediately precedes the one-day
3454 return.

3455 (3) If an election is made for federal purposes under Subsection 338(h)(10), Internal
3456 Revenue Code, the following shall apply:

3457 (a) if the target corporation is a member of a unitary group immediately preceding the
3458 acquisition date, the target corporation shall be included in a combined return to the extent of its
3459 income through the acquisition date, and the gain or loss on the deemed sale of assets shall be
3460 included in the combined income of the unitary group;

3461 (b) if the target corporation is not a member of a unitary group immediately preceding the
3462 acquisition date, the target corporation shall file a short period return for the period ending on the
3463 acquisition date and shall include in such return the gain or loss on the deemed sale of assets in its
3464 adjusted income; and

3465 (c) any gain or loss which is not recognized for federal purposes on stock sold or
3466 exchanged by a member of a selling consolidated group as defined in Section 338, Internal
3467 Revenue Code, may not be included in the adjusted income of the selling corporation.

3468 (4) There is a rebuttable presumption that the gain or loss on the deemed sale of assets

3469 constitutes business income.

3470 (5) The new basis of the target corporation's assets shall be determined under Section 338,
3471 Internal Revenue Code.

3472 (6) The target corporation shall be treated as a new corporation as of the day after the
3473 acquisition date.

3474 (7) The commission may prescribe such rules as necessary to provide for the equitable
3475 treatment of any transaction subject to Section 338, Internal Revenue Code.

3476 Section 88. Section **59-7-612** is amended to read:

3477 **59-7-612. Credits for research activities conducted in the state -- Carry forward --**
3478 **Commission to report modification or repeal of federal credits -- Tax Review Commission**
3479 **study.**

3480 (1) (a) For taxable years beginning on or after January 1, 1999, but beginning before
3481 December 31, 2010, a taxpayer meeting the requirements of this section shall qualify for the
3482 following nonrefundable credits for increasing research activities in this state:

3483 (i) a research credit of 6% of the taxpayer's qualified research expenses for the current
3484 taxable year that exceed the base amount provided for under Subsection (4); and

3485 (ii) a credit for payments to qualified organizations for basic research as provided in
3486 Section 41(e), Internal Revenue Code, of 6% for the current taxable year that exceed the base
3487 amount provided for under Subsection (4).

3488 (b) If a taxpayer qualifying for a credit under Subsection (1)(a) seeks to claim the credit,
3489 the taxpayer shall:

3490 (i) claim the credit or a portion of the credit for the taxable year immediately following the
3491 taxable year for which the taxpayer qualifies for the credit;

3492 (ii) carry the credit or a portion of the credit forward as provided in Subsection (4)(f); or

3493 (iii) claim a portion of the credit and carry forward a portion of the credit as provided in
3494 Subsections (1)(b)(i) and (ii).

3495 (c) The credits provided for in this section do not include the alternative incremental credit
3496 provided for in Section 41(c)(4), Internal Revenue Code.

3497 (2) For purposes of claiming a credit under this section, a unitary group as defined in
3498 Section 59-7-101 is considered to be one taxpayer.

3499 (3) Except as specifically provided for in this section:

3500 (a) the credits authorized under Subsection (1) shall be calculated as provided in Section
3501 41, Internal Revenue Code; and

3502 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating the
3503 credits authorized under Subsection (1).

3504 (4) For purposes of this section:

3505 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h), Internal
3506 Revenue Code, except that:

3507 (i) the base amount does not include the calculation of the alternative incremental credit
3508 provided for in Section 41(c)(4), Internal Revenue Code;

3509 (ii) a taxpayer's gross receipts include only those gross receipts attributable to sources
3510 within this state as provided in Part 3, Allocation and Apportionment of Income -- Utah UDITPA
3511 Provisions; and

3512 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating the
3513 base amount, a taxpayer:

3514 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
3515 regardless of whether the taxpayer meets the requirements of Section 41(c)(3)(B)(i)(I) or (II); and

3516 (B) may not revoke an election to be treated as a start-up company under Subsection
3517 (4)(a)(iii)(A);

3518 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except that
3519 the term includes only basic research conducted in this state;

3520 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except that
3521 the term includes only qualified research conducted in this state;

3522 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
3523 Revenue Code, except that the term includes only those expenses incurred in conducting qualified
3524 research in this state;

3525 (e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the credits
3526 provided for in this section shall not terminate if the credits terminate under Section 41, Internal
3527 Revenue Code; and

3528 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
3529 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
3530 claimed by a taxpayer under this section exceeds the taxpayer's tax liability under this chapter for

3531 a taxable year, the amount of the credit exceeding the liability:

3532 (i) may be carried forward for a period that does not exceed the next 14 taxable years; and

3533 (ii) may not be carried back to a taxable year preceding the current taxable year.

3534 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

3535 commission may make rules for purposes of this section prescribing a certification process for

3536 qualified organizations to ensure that amounts paid to the qualified organizations are for basic

3537 research conducted in this state.

3538 (6) If a federal tax credit under Section 41, Internal Revenue Code, is modified or repealed,

3539 the commission shall report the modification or repeal to the Tax Review Commission within 60

3540 days after the day on which the modification or repeal becomes effective.

3541 (7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall review

3542 the credits provided for in this section on or before the earlier of:

3543 (i) October 1 of the year after the year in which the commission reports under Subsection

3544 (6) a modification or repeal of a federal tax credit under Section 41, Internal Revenue Code; or

3545 (ii) October 1, 2004.

3546 (b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to

3547 review the credits provided for in this section if the only modification to a federal tax credit under

3548 Section 41, Internal Revenue Code, is the extension of the termination date provided for in Section

3549 41(h), Internal Revenue Code.

3550 (c) The Tax Review Commission shall address in a review under this section the:

3551 (i) cost of the credit;

3552 (ii) purpose and effectiveness of the credit;

3553 (iii) whether the credit benefits the state; and

3554 (iv) whether the credit should be:

3555 (A) continued;

3556 (B) modified; or

3557 (C) repealed.

3558 (d) If the Tax Review Commission reviews the credits provided for in this section, the Tax

3559 Review Commission shall report its findings to the Revenue and Taxation Interim Committee on

3560 or before the November interim meeting of the year in which the Tax Review Commission reviews

3561 the credits.

3562 Section 89. Section **59-10-540** is amended to read:

3563 **59-10-540. Transferees.**

3564 (1) The liability at law or in equity of a transferee of property of any person liable in
3565 respect of any tax (including additions to tax, penalties or interest) imposed by this chapter, shall
3566 be assessed, paid, and collected in the same manner and subject to the same provisions and
3567 limitations as in the case of the tax to which the liability relates, except that the period of
3568 limitations for assessment against the transferee shall be extended by one year for each successive
3569 transfer, in order of transfer (from the person originally liable to the transferee involved), but not
3570 by more than three years in the aggregate. As used in this section, "transferee" includes donee,
3571 heir, legatee, devisee, and distributee.

3572 (2) (a) If, before the expiration of the period of limitations for assessment of liability of
3573 the transferee, a claim has been filed by the commission in any court against the person originally
3574 liable or the last preceding transferee, based upon the liability of the person originally liable, then
3575 the period of limitation for assessment of liability of the transferee shall in no event expire prior
3576 to one year after such claim has been finally allowed, disallowed, or otherwise disposed of.

3577 (b) If, before expiration of the time prescribed in Subsection (1) or (2) (a) for the
3578 assessment of the liability, the commission and the transferee have both consented in writing to
3579 its assessment after such time, the liability may be assessed at any time prior to the expiration of
3580 the period agreed upon. The period so agreed upon may be extended by subsequent agreements
3581 in writing made before the expiration of the period previously agreed upon. For the purpose of
3582 determining the period of limitation on credit or refund to the transferee of overpayments of tax
3583 made by such transferee or overpayments of tax made by the transferor as to which the transferee
3584 is legally entitled to credit or refund, such agreement and any extension thereof are considered an
3585 agreement and extension thereof referred to in Section 59-10-516. If the agreement is executed
3586 after the expiration of the period of limitation for assessment against the original taxpayer, then
3587 in applying the limitations under Section 59-10-529 on the amount of the credit or refund, the
3588 periods specified in Section 59-10-529 shall be increased by the period from the date of such
3589 expiration to the date of the agreement.

3590 (3) If any person is deceased, the period of limitation for assessment against him shall be
3591 the period that would be in effect if he had lived.

3592 (4) Notwithstanding the provisions of Section 59-10-545 (relating to confidentiality of

3593 return information) the commission shall use its powers to make available to a transferee evidence
3594 necessary to enable the transferee to determine the liability of the original taxpayer and of any
3595 preceding transferees, but without undue hardship to the original taxpayer or preceding transferee.

3596 Section 90. Section **59-10-541** is amended to read:

3597 **59-10-541. Violations -- Civil and criminal penalties.**

3598 (1) Every person who, without fraudulent intent, fails to make, render, sign, or verify any
3599 return, or to supply any information within the time required by or under the provisions of this
3600 chapter, is liable [tø] for a penalty as provided in Section 59-1-401.

3601 (2) It is unlawful for any person, with intent to evade any tax, to fail to timely remit the
3602 full amount of tax required by this chapter. A violation of this section is punishable as provided
3603 in Section 59-1-401.

3604 (3) Any person who knowingly or intentionally makes, renders, signs, or verifies any false
3605 or fraudulent return or statement or supplies any false or fraudulent information is guilty of a
3606 criminal violation as provided in Section 59-1-401.

3607 (4) Any person who, with intent to evade any tax or any requirement of this chapter, or any
3608 lawful requirement of the commission, fails to pay the tax, or to make, render, sign, or verify any
3609 return, or to supply any information, within the time required by or under this chapter, or who, with
3610 like intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies
3611 any false or fraudulent information, is liable [tø] for a civil penalty as provided in Section
3612 59-1-401, and is also guilty of a criminal violation as provided in Section 59-1-401.

3613 Section 91. Section **59-10-603** is amended to read:

3614 **59-10-603. Business tax credit -- Limitations.**

3615 (1) (a) A business entity that purchases and completes or participates in the financing of
3616 a residential energy system to supply all or part of the energy required for a residential unit owned
3617 or used by the business entity and situated in Utah is entitled to a tax credit as provided in this
3618 Subsection (1).

3619 (b) (i) A business entity is entitled to a tax credit equal to 25% of the costs of a residential
3620 energy system installed with respect to each residential unit it owns or uses, including installation
3621 costs, against any tax due under this chapter for the taxable year in which the energy system is
3622 completed and placed in service.

3623 (ii) The total amount of the credit under this Subsection (1) may not exceed [\$] \$2,000 per

3624 residential unit.

3625 (iii) The credit under this Subsection (1) is allowed for any residential energy system
3626 completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

3627 (c) If a business entity sells a residential unit to an individual taxpayer prior to making a
3628 claim for the tax credit under this Subsection (1), the business entity may:

3629 (i) assign its right to this tax credit to the individual taxpayer; and

3630 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer under
3631 Subsection (1)(c)(i), the individual taxpayer may claim the tax credit as if the individual taxpayer
3632 had completed or participated in the costs of the residential energy system under Section
3633 59-10-602.

3634 (2) (a) A business entity that purchases or participates in the financing of a commercial
3635 energy system is entitled to a tax credit as provided in this Subsection (2) if:

3636 (i) the commercial energy system supplies all or part of the energy required by commercial
3637 units owned or used by the business entity; or

3638 (ii) the business entity sells all or part of the energy produced by the commercial energy
3639 system as a commercial enterprise.

3640 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
3641 commercial energy system installed, including installation costs, against any tax due under this
3642 chapter for the taxable year in which the commercial energy system is completed and placed in
3643 service.

3644 (ii) The total amount of the credit under this Subsection (2) may not exceed \$50,000 per
3645 commercial unit.

3646 (iii) The credit under this Subsection (2) is allowed for any commercial energy system
3647 completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

3648 (c) A business entity that leases a commercial energy system installed on a commercial
3649 unit is eligible for the tax credit under this Subsection (2) if the lessee can confirm that the lessor
3650 irrevocably elects not to claim the credit.

3651 (d) Only the principal recovery portion of the lease payments, which is the cost incurred
3652 by a business entity in acquiring a commercial energy system, excluding interest charges and
3653 maintenance expenses, is eligible for the tax credit under this Subsection (2).

3654 (e) A business entity that leases a commercial energy system is eligible to use the tax credit

3655 under this Subsection (2) for a period no greater than seven years from the initiation of the lease.

3656 (3) (a) A tax credit under this section may be claimed for the taxable year in which the
3657 energy system is completed and placed in service.

3658 (b) Additional energy systems or parts of energy systems may be claimed for subsequent
3659 years.

3660 (c) If the amount of a tax credit under this section exceeds a business entity's tax liability
3661 under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried
3662 over for a period which does not exceed the next four taxable years.

3663 Section 92. Section **59-12-102 (Effective 07/01/01)** is amended to read:

3664 **59-12-102 (Effective 07/01/01). Definitions.**

3665 As used in this chapter:

3666 (1) (a) "Admission or user fees" includes season passes.

3667 (b) "Admission or user fees" does not include annual membership dues to private
3668 organizations.

3669 (2) "Area agency on aging" is as defined in Section 62A-3-101.

3670 (3) "Authorized carrier" means:

3671 (a) in the case of vehicles operated over public highways, the holder of credentials
3672 indicating that the vehicle is or will be operated pursuant to both the International Registration
3673 Plan (IRP) and the International Fuel Tax Agreement (IFTA);

3674 (b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating
3675 certificate or air carrier's operating certificate; or

3676 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,
3677 the holder of a certificate issued by the United States Interstate Commerce Commission.

3678 (4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device"
3679 means:

3680 (i) a coin-operated amusement, skill, or ride device;

3681 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and

3682 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
3683 arcade machine, and a mechanical or electronic skill game or ride.

3684 (b) For purposes of Subsection 59-12-104(43), "coin-operated amusement device" does
3685 not mean a coin-operated amusement device possessing a coinage mechanism that:

- 3686 (i) accepts and registers multiple denominations of coins; and
- 3687 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
- 3688 activated and operated by a person inserting coins into the device.
- 3689 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
- 3690 that does not constitute industrial use under Subsection (13) or residential use under Subsection
- 3691 (21).
- 3692 (6) (a) "Common carrier" means a person engaged in or transacting the business of
- 3693 transporting passengers, freight, merchandise, or other property for hire within this state.
- 3694 (b) (i) "Common carrier" does not include a person who, at the time the person is traveling
- 3695 to or from that person's place of employment, transports a passenger to or from the passenger's
- 3696 place of employment.
- 3697 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah
- 3698 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
- 3699 person's place of employment.
- 3700 (7) "Component part" includes:
- 3701 (a) poultry, dairy, and other livestock feed, and their components;
- 3702 (b) baling ties and twine used in the baling of hay and straw;
- 3703 (c) fuel used for providing temperature control of orchards and commercial greenhouses
- 3704 doing a majority of their business in wholesale sales, and for providing power for off-highway type
- 3705 farm machinery; and
- 3706 (d) feed, seeds, and seedlings.
- 3707 (8) "Construction materials" means any tangible personal property that will be converted
- 3708 into real property.
- 3709 (9) (a) "Fundraising sales" means sales:
- 3710 (i) (A) made by a public or private elementary or secondary school; or
- 3711 (B) made by a public or private elementary or secondary school student, grades
- 3712 kindergarten through 12;
- 3713 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 3714 materials, or provide transportation; and
- 3715 (iii) that are part of an officially sanctioned school activity.
- 3716 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a

3717 school activity:

3718 (i) that is conducted in accordance with a formal policy adopted by the school or school
3719 district governing the authorization and supervision of fundraising activities;

3720 (ii) that does not directly or indirectly compensate an individual teacher or other
3721 educational personnel by direct payment, commissions, or payment in kind; and

3722 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
3723 by the school or school district.

3724 (10) (a) "Hearing aid" means:

3725 (i) an instrument or device having an electronic component that is designed to:

3726 (A) (I) improve impaired human hearing; or

3727 (II) correct impaired human hearing; and

3728 (B) (I) be worn in the human ear; or

3729 (II) affixed behind the human ear;

3730 (ii) an instrument or device that is surgically implanted into the cochlea; or

3731 (iii) a telephone amplifying device.

3732 (b) "Hearing aid" does not include:

3733 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
3734 having an electronic component that is designed to be worn on the body;

3735 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
3736 designed to be used by one individual, including:

3737 (A) a personal amplifying system;

3738 (B) a personal FM system;

3739 (C) a television listening system; or

3740 (D) a device or system similar to a device or system described in Subsections

3741 (10)(b)(ii)(A) through (C); or

3742 (iii) an assistive listening device or system designed to be used by more than one
3743 individual, including:

3744 (A) a device or system installed in:

3745 (I) an auditorium;

3746 (II) a church;

3747 (III) a conference room;

3748 (IV) a synagogue; or
3749 (V) a theater; or
3750 (B) a device or system similar to a device or system described in Subsections
3751 (10)(b)(iii)(A)(I) through (V).
3752 (11) (a) "Hearing aid accessory" means a hearing aid:
3753 (i) component;
3754 (ii) attachment; or
3755 (iii) accessory.
3756 (b) "Hearing aid accessory" includes:
3757 (i) a hearing aid neck loop;
3758 (ii) a hearing aid cord;
3759 (iii) a hearing aid ear mold;
3760 (iv) hearing aid tubing;
3761 (v) a hearing aid ear hook; or
3762 (vi) a hearing aid remote control.
3763 (c) "Hearing aid accessory" does not include:
3764 (i) a component, attachment, or accessory designed to be used only with an:
3765 (A) instrument or device described in Subsection (10)(b)(i); or
3766 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
3767 (ii) a hearing aid battery.
3768 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
3769 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
3770 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
3771 injury;
3772 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
3773 purpose; and
3774 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
3775 under the state plan for medical assistance under Title 19 of the federal Social Security Act.
3776 (b) "Home medical equipment and supplies" does not include:
3777 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
3778 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their

- 3779 professional practice;
- 3780 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
- 3781 (iii) hearing aids or hearing aid accessories.
- 3782 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:
- 3783 (i) a clinic;
- 3784 (ii) a doctor's office; and
- 3785 (iii) a health care facility as defined in Section 26-21-2.
- 3786 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
- 3787 fuels in:
- 3788 (a) mining or extraction of minerals;
- 3789 (b) agricultural operations to produce an agricultural product up to the time of harvest or
- 3790 placing the agricultural product into a storage facility, including:
- 3791 (i) commercial greenhouses;
- 3792 (ii) irrigation pumps;
- 3793 (iii) farm machinery;
- 3794 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 3795 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 3796 (v) other farming activities; and
- 3797 (c) manufacturing tangible personal property at an establishment described in SIC Codes
- 3798 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
- 3799 of the President, Office of Management and Budget.
- 3800 (14) "Manufactured home" means any manufactured home or mobile home as defined in
- 3801 Title 58, Chapter 56, Utah Uniform Building Standards Act.
- 3802 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:
- 3803 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
- 3804 Classification Manual of the federal Executive Office of the President, Office of Management and
- 3805 Budget; or
- 3806 (b) a scrap recycler if:
- 3807 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one
- 3808 or more of the following items into prepared grades of processed materials for use in new products:
- 3809 (A) iron;

- 3810 (B) steel;
- 3811 (C) nonferrous metal;
- 3812 (D) paper;
- 3813 (E) glass;
- 3814 (F) plastic;
- 3815 (G) textile; or
- 3816 (H) rubber; and
- 3817 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
- 3818 nonrecycled materials.
- 3819 (16) (a) "Medicine" means:
- 3820 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
- 3821 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
- 3822 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;
- 3823 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
- 3824 for that patient and dispensed by a registered pharmacist or administered under the direction of a
- 3825 physician; and
- 3826 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
- 3827 direction of a physician or paramedic.
- 3828 (b) "Medicine" does not include:
- 3829 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or
- 3830 (ii) any alcoholic beverage.
- 3831 (17) "Olympic merchandise" means tangible personal property bearing an Olympic
- 3832 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
- 3833 copyrighted or protected material, including:
- 3834 (a) one or more of the following terms:
- 3835 (i) "Olympic";
- 3836 (ii) "Olympiad"; or
- 3837 (iii) "Citius Altius Fortius";
- 3838 (b) the symbol of the International Olympic Committee, consisting of five interlocking
- 3839 rings;
- 3840 (c) the emblem of the International Olympic Committee Corporation;

3841 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
3842 mark, symbol, terminology, trademark, or other copyrighted or protected material;

3843 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the
3844 Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or

3845 (f) the mascot of the Olympic Winter Games of 2002.

3846 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.

3847 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
3848 property.

3849 (19) "Person" includes any individual, firm, partnership, joint venture, association,
3850 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
3851 municipality, district, or other local governmental entity of the state, or any group or combination
3852 acting as a unit.

3853 (20) "Purchase price" means the amount paid or charged for tangible personal property or
3854 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken
3855 or any excise tax imposed on the purchase price by the federal government.

3856 (21) "Residential use" means the use in or around a home, apartment building, sleeping
3857 quarters, and similar facilities or accommodations.

3858 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
3859 other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item,
3860 or service by a retailer or wholesaler to a user or consumer.

3861 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
3862 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
3863 more.

3864 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
3865 against, those transactions where a purchaser of tangible personal property pays applicable sales
3866 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
3867 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
3868 consideration, provided:

3869 (i) the transaction is intended as a form of financing for the property to the
3870 purchaser-lessee; and

3871 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required

3872 to capitalize the subject property for financial reporting purposes, and account for the lease
3873 payments as payments made under a financing arrangement.

3874 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
3875 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
3876 who is selling to the user or consumer and not for resale.

3877 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
3878 engaged in the business of selling to users or consumers within the state.

3879 (c) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers
3880 or agricultural producers producing and doing business on their own premises, except those who
3881 are regularly engaged in the business of buying or selling for a profit.

3882 (d) For purposes of this chapter the commission may regard as retailers the following if
3883 they determine it is necessary for the efficient administration of this chapter: salesmen,
3884 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
3885 employers under whom they operate or from whom they obtain the tangible personal property sold
3886 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
3887 dealers, distributors, supervisors, or employers, except that:

3888 (i) a printer's facility with which a retailer has contracted for printing shall not be
3889 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

3890 (ii) the ownership of property that is located at the premises of a printer's facility with
3891 which the retailer has contracted for printing and that consists of the final printed product, property
3892 that becomes a part of the final printed product, or copy from which the printed product is
3893 produced, shall not result in the retailer being deemed to have or maintain an office, distribution
3894 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock
3895 of goods, within this state.

3896 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
3897 manner, of tangible personal property or any other taxable transaction under Subsection
3898 59-12-103(1), for consideration. It includes:

3899 (a) installment and credit sales;

3900 (b) any closed transaction constituting a sale;

3901 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

3902 (d) any transaction if the possession of property is transferred but the seller retains the title

3903 as security for the payment of the price; and

3904 (e) any transaction under which right to possession, operation, or use of any article of
3905 tangible personal property is granted under a lease or contract and the transfer of possession would
3906 be taxable if an outright sale were made.

3907 (25) (a) "Sales relating to schools" means sales by a public school district or public or
3908 private elementary or secondary school, grades kindergarten through 12, that are directly related
3909 to the school's or school district's educational functions or activities and include:

3910 (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety
3911 equipment;

3912 (ii) the sale of clothing that:

3913 (A) a student is specifically required to wear as a condition of participation in a
3914 school-related event or activity; and

3915 (B) is not readily adaptable to general or continued usage to the extent that it takes the
3916 place of ordinary clothing;

3917 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
3918 a school district fund or school fund dedicated to school meals; and

3919 (iv) transportation charges for official school activities.

3920 (b) "Sales relating to schools" does not include:

3921 (i) gate receipts;

3922 (ii) special event admission fees;

3923 (iii) bookstore sales of items that are not educational materials or supplies; and

3924 (iv) except as provided in Subsection (25)(a)(ii), clothing.

3925 (26) "Senior citizen center" means a facility having the primary purpose of providing
3926 services to the aged as defined in Section 62A-3-101.

3927 (27) "State" means the state of Utah, its departments, and agencies.

3928 (28) "Storage" means any keeping or retention of tangible personal property or any other
3929 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the
3930 regular course of business.

3931 (29) (a) "Tangible personal property" means:

3932 (i) all goods, wares, merchandise, produce, and commodities;

3933 (ii) all tangible or corporeal things and substances which are dealt in or capable of being

3934 possessed or exchanged;

3935 (iii) water in bottles, tanks, or other containers; and

3936 (iv) all other physically existing articles or things, including property severed from real
3937 estate.

3938 (b) "Tangible personal property" does not include:

3939 (i) real estate or any interest or improvements in real estate;

3940 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

3941 (iii) insurance certificates or policies;

3942 (iv) personal or governmental licenses;

3943 (v) water in pipes, conduits, ditches, or reservoirs;

3944 (vi) currency and coinage constituting legal tender of the United States or of a foreign
3945 nation; and

3946 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
3947 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
3948 80%.

3949 (30) (a) "Use" means the exercise of any right or power over tangible personal property
3950 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or
3951 service.

3952 (b) "Use" does not include the sale, display, demonstration, or trial of that property in the
3953 regular course of business and held for resale.

3954 (31) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined
3955 in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as
3956 defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle₁" for
3957 purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
3958 work equipment, or other railroad rolling stock.

3959 (32) "Vehicle dealer" means a person engaged in the business of buying, selling, or
3960 exchanging vehicles as defined in Subsection (31).

3961 (33) (a) "Vendor" means any person receiving any payment or consideration upon a sale
3962 of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), or
3963 to whom the payment or consideration is payable.

3964 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(d).

3965 Section 93. Section **59-12-102 (Superseded 07/01/01)** is amended to read:

3966 **59-12-102 (Superseded 07/01/01). Definitions.**

3967 As used in this chapter:

3968 (1) (a) "Admission or user fees" includes season passes.

3969 (b) "Admission or user fees" does not include annual membership dues to private
3970 organizations.

3971 (2) "Area agency on aging" is as defined in Section 62A-3-101.

3972 (3) "Authorized carrier" means:

3973 (a) in the case of vehicles operated over public highways, the holder of credentials
3974 indicating that the vehicle is or will be operated pursuant to both the International Registration
3975 Plan (IRP) and the International Fuel Tax Agreement (IFTA);

3976 (b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating
3977 certificate or air carrier's operating certificate; or

3978 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,
3979 the holder of a certificate issued by the United States Interstate Commerce Commission.

3980 (4) (a) For purposes of Subsection 59-12-104 (43), "coin-operated amusement device"
3981 means:

3982 (i) a coin-operated amusement, skill, or ride device;

3983 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and

3984 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
3985 arcade machine, and a mechanical or electronic skill game or ride.

3986 (b) For purposes of Subsection 59-12-104 (43), "coin-operated amusement device" does
3987 not mean a coin-operated amusement device possessing a coinage mechanism that:

3988 (i) accepts and registers multiple denominations of coins; and

3989 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
3990 activated and operated by a person inserting coins into the device.

3991 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
3992 that does not constitute industrial use under Subsection (13) or residential use under Subsection
3993 (21).

3994 (6) (a) "Common carrier" means a person engaged in or transacting the business of
3995 transporting passengers, freight, merchandise, or other property for hire within this state.

3996 (b) (i) "Common carrier" does not include a person who, at the time the person is traveling
3997 to or from that person's place of employment, transports a passenger to or from the passenger's
3998 place of employment.

3999 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah
4000 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
4001 person's place of employment.

4002 (7) "Component part" includes:

4003 (a) poultry, dairy, and other livestock feed, and their components;

4004 (b) baling ties and twine used in the baling of hay and straw;

4005 (c) fuel used for providing temperature control of orchards and commercial greenhouses
4006 doing a majority of their business in wholesale sales, and for providing power for off-highway type
4007 farm machinery; and

4008 (d) feed, seeds, and seedlings.

4009 (8) "Construction materials" means any tangible personal property that will be converted
4010 into real property.

4011 (9) (a) "Fundraising sales" means sales:

4012 (i) (A) made by a public or private elementary or secondary school; or

4013 (B) made by a public or private elementary or secondary school student, grades
4014 kindergarten through 12;

4015 (ii) that are for the purpose of raising funds for the school to purchase equipment,
4016 materials, or provide transportation; and

4017 (iii) that are part of an officially sanctioned school activity.

4018 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
4019 school activity:

4020 (i) that is conducted in accordance with a formal policy adopted by the school or school
4021 district governing the authorization and supervision of fundraising activities;

4022 (ii) that does not directly or indirectly compensate an individual teacher or other
4023 educational personnel by direct payment, commissions, or payment in kind; and

4024 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
4025 by the school or school district.

4026 (10) (a) "Hearing aid" means:

- 4027 (i) an instrument or device having an electronic component that is designed to:
- 4028 (A) (I) improve impaired human hearing; or
- 4029 (II) correct impaired human hearing; and
- 4030 (B) (I) be worn in the human ear; or
- 4031 (II) affixed behind the human ear;
- 4032 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 4033 (iii) a telephone amplifying device.
- 4034 (b) "Hearing aid" does not include:
- 4035 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
- 4036 having an electronic component that is designed to be worn on the body;
- 4037 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
- 4038 designed to be used by one individual, including:
- 4039 (A) a personal amplifying system;
- 4040 (B) a personal FM system;
- 4041 (C) a television listening system; or
- 4042 (D) a device or system similar to a device or system described in Subsections
- 4043 (10)(b)(ii)(A) through (C); or
- 4044 (iii) an assistive listening device or system designed to be used by more than one
- 4045 individual, including:
- 4046 (A) a device or system installed in:
- 4047 (I) an auditorium;
- 4048 (II) a church;
- 4049 (III) a conference room;
- 4050 (IV) a synagogue; or
- 4051 (V) a theater; or
- 4052 (B) a device or system similar to a device or system described in Subsections
- 4053 (10)(b)(iii)(A)(I) through (V).
- 4054 (11) (a) "Hearing aid accessory" means a hearing aid:
- 4055 (i) component;
- 4056 (ii) attachment; or
- 4057 (iii) accessory.

- 4058 (b) "Hearing aid accessory" includes:
- 4059 (i) a hearing aid neck loop;
- 4060 (ii) a hearing aid cord;
- 4061 (iii) a hearing aid ear mold;
- 4062 (iv) hearing aid tubing;
- 4063 (v) a hearing aid ear hook; or
- 4064 (vi) a hearing aid remote control.
- 4065 (c) "Hearing aid accessory" does not include:
- 4066 (i) a component, attachment, or accessory designed to be used only with an:
- 4067 (A) instrument or device described in Subsection (10)(b)(i); or
- 4068 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- 4069 (ii) a hearing aid battery.
- 4070 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
- 4071 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
- 4072 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
- 4073 injury;
- 4074 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
- 4075 purpose; and
- 4076 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
- 4077 under the state plan for medical assistance under Title 19 of the federal Social Security Act.
- 4078 (b) "Home medical equipment and supplies" does not include:
- 4079 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
- 4080 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their
- 4081 professional practice;
- 4082 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
- 4083 (iii) hearing aids or hearing aid accessories.
- 4084 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:
- 4085 (i) a clinic;
- 4086 (ii) a doctor's office; and
- 4087 (iii) a health care facility as defined in Section 26-21-2.
- 4088 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other

4089 fuels in:

4090 (a) mining or extraction of minerals;

4091 (b) agricultural operations to produce an agricultural product up to the time of harvest or
4092 placing the agricultural product into a storage facility, including:

4093 (i) commercial greenhouses;

4094 (ii) irrigation pumps;

4095 (iii) farm machinery;

4096 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
4097 registered under Title 41, Chapter 1a, Part 2, Registration; and

4098 (v) other farming activities; and

4099 (c) manufacturing tangible personal property at an establishment described in SIC Codes
4100 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
4101 of the President, Office of Management and Budget.

4102 (14) "Manufactured home" means any manufactured home or mobile home as defined in
4103 Title 58, Chapter 56, Utah Uniform Building Standards Act.

4104 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

4105 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
4106 Classification Manual of the federal Executive Office of the President, Office of Management and
4107 Budget; or

4108 (b) a scrap recycler if:

4109 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one
4110 or more of the following items into prepared grades of processed materials for use in new products:

4111 (A) iron;

4112 (B) steel;

4113 (C) nonferrous metal;

4114 (D) paper;

4115 (E) glass;

4116 (F) plastic;

4117 (G) textile; or

4118 (H) rubber; and

4119 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with

4120 nonrecycled materials.

4121 (16) (a) "Medicine" means:

4122 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
4123 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
4124 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

4125 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
4126 for that patient and dispensed by a registered pharmacist or administered under the direction of a
4127 physician; and

4128 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
4129 direction of a physician or paramedic.

4130 (b) "Medicine" does not include:

4131 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

4132 (ii) any alcoholic beverage.

4133 (17) "Olympic merchandise" means tangible personal property bearing an Olympic
4134 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
4135 copyrighted or protected material, including:

4136 (a) one or more of the following terms:

4137 (i) "Olympic[?]"₁;

4138 (ii) "Olympiad[?]"₁; or

4139 (iii) "Citius Altius Fortius[?]"₁;

4140 (b) the symbol of the International Olympic Committee, consisting of five interlocking
4141 rings;

4142 (c) the emblem of the International Olympic Committee Corporation;

4143 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
4144 mark, symbol, terminology, trademark, or other copyrighted or protected material;

4145 (e) any emblem of the Winter Olympic Games of 2002 that is officially designated by the
4146 Salt Lake Organizing Committee of the Winter Olympic Games of 2002; or

4147 (f) the mascot of the Winter Olympic Games of 2002.

4148 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.

4149 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
4150 property.

4151 (19) "Person" includes any individual, firm, partnership, joint venture, association,
4152 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
4153 municipality, district, or other local governmental entity of the state, or any group or combination
4154 acting as a unit.

4155 (20) "Purchase price" means the amount paid or charged for tangible personal property or
4156 any other taxable item or service under Subsection 59-12-103(1), excluding only cash discounts
4157 taken or any excise tax imposed on the purchase price by the federal government.

4158 (21) "Residential use" means the use in or around a home, apartment building, sleeping
4159 quarters, and similar facilities or accommodations.

4160 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
4161 other taxable item or service under Subsection 59-12-103(1), other than resale of such property,
4162 item, or service by a retailer or wholesaler to a user or consumer.

4163 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
4164 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
4165 more.

4166 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
4167 against, those transactions where a purchaser of tangible personal property pays applicable sales
4168 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
4169 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
4170 consideration, provided:

4171 (i) the transaction is intended as a form of financing for the property to the
4172 purchaser-lessee; and

4173 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required
4174 to capitalize the subject property for financial reporting purposes, and account for the lease
4175 payments as payments made under a financing arrangement.

4176 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
4177 tangible personal property or any other taxable item or service under Subsection 59-12-103(1), and
4178 who is selling to the user or consumer and not for resale.

4179 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
4180 engaged in the business of selling to users or consumers within the state.

4181 (c) "Retailer" includes any person who engages in regular or systematic solicitation of a

4182 consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or
4183 other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone,
4184 computer data base, cable, optic, microwave, or other communication system.

4185 (d) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers
4186 or agricultural producers producing and doing business on their own premises, except those who
4187 are regularly engaged in the business of buying or selling for a profit.

4188 (e) For purposes of this chapter the commission may regard as retailers the following if
4189 they determine it is necessary for the efficient administration of this chapter: salesmen,
4190 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
4191 employers under whom they operate or from whom they obtain the tangible personal property sold
4192 by them, irrespective of whether they are making sales on their own behalf or on behalf of these
4193 dealers, distributors, supervisors, or employers, except that:

4194 (i) a printer's facility with which a retailer has contracted for printing shall not be
4195 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

4196 (ii) the ownership of property that is located at the premises of a printer's facility with
4197 which the retailer has contracted for printing and that consists of the final printed product, property
4198 that becomes a part of the final printed product, or copy from which the printed product is
4199 produced, shall not result in the retailer being deemed to have or maintain an office, distribution
4200 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock
4201 of goods, within this state.

4202 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
4203 manner, of tangible personal property or any other taxable item or service under Subsection
4204 59-12-103(1), for a consideration. It includes:

4205 (a) installment and credit sales;

4206 (b) any closed transaction constituting a sale;

4207 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

4208 (d) any transaction if the possession of property is transferred but the seller retains the title
4209 as security for the payment of the price; and

4210 (e) any transaction under which right to possession, operation, or use of any article of
4211 tangible personal property is granted under a lease or contract and the transfer of possession would
4212 be taxable if an outright sale were made.

4213 (25) (a) "Sales relating to schools" means sales by a public school district or public or
4214 private elementary or secondary school, grades kindergarten through 12, that are directly related
4215 to the school's or school district's educational functions or activities and include:

4216 (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety
4217 equipment;

4218 (ii) the sale of clothing that:

4219 (A) a student is specifically required to wear as a condition of participation in a
4220 school-related event or activity; and

4221 (B) is not readily adaptable to general or continued usage to the extent that it takes the
4222 place of ordinary clothing;

4223 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
4224 a school district fund or school fund dedicated to school meals; and

4225 (iv) transportation charges for official school activities.

4226 (b) "Sales relating to schools" does not include:

4227 (i) gate receipts;

4228 (ii) special event admission fees;

4229 (iii) bookstore sales of items that are not educational materials or supplies; and

4230 (iv) except as provided in Subsection (25)(a)(ii), clothing.

4231 (26) "Senior citizen center" means a facility having the primary purpose of providing
4232 services to the aged as defined in Section 62A-3-101.

4233 (27) "State" means the state of Utah, its departments, and agencies.

4234 (28) "Storage" means any keeping or retention of tangible personal property or any other
4235 taxable item or service under Subsection 59-12-103(1), in this state for any purpose except sale
4236 in the regular course of business.

4237 (29) (a) "Tangible personal property" means:

4238 (i) all goods, wares, merchandise, produce, and commodities;

4239 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
4240 possessed or exchanged;

4241 (iii) water in bottles, tanks, or other containers; and

4242 (iv) all other physically existing articles or things, including property severed from real
4243 estate.

4244 (b) "Tangible personal property" does not include:
4245 (i) real estate or any interest or improvements in real estate;
4246 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
4247 (iii) insurance certificates or policies;
4248 (iv) personal or governmental licenses;
4249 (v) water in pipes, conduits, ditches, or reservoirs;
4250 (vi) currency and coinage constituting legal tender of the United States or of a foreign
4251 nation; and

4252 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
4253 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
4254 80%.

4255 (30) (a) "Use" means the exercise of any right or power over tangible personal property
4256 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or
4257 service.

4258 (b) "Use" does not include the sale, display, demonstration, or trial of that property in the
4259 regular course of business and held for resale.

4260 (31) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined
4261 in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as
4262 defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle," for
4263 purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
4264 work equipment, or other railroad rolling stock.

4265 (32) "Vehicle dealer" means a person engaged in the business of buying, selling, or
4266 exchanging vehicles as defined in Subsection (31).

4267 (33) (a) "Vendor" means:

4268 (i) any person receiving any payment or consideration upon a sale of tangible personal
4269 property or any other taxable item or service under Subsection 59-12-103(1), or to whom such
4270 payment or consideration is payable; and

4271 (ii) any person who engages in regular or systematic solicitation of a consumer market in
4272 this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by
4273 means of print, radio or television media, by mail, telegraphy, telephone, computer data base,
4274 cable, optic, microwave, or other communication system.

4275 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(e).

4276 Section 94. Section **59-12-111** is amended to read:

4277 **59-12-111. Licensee to keep records -- Failure to make return -- Penalties.**

4278 (1) Each person engaging or continuing in any business in this state for the transaction of
4279 which a license is required under this chapter shall:

4280 (a) keep and preserve suitable records of all sales made by the person and other books or
4281 accounts necessary to determine the amount of tax for the collection of which the person is liable
4282 under this chapter in a form prescribed by the commission;

4283 (b) keep and preserve for a period of three years all such books, invoices, and other
4284 records; and

4285 (c) open such records for examination at any time by the commission or its duly authorized
4286 agent.

4287 (2) If no return is made by any person required to make returns as provided in this chapter,
4288 the commission shall give written [~~notices~~] notice to the person to make the return within a
4289 reasonable time to be designated by the commission or, alternatively, the commission may make
4290 an estimate for the period or periods or any part thereof in respect to which the person failed to
4291 make a return, based upon any information in its possession or that may come into its possession
4292 of the total sales subject to the tax imposed by this chapter. Upon the basis of this estimate the
4293 commission may compute and determine the amount of tax required to be paid to the state. The
4294 return shall be prima facie correct for the purposes of this chapter and the amount of the tax due
4295 thereon shall be subject to the penalties and interest as provided in Sections 59-1-401 and
4296 59-1-402. Promptly thereafter the commission shall give to the person written notice of the
4297 estimate, determination, penalty, and interest.

4298 (3) If any person not holding a sales tax license under Section 59-12-106 or a valid use tax
4299 registration certificate makes a purchase of tangible personal property for storage, use, or other
4300 consumption in this state and fails to file a return or pay the tax due within 170 days from the time
4301 the return is due, this person shall pay a penalty as provided in Section 59-1-401 plus interest at
4302 the rate and in the manner prescribed in Section 59-1-402 and all other penalties and interest as
4303 provided by this title.

4304 Section 95. Section **59-12-117** is amended to read:

4305 **59-12-117. Refusal to make or falsifying returns -- Penalties -- Criminal violations.**

4306 (1) It is unlawful for any vendor to refuse to make any return [~~provided~~] required to be
4307 made in this chapter or to make any false or fraudulent return or false statement on any return or
4308 to evade the payment of the tax, or any part thereof imposed by this chapter or for any person to
4309 aid or abet another in any attempt to evade the payment of the tax or any part imposed by this
4310 chapter. Any person violating any of the provisions of this chapter, except as provided in Section
4311 59-12-107, shall be guilty of a criminal violation as provided in Section 59-1-401. In addition to
4312 the foregoing penalties, any person who knowingly swears to or verifies any false or fraudulent
4313 return, or any return containing any false or fraudulent statement is guilty of the offense of perjury
4314 and on conviction thereof shall be punished in the manner provided by law. Any company making
4315 a false return or a return containing a false statement as aforesaid, is guilty of a criminal violation
4316 as provided in Section 59-1-401.

4317 (2) Any person failing or refusing to furnish any return required to be made, failing or
4318 refusing to furnish a supplemental return or other data required by the commission, or rendering
4319 a false or fraudulent return shall be guilty of a criminal violation as provided in Section 59-1-401
4320 for each such offense.

4321 (3) Any person required to make, render, sign, or verify any report under this chapter, who
4322 makes any false or fraudulent return with intent to defeat or evade the assessment or determination
4323 of amount due required by law to be made shall be guilty of a criminal violation as provided in
4324 Section 59-1-401 for each such offense.

4325 (4) Any violation of the provisions of this chapter, except as otherwise provided, shall be
4326 a criminal violation as provided in Section 59-1-401.

4327 Section 96. Section **59-13-202.5** is amended to read:

4328 **59-13-202.5. Refunds of tax due to fire, flood, storm, or accident -- Filing claims and**
4329 **affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.**

4330 (1) A retailer, wholesaler, or licensed distributor, who without fault, sustains a loss or
4331 destruction of 8,000 or more gallons of motor fuel in a single incident due to fire, flood, storm,
4332 accident, or the [~~commitment~~] commission of a crime and who has paid or is required to pay the
4333 tax on the motor fuel as provided by this part, is entitled to a refund or credit of the tax subject to
4334 the conditions and limitations provided under this section.

4335 (2) (a) The claimant shall file a claim for a refund or credit with the commission within
4336 90 days of the incident.

4337 (b) Any part of a loss or destruction eligible for indemnification under an insurance policy
4338 for the taxes paid or required on the loss or destruction of motor fuel is not eligible for a refund
4339 or credit under this section.

4340 (c) Any claimant filing a claim for a refund or credit shall furnish any or all of the
4341 information outlined in this section upon request of the commission.

4342 (d) The burden of proof of loss or destruction is on the claimant who shall provide
4343 evidence of loss or destruction to the satisfaction of the commission.

4344 (3) (a) The claim shall include an affidavit containing the:

4345 (i) name of claimant;

4346 (ii) claimant's address;

4347 (iii) date, time, and location of the incident;

4348 (iv) cause of the incident;

4349 (v) name of the investigating agencies at the scene;

4350 (vi) number of gallons actually lost from sale; and

4351 (vii) information on any insurance coverages related to the incident.

4352 (b) The claimant shall support the claim by submitting the original invoices or copy of the
4353 original invoices.

4354 (c) This original claim and all information contained in it[;] constitutes a permanent file
4355 with the commission in the name of the claimant.

4356 (4) Upon commission approval of the claim for a refund, the commission shall pay the
4357 amount found due to the claimant. The total amount of claims for refunds shall be paid from the
4358 Transportation Fund.

4359 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4360 commission may promulgate rules to enforce this part, and may refuse to accept unsubstantiated
4361 evidence for the claim. If the commission is not satisfied with the evidence submitted in
4362 connection with the claim, it may reject the claim or require additional evidence.

4363 (6) Any person aggrieved by the decision of the commission with respect to a refund or
4364 credit may file a request for agency action, requesting a hearing before the commission.

4365 (7) Any person who makes any false claim, report, or statement, either as claimant, agent,
4366 or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled,
4367 is subject to the criminal penalties provided under Section 59-1-401, and the commission shall

4368 initiate the filing of a complaint for alleged violations of this part. In addition to these penalties,
4369 the person may not receive any refund or credit as a claimant or as a creditor of a claimant for
4370 refund or credit for a period of five years.

4371 (8) Any refund or credit made under this section does not affect any deduction allowed
4372 under Section 59-13-207.

4373 Section 97. Section **59-13-301.5** is amended to read:

4374 **59-13-301.5. Refund of taxes impacting Ute tribe and Ute tribal members.**

4375 (1) In accordance with this section, the Ute tribe may receive a refund from th
4376 e state of amounts paid in accordance with Section 59-13-301 if:

4377 (a) the amounts paid by the Ute tribe when it purchases the special fuel includes the
4378 amount paid in taxes on the special fuel;

4379 (b) the special fuel is purchased for use by:

4380 (i) the Ute tribe; or

4381 (ii) a Ute tribal member from a retail station that is:

4382 (A) wholly owned by the Ute tribe; and

4383 (B) located on Ute trust land; and

4384 (c) the governor and the Ute tribe execute and maintain an agreement meeting the
4385 requirements of Subsection (3).

4386 (2) [~~(a)~~] In addition to the agreement required by Subsection (1), the commission shall
4387 enter into an agreement with the Ute tribe that:

4388 [~~(i)~~] (a) provides an allocation formula or procedure for determining:

4389 [~~(A)~~] (i) the amount of special fuel sold by the Ute tribe to a Ute tribal member; and

4390 [~~(B)~~] (ii) the amount of special fuel sold by the Ute tribe to a person who is not a Ute tribal
4391 member; and

4392 [~~(ii)~~] (b) provides a process by which:

4393 [~~(A)~~] (i) the Ute tribe obtains a refund permitted by this section; and

4394 [~~(B)~~] (ii) reports and remits special fuel tax to the state for sales made to persons who are
4395 not Ute tribal members.

4396 (3) The agreement required under Subsection (1):

4397 (a) may not:

4398 (i) authorize the state to impose a tax in addition to a tax imposed under this chapter;

4399 (ii) provide a refund, credit, or similar tax relief that is greater or different than the refund
4400 permitted under this section; or

4401 (iii) affect the power of the state to establish rates of taxation; and

4402 (b) shall:

4403 (i) provide that the state agrees to allow the refund described in this section;

4404 (ii) be in writing;

4405 (iii) be signed by:

4406 (A) the governor; and

4407 (B) the chair of the Business Committee of the Ute tribe;

4408 (iv) be conditioned on obtaining any approval required by federal law; and

4409 (v) state the effective date of the agreement.

4410 (4) (a) The governor shall report to the commission by no later than February 1 of each
4411 year as to whether or not an agreement meeting the requirements of this Subsection (4) is in effect.

4412 (b) If an agreement meeting the requirements of this Subsection (4) is terminated, the
4413 refund permitted under this section is not allowed beginning the January 1 following the date the
4414 agreement terminates.

4415 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4416 commission may make rules regarding the procedures for seeking a refund agreed to under the
4417 agreement described in Subsection (2).

4418 Section 98. Section **59-13-307** is amended to read:

4419 **59-13-307. Supplier reports -- Signature required -- Penalties.**

4420 (1) Each supplier shall file with the commission, on or before the last day of each month,
4421 a report on forms prescribed by the commission showing the amount of fuel delivered or
4422 removed[;] during the preceding calendar month and any other information the commission may
4423 require to carry out the purposes of this part.

4424 (2) The report shall be signed by the supplier or a responsible representative. This
4425 signature need not be notarized, but when signed is considered to have been made under oath. The
4426 report shall be accompanied by a remittance payable to the commission for the amount of special
4427 fuel tax due.

4428 (3) A penalty is imposed under Section 59-1-401 upon each licensee and bonded supplier
4429 who fails to file any report as prescribed regardless of the imposition of other penalties under this

4430 part.

4431 Section 99. Section **59-13-322** is amended to read:

4432 **59-13-322. Refunds of tax due to fire, flood, storm, or accident -- Filing claims and**
4433 **affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.**

4434 (1) A retailer, wholesaler, or licensed supplier, who without fault, sustains a loss or
4435 destruction of 7,000 or more gallons of diesel fuel in a single incident due to fire, flood, storm,
4436 accident, or the [~~commitment~~] commission of a crime and who has paid or is required to pay the
4437 tax on the special fuel as provided by this part, is entitled to a refund or credit of the tax subject
4438 to the conditions and limitations provided under this section.

4439 (2) (a) The claimant shall file a claim for a refund or credit with the commission within
4440 90 days of the incident.

4441 (b) Any part of a loss or destruction eligible for indemnification under an insurance policy
4442 for the taxes paid or required on the loss or destruction of special fuel is not eligible for a refund
4443 or credit under this section.

4444 (c) Any claimant filing a claim for a refund or credit shall furnish any or all of the
4445 information outlined in this section upon request of the commission.

4446 (d) The burden of proof of loss or destruction is on the claimant who shall provide
4447 evidence of loss or destruction to the satisfaction of the commission.

4448 (3) (a) The claim shall include an affidavit containing the:

4449 (i) name of claimant;

4450 (ii) claimant's address;

4451 (iii) date, time, and location of the incident;

4452 (iv) cause of the incident;

4453 (v) name of the investigating agencies at the scene;

4454 (vi) number of gallons actually lost from sale; and

4455 (vii) information on any insurance coverages related to the incident.

4456 (b) The claimant shall support the claim by submitting the original invoices or copy of the
4457 original invoices.

4458 (c) This original claim and all information contained in it[;] constitutes a permanent file
4459 with the commission in the name of the claimant.

4460 (4) Upon commission approval of the claim for a refund, the commission shall pay the

4461 amount found due to the claimant. The total amount of claims for refunds shall be paid from the
4462 Transportation Fund.

4463 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
4464 commission may promulgate rules to enforce this part, and may refuse to accept unsubstantiated
4465 evidence for the claim. If the commission is not satisfied with the evidence submitted in
4466 connection with the claim, it may reject the claim or require additional evidence.

4467 (6) Any person aggrieved by the decision of the commission with respect to a refund or
4468 credit may file a request for agency action, requesting a hearing before the commission.

4469 (7) Any person who makes any false claim, report, or statement, either as claimant, agent,
4470 or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled,
4471 is subject to the criminal penalties provided under Section 59-1-401, and the commission shall
4472 initiate the filing of a complaint for alleged violations of this part. In addition to these penalties,
4473 the person may not receive any refund or credit as a claimant or as a creditor of a claimant for
4474 refund or credit for a period of five years.

4475 Section 100. Section **59-22-101** is amended to read:

4476 **CHAPTER 22. MODEL TOBACCO SETTLEMENT ACT**

4477 **59-22-101. Title.**

4478 This chapter is known as the "Model Tobacco Settlement [Statute] Act."

4479 Section 101. Section **62A-4a-412** is amended to read:

4480 **62A-4a-412. Reports and information confidential.**

4481 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as well
4482 as any other information in the possession of the division obtained as the result of a report is
4483 confidential and may only be made available to:

4484 (a) a police or law enforcement agency investigating a report of known or suspected child
4485 abuse or neglect;

4486 (b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

4487 (c) an agency that has responsibility or authority to care for, treat, or supervise a child who
4488 is the subject of a report;

4489 (d) a contract provider that has a written contract with the division to render services to
4490 a child who is the subject of a report;

4491 (e) any subject of the report, the natural parents of the minor, and the guardian ad litem;

4492 (f) a court, upon a finding that access to the records may be necessary for the determination
4493 of an issue before it, provided that in a divorce, custody, or related proceeding between private
4494 parties, the record alone is:

4495 (i) limited to objective or undisputed facts that were verified at the time of the
4496 investigation; and

4497 (ii) devoid of conclusions drawn by the division or any of its workers on the ultimate issue
4498 of whether or not a person's acts or omissions constituted any level of abuse or neglect of another
4499 person;

4500 (g) an office of the public prosecutor or its deputies in performing an official duty;

4501 (h) a person authorized by a Children's Justice Center, for the purposes described in
4502 Section 67-5b-102;

4503 (i) a person engaged in bona fide research, when approved by the director of the division,
4504 if the information does not include names and addresses;

4505 (j) the State Office of Education, acting on behalf of itself or on behalf of a school district,
4506 for the purpose of evaluating whether an individual should be permitted to obtain or retain a
4507 license as an educator or serve as an employee or volunteer in a school, limited to information with
4508 substantiated findings involving an alleged sexual offense, an alleged felony or class A
4509 misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5,
4510 Offenses Against the Person, and with the understanding that the office must provide the subject
4511 of a report received under Subsection (1)(k) with an opportunity to respond to the report before
4512 making a decision concerning licensure or employment; and

4513 (k) any person identified in the report as a perpetrator or possible perpetrator of child abuse
4514 or neglect, after being advised of the screening prohibition in Subsection (2).

4515 (2) (a) No person, unless listed in Subsection (1), may request another person to obtain or
4516 release a report or any other information in the possession of the division obtained as a result of
4517 the report that is available under Subsection (1)(k) to screen for potential perpetrators of child
4518 abuse or neglect.

4519 (b) A person who requests information knowing that it is a violation of Subsection (2)(a)
4520 to do so is subject to the criminal penalty in Subsection (4).

4521 (3) Except as provided in Subsection 62A-4a-116~~(8)~~(9)(c), the division and law
4522 enforcement officials shall ensure the anonymity of the person or persons making the initial report

4523 and any others involved in its subsequent investigation.

4524 (4) Any person who wilfully permits, or aides and abets the release of data or information
4525 obtained as a result of this part, in the possession of the division or contained on any part of the
4526 management information system, in violation of this part or Section 62A-4a-116, is guilty of a
4527 class C misdemeanor.

4528 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
4529 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
4530 good faith pursuant to this part.

4531 Section 102. Section **62A-11-304.2** is amended to read:

4532 **62A-11-304.2. Issuance or modification of administrative order -- Compliance with**
4533 **court order -- Authority of office -- Stipulated agreements -- Notification requirements.**

4534 (1) Through an adjudicative proceeding the office may issue or modify an administrative
4535 order that:

4536 (a) determines paternity in accordance with Section 78-45a-10;

4537 (b) determines whether an obligor owes support;

4538 (c) determines temporary orders of child support upon clear and convincing evidence of
4539 paternity in the form of genetic test results or other evidence;

4540 (d) requires an obligor to pay a specific or determinable amount of present and future
4541 support;

4542 (e) determines the amount of past-due support;

4543 (f) orders an obligor who owes past-due support and is obligated to support a child

4544 receiving public assistance to participate in appropriate work activities if the obligor is unemployed
4545 and is not otherwise incapacitated;

4546 (g) imposes a penalty authorized under this chapter;

4547 (h) determines an issue that may be specifically contested under this chapter by a party
4548 who timely files a written request for an adjudicative proceeding with the office; and

4549 (i) renews an administrative judgment.

4550 (2) (a) An abstract of a final administrative order issued under this section or a notice of
4551 judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.

4552 (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

4553 (i) docket the abstract or notice in the judgment docket of the court and note the time of

4554 receipt on the abstract or notice and in the judgment docket; and

4555 (ii) at the request of the office, place a copy of the abstract or notice in the file of a child
4556 support action involving the same parties.

4557 (3) If a judicial order has been issued, the office may not issue an order under Subsection
4558 (1) that is not based on the judicial order, except:

4559 (a) the office may establish a new obligation in those cases in which the juvenile court has
4560 ordered the parties to meet with the office to determine the support pursuant to Section 78-3a-906;
4561 or

4562 (b) the office may issue an order of current support in accordance with the child support
4563 guidelines if the conditions of Subsection 78-45f-207(2)(c) are met.

4564 (4) The office may proceed under this section in the name of this state, another state under
4565 Section 62A-11-305, any department of this state, the office, or the obligee.

4566 (5) The office may accept voluntary acknowledgment of a support obligation and enter into
4567 stipulated agreements providing for the issuance of an administrative order under this part.

4568 (6) The office may act in the name of the obligee in endorsing and cashing any drafts,
4569 checks, money orders, or other negotiable instruments received by the office for support.

4570 (7) The obligor shall, after a notice of agency action has been served on him [~~under this~~
4571 ~~part~~] in accordance with Section 63-46b-3, keep the office informed of:

4572 (a) his current address;

4573 (b) the name and address of current payors of income;

4574 (c) availability of or access to health insurance coverage; and

4575 (d) applicable health insurance policy information.

4576 Section 103. Section **63-55-258** is amended to read:

4577 **63-55-258. Repeal dates, Title 58.**

4578 (1) Title 58, Chapter 3a, Architects Licensing Act, is repealed July 1, 2003.

4579 (2) Title 58, Chapter 5a, Podiatric Physician Licensing Act, is repealed July 1, 2002.

4580 (3) Title 58, Chapter 9, Funeral Services Licensing Act, is repealed July 1, 2008.

4581 (4) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed
4582 July 1, 2006.

4583 (5) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2005.

4584 (6) Title 58, Chapter 16a, Utah Optometry Practice Act, is repealed July 1, 2009.

- 4585 (7) Title 58, Chapter 17a, Pharmacy Practice Act, is repealed July 1, 2006.
- 4586 (8) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2003.
- 4587 (9) Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors
4588 Licensing Act, is repealed July 1, 2005.
- 4589 (10) Title 58, Chapter 24a, Physical Therapist Practice Act, is repealed July 1, 2003.
- 4590 (11) Title 58, Chapter [26] 26a, Certified Public Accountant Licensing Act, is repealed
4591 July 1, 2002.
- 4592 (12) Title 58, Chapter 28, Veterinary Practice Act, is repealed July 1, 2004.
- 4593 (13) Title 58, Chapter 31b, Nurse Practice Act, is repealed July 1, 2005.
- 4594 (14) Title 58, Chapter 37, Utah Controlled Substances Act, is repealed July 1, 2007.
- 4595 (15) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, is repealed July 1, 2007.
- 4596 (16) Title 58, Chapter 37b, Imitation Controlled Substances Act, is repealed July 1, 2007.
- 4597 (17) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2005.
- 4598 (18) Title 58, Chapter 41, Speech-language Pathology and Audiology Licensing Act, is
4599 repealed July 1, 2009.
- 4600 (19) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2005.
- 4601 (20) Title 58, Chapter 44a, Nurse Midwife Practice Act, is repealed July 1, 2010.
- 4602 (21) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July
4603 1, 2003.
- 4604 (22) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2004.
- 4605 (23) Title 58, Chapter 49, Dietitian Certification Act, is repealed July 1, 2005.
- 4606 (24) Title 58, Chapter 53, Landscape Architects Licensing Act, is repealed July 1, 2008.
- 4607 (25) Title 58, Chapter 58, Preneed Funeral Arrangement Act, is repealed July 1, 2001.
- 4608 (26) Title 58, Chapter 59, Professional Employer Organization Licensing Act, is repealed
4609 July 1, 2002.
- 4610 (27) Title 58, Chapter 66, Utah Professional Boxing Regulation Act, is repealed July 1,
4611 2005.
- 4612 (28) Title 58, Chapter 67, Utah Medical Practice Act, is repealed July 1, 2006.
- 4613 (29) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, is repealed July 1, 2006.
- 4614 (30) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act, is repealed July 1,
4615 2006.

4616 (31) Title 58, Chapter 71, Naturopathic Physician Practice Act, is repealed July 1, 2006.

4617 (32) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2002.

4618 (33) Title 58, Chapter 73, Chiropractic Physician Practice Act, is repealed July 1, 2006.

4619 Section 104. Section **63-95-203** is amended to read:

4620 **63-95-203. Exemptions from committee activities.**

4621 Notwithstanding the other provisions of this Part 2 and Subsection 63-95-102(9), the
4622 following quasi-governmental entities are exempt from the study by the committee under Section
4623 63-95-202:

4624 (1) the Utah Housing Finance Agency created in Title 9, Chapter 4, Part 9; and

4625 (2) the Workers' Compensation Fund [~~of Utah~~] created in Title 31A, Chapter 33.

4626 Section 105. Section **63A-6-105** is amended to read:

4627 **63A-6-105. Duties of director -- Rate Committee membership and duties.**

4628 (1) The director of the Division of Information Technology Services shall:

4629 (a) manage the delivery of efficient and cost-effective data processing and

4630 telecommunication services for all state agencies at the lowest practical cost;

4631 (b) provide priority service to public safety agencies; and

4632 (c) provide a semiannual report to the chief information officer as provided in Subsection
4633 63D-1-301.5(5).

4634 (2) The director may negotiate the purchase, lease, or rental of private or public data
4635 processing or telecommunication services or facilities.

4636 (3) Where practical, efficient, and economically beneficial, the director shall use existing
4637 private and public data processing or telecommunication resources.

4638 (4) The director shall prescribe a schedule of fees to be charged for all services rendered
4639 to any state agency by the division that are equitable and sufficient to recover all the costs of
4640 operation, including the cost of capital equipment and facilities.

4641 (5) (a) The director shall provide the chief information officer and the state information
4642 technology review committee a written analysis of each state agency's annual information
4643 technology plan.

4644 (b) That analysis shall:

4645 (i) include an assessment of how the implementation of each plan will affect the costs,
4646 operations, and the services of the Division of Information Technology Services and state

4647 government; and

4648 (ii) where appropriate, make alternative recommendations.

4649 (6) (a) Before charging the fees, the director shall obtain approval of the fee schedules
4650 from the Rate Committee which shall consist of:

4651 (i) the executive director;

4652 (ii) the director of the Division of Finance;

4653 (iii) the director of the Office of Planning and Budget;

4654 (iv) the chief information officer;

4655 (v) a representative of the agencies nominated by the Information Technology Policy and
4656 Strategy Committee established in Section 63D-1-302; and

4657 (vi) a representative of the ~~[agencies]~~ agencies' administrative services managers
4658 nominated by the ~~[agencies]~~ agencies' administrative services managers coordination group.

4659 (b) In appointing the agency representatives listed in Subsection (6)(a)(v) and (vi), the Rate
4660 Committee shall appoint:

4661 (i) one representative from a large agency and one representative from a small agency; and

4662 (ii) the representatives to four-year terms of office, except that initially one of the
4663 appointments shall be for a two-year term in order to stagger the appointments.

4664 (c) In the event of a vacancy for any reason, the entity responsible for nominating the
4665 person who is vacating the position shall provide new nominations to the Rate Committee to fill
4666 the unexpired term.

4667 (d) When modifying fees, the director shall attempt to provide sufficient notice to agencies
4668 and institutions so that they may reflect those fee changes in their budgets.

4669 (7) (a) The director shall create advisory committees composed of representatives of user
4670 agencies.

4671 (b) Those advisory committees may recommend policies and practices for the efficient and
4672 effective operation of the division.

4673 (8) (a) The director shall create a Local Government Information Technology Review
4674 Committee whose membership shall include representatives from:

4675 (i) the Chief of Police Association;

4676 (ii) the Sheriff's Association;

4677 (iii) the Associated Public Safety Communications Officers;

- 4678 (iv) the Fire Chief Association; and
- 4679 (v) the State School Bus Association.

4680 (b) Representatives from additional agencies may be added upon a majority vote of the
4681 existing committee members.

4682 Section 106. Section **63A-6-106** is amended to read:

4683 **63A-6-106. Subscription by state agencies and institutions.**

4684 (1) As used in this section:

4685 (a) "Telecommunications" means the transmission or reception of signs, signals, writing,
4686 images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or
4687 other electromagnetic means.

4688 (b) "Telecommunications services and support" means providing the hardware, software,
4689 maintenance, and upkeep of equipment used in telecommunications.

4690 (2) State agencies, after consultation with the state's chief information officer, may
4691 subscribe to the telecommunications services provided by the Division of Information Technology
4692 Services or may contract with alternate private providers of telecommunications services if the
4693 agency determines that the purchase of such services from a private provider will result in cost
4694 savings, increased efficiency, or improved quality of services to the agency without impairing the
4695 interoperability of the [states] state's telecommunication services.

4696 (3) An institution of higher education may subscribe to the services provided by the
4697 division if:

4698 (a) the president of the institution recommends that the institution subscribe to the services
4699 of the division; and

4700 (b) the Board of Regents determines that subscription to the services of the division will
4701 result in cost savings or increased efficiency to the institution.

4702 Section 107. Section **63A-9-805** is amended to read:

4703 **63A-9-805. Acquisition of federal surplus property -- Powers and duties -- Advisory**
4704 **boards and committees -- Expenditures and contracts -- Clearinghouse of information --**
4705 **Reports.**

4706 (1) As used in this section:

4707 (a) "Property" includes equipment, materials, books, and other supplies.

4708 (b) "Property act" means Section 203(j) of the Federal Property and Administrative

4709 Services Act of 1949.

4710 (2) The division may:

4711 (a) acquire from the United States of America under and in conformance with the property
4712 act any property under the control of any department or agency of the United States that is usable
4713 and necessary for any purposes authorized by federal law;

4714 (b) warehouse that property if it is not real property; and

4715 (c) distribute that property within Utah to:

4716 (i) tax-supported medical institutions, hospitals, clinics, and health centers;

4717 (ii) school systems, schools, colleges, and universities;

4718 (iii) other nonprofit medical institutions, hospitals, clinics, health centers, schools,
4719 colleges, and universities that are exempt from taxation under Section 501(c)(3) of the United
4720 States Internal Revenue Code of 1954;

4721 (iv) civil defense organizations;

4722 (v) political subdivisions; and

4723 (vi) any other types of institutions or activities that are eligible to acquire the property
4724 under federal law.

4725 (3) The division may:

4726 (a) receive applications from eligible health and educational institutions for the acquisition
4727 of federal surplus real property;

4728 (b) investigate the applications;

4729 (c) obtain opinions about those applications from the appropriate health or educational
4730 authorities of Utah;

4731 (d) make recommendations about the need of the applicant for the property, the merits of
4732 the applicant's proposed use of the property, and the suitability of the property for those purposes;
4733 and

4734 (e) otherwise assist in the processing of those applications for acquisition of real and
4735 related personal property of the United States under the property act.

4736 (4) The division may appoint advisory boards or committees.

4737 (5) If required by law or regulation of the United States in connection with the disposal
4738 of surplus real property and the receipt, warehousing, and distribution of surplus personal property
4739 received by the division from the United States, the division may:

- 4740 (a) make certifications, take action, and make expenditures;
- 4741 (b) enter into contracts, agreements, and undertakings for and in the name of the state
4742 including cooperative agreements with the federal agencies providing for use by and exchange
4743 between them of the property, facilities, personnel, and services of each by the other;
- 4744 (c) require reports; and
- 4745 (d) make investigations.
- 4746 (6) The division shall act as the clearinghouse of information for public and private
4747 nonprofit institutions, organizations, and agencies eligible to acquire federal surplus real property
4748 to:
- 4749 (a) locate both real and personal property available for acquisition from the United States;
- 4750 (b) ascertain the terms and conditions under which that property may be obtained;
- 4751 (c) receive requests from those institutions, organizations, and agencies and transmit to
4752 them all available information in reference to that property; and
- 4753 (d) aid and assist those institutions, organizations, and agencies in every way possible in
4754 those acquisitions or transactions.
- 4755 (7) The division shall:
- 4756 (a) cooperate with the departments or agencies of the United States;
- 4757 (b) file a state plan of operation;
- 4758 (c) operate according to that plan;
- 4759 (d) take the actions necessary to meet the minimum standards prescribed by the property
4760 act;
- 4761 (e) make any reports required by the United States or any of its departments or agencies;
4762 and
- 4763 (f) comply with the laws of the United States and the regulations of any of the departments
4764 or agencies of the United States governing the allocation of, transfer of, use of, or accounting for
4765 any property donated to the state.

4766 Section 108. Section **63B-7-502** is amended to read:

4767 **63B-7-502. Other capital facility authorizations and intent language.**

- 4768 (1) (a) It is the intent of the Legislature that if funding from General Obligation bonding
4769 is provided for construction of new facilities, the Division of Finance shall transfer any occupying
4770 agency funds that are currently being used for rent payments to the service fund for debt service

4771 on the bonds.

4772 (b) The Division of Finance may not transfer agency funds for operation and maintenance
4773 costs, which will continue to be incurred by the occupying agency.

4774 (2) It is the intent of the Legislature that Utah State University use institutional funds to
4775 plan, design, and construct the American West Heritage Center under the direction of the director
4776 of the Division of Facilities Construction and Management unless supervisory authority has been
4777 delegated.

4778 (3) It is the intent of the Legislature that:

4779 (a) Utah State University allow the construction of the Poisonous Plant Laboratory on
4780 state-owned property under the direction of the Federal Government with oversight by the director
4781 of the Division of Facilities Construction and Management and Utah State University as may be
4782 required; and

4783 (b) no state funds be used for any portion of this project.

4784 (4) It is the intent of the Legislature that:

4785 (a) Weber State University use institutional funds to plan, design, and construct the Weight
4786 Training room addition under the direction of the director of the Division of Facilities Construction
4787 and Management unless supervisory authority has been delegated; and

4788 (b) no state funds be used for any portion of this project.

4789 (5) It is the intent of the Legislature that:

4790 (a) the College of Eastern Utah, San Juan campus, use institutional and other funds to plan,
4791 design, and construct the Arts and Conference Center under the direction of the director of the
4792 Division of Facilities Construction and Management unless supervisory authority has been
4793 delegated; and

4794 (b) no state funds be used for any portion of this project.

4795 (6) It is the intent of the Legislature that:

4796 (a) the University of Utah allow the construction of a privately owned West Health Science
4797 Mixed Use Facility on state-owned land located at the main campus of the University, under the
4798 oversight of the director of the Division of Facilities Construction and Management; and

4799 (b) no state funds be used for any portion of this project.

4800 (7) It is the intent of the Legislature that the Division of Facilities Construction and
4801 Management use up to \$1,225,000 of the funds authorized for the Dead Horse Point Visitors

4802 Center project in Section 63B-6-102 for additional code upgrades and other critical repairs to the
4803 Dead Horse Point Visitors Center in addition to the modifications needed to meet [with] the
4804 Americans with Disabilities Act requirements.

4805 (8) It is the intent of the Legislature that:

4806 (a) the Division of Facilities Construction and Management proceed with the design of the
4807 Physical Education Building at Southern Utah University;

4808 (b) the design include the full project scope, excluding funds for the purchase of the
4809 middle school;

4810 (c) the 1999 Legislature rank the Physical Education Building at Southern Utah University
4811 as the top-ranked capital facility project for full funding in the 1999 annual general session of the
4812 Legislature; and

4813 (d) the Division of Facilities Construction and Management proceed with the bidding
4814 process for construction of this project.

4815 Section 109. Section **67-1-9** is amended to read:

4816 **67-1-9. Governor's residence -- Sources of funds.**

4817 (1) [~~The proceeds from the sale of the property required to be sold in Section 67-1-8.1~~
4818 ~~shall be used for the restoration of the Kearns' mansion and to the extent possible, the carriage~~
4819 ~~house adjacent to the mansion, and thereafter, the]~~ The Kearns mansion shall be the official
4820 residence of the governor.

4821 (2) The building board may apply for, accept and expend funds from federal and other
4822 sources for carrying out the purposes of Section 67-1-8.1 and this [act] section.

4823 Section 110. Section **67-1a-1** is amended to read:

4824 **67-1a-1. Intent of Legislature.**

4825 It is the [purpose] intent of the Legislature to emphasize the significant responsibilities and
4826 duties assigned to the lieutenant governor of the state. As the second highest official of the state,
4827 the lieutenant governor is next in command of the executive department in the event of death,
4828 removal, resignation, or disability of the governor. The assignment of important responsibilities
4829 to the lieutenant governor is essential to the continuity of state government and for the effective
4830 use of funds appropriated to the office of lieutenant governor.

4831 Section 111. Section **73-10b-2** is amended to read:

4832 **73-10b-2. Definitions.**

4833 As used in this chapter:

4834 (1) "Drinking water project" means any work or facility necessary or desirable to provide
4835 water for human consumption and other domestic uses which has at least 15 service connections
4836 or serves an average of 25 individuals daily for at least 60 days of the year and includes collection,
4837 treatment, storage, and distribution facilities under the control of the operator and used primarily
4838 with the system, and collection pretreatment or storage facilities used primarily in connection with
4839 the system but not under the operator's control.

4840 (2) "Political subdivision" means any county, city, town, improvement district,
4841 metropolitan water district, water conservancy district, special service district, drainage district,
4842 irrigation district, separate legal or administrative entity created under Title 11, Chapter 13,
4843 Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws
4844 of Utah.

4845 (3) "Sinking fund" means the 1983 general obligation water, wastewater, and drinking
4846 water bonds sinking fund created by Section 73-10b-12.

4847 [~~(7)~~] (4) "Wastewater project" means any sewer, storm or sanitary sewage system, sewage
4848 treatment facility and system, lagoon, sewage collection facility and system, and related pipelines,
4849 and all similar systems, works, and facilities necessary or desirable to collect, hold, cleanse, or
4850 purify any sewage or other polluted waters of this state.

4851 [~~(4)~~] (5) "Waters of this state" means any stream, lake, pond, marsh, watercourse,
4852 waterway, well, spring, irrigation system, drainage system, or other body or accumulation of water,
4853 whether surface, underground, natural, artificial, public, or private, or other water resource of the
4854 state, which is contained within or flows in or through Utah.

4855 [~~(5)~~] (6) "Water project" means any work or facility necessary or desirable to conserve,
4856 develop, protect, or treat the waters of this state including, without limitation, any reservoir,
4857 diversion dam, irrigation dam and system, culinary water system, water work, water treatment
4858 facility, canal, ditch, aqueduct, pipeline, and related structures and facilities.

4859 [~~(6)~~] (7) "Water project costs" or "wastewater project costs" or "drinking water project
4860 costs" means, as appropriate, the cost of acquiring and constructing any water project, wastewater
4861 project or drinking water project, including:

4862 (a) the cost of acquisition and construction of any facility or any modification,
4863 improvement, or extension of a facility;

- 4864 (b) any cost incident to the acquisition of any necessary property, easement, or
4865 right-of-way;
- 4866 (c) engineering or architectural fees, legal fees, fiscal agents', and financial advisors' fees;
- 4867 (d) any cost incurred for any preliminary planning to determine the economic and
4868 engineering feasibility of a proposed project;
- 4869 (e) costs of economic investigations and studies, surveys, preparation of designs, plans,
4870 working drawings, specifications, and the inspection and supervision of the construction of any
4871 facility;
- 4872 (f) interest accruing on loans made under this chapter during acquisition and construction
4873 of the water project, drinking water project, or wastewater project; and
- 4874 (g) any other cost incurred by the political subdivision, the Board of Water Resources, the
4875 Division of Water Resources, the Water Quality Board, the Drinking Water Board, or the
4876 Department of Environmental Quality, in connection with the issuance of obligations of the
4877 political subdivision to evidence any loan made to it under this chapter.

4878 Section 112. Section **73-10d-4** is amended to read:

4879 **73-10d-4. Notice of intention to enter privatization project -- Petition for election --**
4880 **Election procedures -- Powers of political subdivision -- Public bidding laws not to apply.**

4881 (1) The governing authority of any political subdivision considering entering into a
4882 privatization project agreement shall issue a notice of intention setting forth a brief summary of
4883 the agreement provisions and the time within which and place at which petitions may be filed
4884 requesting the calling of an election in the political subdivision to determine whether the
4885 agreement should be approved. The notice of intention shall specify the form of the petitions. If,
4886 within 30 days after the publication of the notice of intention, petitions are filed with the clerk,
4887 recorder, or similar officer of the political subdivision, signed by at least 5% of the qualified
4888 electors of the political subdivision (as certified by the county clerks of the respective counties
4889 within which the political subdivision is located) requesting an election be held to authorize the
4890 agreement, then the governing authority shall proceed to call and hold an election. If an adequate
4891 petition is not filed within 30 days, the governing authority may adopt a resolution so finding and
4892 may proceed to enter into the agreement.

4893 (2) If, under Subsection (1), the governing authority of a political subdivision is required
4894 to call an election to authorize an agreement, the governing authority shall adopt a resolution

4895 directing that an election be held in the political subdivision for the purpose of determining
4896 whether the political subdivision may enter into the agreement. The resolution calling the election
4897 shall be adopted, notice of the election shall be given, voting precincts shall be established, the
4898 election shall be held, voters' qualifications shall be determined, and the results shall be canvassed
4899 in the manner and subject to the conditions provided for in Title 11, Chapter 14, [the] Utah
4900 Municipal Bond Act.

4901 (3) A political subdivision may, upon approval of an agreement as provided by
4902 Subsections (1) and (2) and subject to the powers and rules of the supervising agency:

4903 (a) supervise and regulate the construction, maintenance, ownership, and operation of all
4904 privatization projects within its jurisdiction or in which it has a contractual interest;

4905 (b) contract, by entry into agreements with private owner/operators for the provision within
4906 its jurisdiction of the services of privatization projects;

4907 (c) levy and collect taxes, as otherwise provided by law, and impose and collect
4908 assessments, fees, or charges for services provided by privatization projects, as appropriate, and,
4909 subject to any limitation imposed by the constitution, pledge, assign, or otherwise convey as
4910 security for the payment of its obligations under any agreements any revenues and receipts derived
4911 from any assessments, fees, or charges for services provided by privatization projects;

4912 (d) require the private owner/operator to obtain any and all licenses as appropriate under
4913 federal, state, and local law and impose other requirements which are necessary or desirable to
4914 discharge the responsibility of the political subdivision to supervise and regulate the construction,
4915 maintenance, ownership, and operation of any privatization project;

4916 (e) control the right to contract, maintain, own, and operate any privatization project and
4917 the services provided in connection with that project within its jurisdiction;

4918 (f) purchase, lease, or otherwise acquire all or any part of a privatization project;

4919 (g) with respect to the services of any privatization project, control the right to establish
4920 or regulate the rates paid by the users of the services within the jurisdiction of the political
4921 subdivision;

4922 (h) agree that the sole and exclusive right to provide the services within its jurisdiction
4923 related to privatization projects be assumed by any private owner/operator;

4924 (i) contract for the lease or purchase of land, facilities, equipment, and vehicles for the
4925 operation of privatization projects;

4926 (j) lease, sell, or otherwise convey, as permitted by state and local law, but without any
4927 requirement of competitive public bidding, land, facilities, equipment, and vehicles, previously
4928 used in connection with privatization projects, to private owner/operators; and

4929 (k) establish policies for the operation of any privatization project within its jurisdiction
4930 or with respect to which it has a contractual interest, including hours of operation, the character
4931 and kinds of services, and other rules necessary for the safety of operating personnel.

4932 (4) Any political subdivision may enter into agreements with respect to privatization
4933 projects. Agreements may contain provisions relating to, without limitation, any matter provided
4934 for in this section or consistent with the purposes of this chapter.

4935 (5) Any agreement entered into between a political subdivision and a private
4936 owner/operator for the provision of the services of a privatization project is considered an exercise
4937 of that political subdivision's business or proprietary power binding upon its succeeding governing
4938 authorities. Any agreement made by a political subdivision with a private owner/operator for
4939 payment for services provided or to be provided may not be construed to be an indebtedness or a
4940 lending of credit of the political subdivision within the meaning of any constitutional or statutory
4941 restriction.

4942 (6) The provisions of the various laws of the state and the rules or ordinances of a political
4943 subdivision which would otherwise require public bidding in respect to any matter provided for
4944 in this chapter shall have no application to that matter.

4945 Section 113. Section **73-10d-7** is amended to read:

4946 **73-10d-7. Agreements by political subdivisions for privatization projects -- Joint**
4947 **interests.**

4948 (1) Any one or more political subdivisions, or the United States or any of its agencies, may
4949 enter into long-term agreements with any person for joint or cooperative action related to the
4950 acquisition, construction, maintenance, ownership, operation, and improvement of privatization
4951 projects in accordance with the terms, conditions, and consideration provided in any long-term
4952 agreements. Any payments made by a political subdivision under a long-term agreement for joint
4953 or cooperative action may not be construed to be an indebtedness of or a lending of the credit of
4954 the political subdivision within the meaning of any constitutional or statutory restriction, and,
4955 except as required by this chapter and the constitution, no election is necessary for the
4956 authorization of any long-term agreement for joint or cooperative action.

4957 (2) Any one or more political subdivisions may construct, purchase, or otherwise acquire
4958 joint interests in any privatization project or any part of a privatization project, for common use
4959 with any private entity or other political subdivision, or may sell or lease to any other political
4960 subdivision or person a partial interest in a privatization project. Political subdivisions may
4961 finance their joint interests in privatization projects in the manner provided for and subject to Title
4962 11, Chapter 14, [the] Utah Municipal Bond Act, if otherwise eligible thereunder to finance capital
4963 improvement.

4964 Section 114. Section **73-10h-8** is amended to read:

4965 **73-10h-8. Terms and conditions of sale -- Plan of financing -- Signatures --**
4966 **Replacement -- Registration -- Federal rebate.**

4967 (1) In the issuance of bonds, the commission may determine by resolution:

4968 (a) the manner of sale, including public or private sale;

4969 (b) the terms and conditions of sale, including the price, whether at, below, or above face
4970 value;

4971 (c) denominations;

4972 (d) form;

4973 (e) manner of execution;

4974 (f) manner of authentication;

4975 (g) place and medium of purchase;

4976 (h) redemption terms; and

4977 (i) other provisions and details it considers appropriate.

4978 (2) The commission may by resolution adopt a plan of financing, which may include terms
4979 and conditions of arrangements entered into by the commission on behalf of the state with financial
4980 and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and
4981 remarketing, indexing, and tender agent agreements to secure the bonds, including payment from
4982 any legally available source of fees, charges, or other amounts coming due under the agreements
4983 entered into by the commission.

4984 (3) (a) Any signature of a public official authorized by resolution of the commission to
4985 sign the bonds may be a facsimile signature of that official imprinted, engraved, stamped, or
4986 otherwise placed on the bonds.

4987 (b) If all signatures of public officials on the bonds are facsimile signatures, provision shall

4988 be made for a manual authenticating signature on the bonds by or on behalf of a designated
4989 authentication agent. A facsimile of the state seal may be imprinted, engraved, stamped, or
4990 otherwise placed on the bonds.

4991 (c) If an official ceases to hold office before delivery of the bonds signed by that official,
4992 the signature or facsimile signature of the official is nevertheless valid for all purposes.

4993 (4) The commission by resolution may provide for the replacement of lost, destroyed, or
4994 mutilated bonds or for the exchange of bonds after issuance for bonds of smaller or larger
4995 denominations. Bonds in changed denominations shall be exchanged for the original bonds in like
4996 aggregate principal amounts and in a manner that prevents the duplication of interest, and shall
4997 bear interest at the same rate, mature on the same date, and be as nearly as practicable in form as
4998 the original bonds.

4999 (5) (a) Bonds may be registered as to both principal and interest or may be in a book entry
5000 form under which the right to principal and interest may be transferred only through a book entry.

5001 (b) The commission may provide for the services and payment for the services of one or
5002 more financial institutions or other entities or persons, or nominees, within or outside the state, for
5003 the authentication, registration, and transfer, including record, bookkeeping, or book entry
5004 functions, exchange, and payment of the bonds.

5005 (c) The records of ownership, registration, transfer, and exchange of the bonds, and of
5006 persons to whom payment with respect to the obligations is made, are private records or protected
5007 records as defined in Section 63-2-103.

5008 (d) The bonds and any evidences of participation interests in the bonds may be issued,
5009 executed, authenticated, registered, transferred, exchanged, and otherwise made to comply with
5010 Title 15, Chapter 7, Registered Public Obligations Act, or any other act of the Legislature relating
5011 to the registration of obligations enacted to meet the requirements of Section 149, Internal Revenue
5012 Code of 1986, as amended, or any successor to it, and applicable regulations.

5013 (6) The commission may, ~~be~~ by resolution, provide for payment to the United States of
5014 such amounts as may be necessary to comply with Section 148(f), Internal Revenue Code of 1986,
5015 as amended, and may enter into agreements with financial and other institutions and attorneys to
5016 provide for the calculation, holding, and payment of such amounts and provide for payment from
5017 any legally available source of fees, charges, or other amounts coming due under any agreements
5018 entered into by the commission.

5019 Section 115. Section **76-8-316** is amended to read:

5020 **76-8-316. Influencing, impeding, or retaliating against a judge or member of the**
5021 **Board of Pardons and Parole.**

5022 (1) A person is guilty of a third degree felony if the person threatens to assault, kidnap, or
5023 murder a judge or a member of the Board of Pardons and Parole with the intent to impede,
5024 intimidate, or interfere with the judge or member of the board while engaged in the performance
5025 of the judge's or member's official duties or with the intent to retaliate against the judge or member
5026 on account of the performance of those official duties.

5027 (2) A person is guilty of a second degree felony if the person commits an assault on a judge
5028 or a member of the Board of Pardons and Parole with the intent to impede, intimidate, or interfere
5029 with the judge or member of the board while engaged in the performance of the judge's or
5030 member's official duties, or with the intent to retaliate against the judge or member on account of
5031 the performance of those official duties.

5032 (3) A person is guilty of a first degree felony if the person commits aggravated assault or
5033 attempted murder on a judge or a member of the Board of Pardons and Parole with the purpose to
5034 impede, intimidate, or interfere with the judge or member of the board while engaged in the
5035 performance of the judge's or member's official duties or with the purpose to retaliate against the
5036 judge or member on account of the performance of those official duties.

5037 (4) As used in this section:

5038 (a) "Immediate family" means parents, spouse, surviving spouse, children, and siblings of
5039 the officer.

5040 (b) "Judge" means judges of all courts of record and courts not of record.

5041 (c) "Judge or member" includes the members of the judge's or member's immediate family.

5042 (d) "Member of the Board of Pardons and Parole" means appointed members of the board.

5043 (5) A member of the Board of Pardons and Parole is an executive officer for purposes of
5044 ~~[Subsections]~~ Subsection 76-5-202(1)(k).

5045 Section 116. Section **76-10-1201** is amended to read:

5046 **76-10-1201. Definitions.**

5047 For the purpose of this part:

5048 (1) "Material" means anything printed or written or any picture, drawing, photograph,
5049 motion picture, or pictorial representation, or any ~~[statute]~~ statue or other figure, or any recording

5050 or transcription, or any mechanical, chemical, or electrical reproduction, or anything which is or
5051 may be used as a means of communication. Material includes undeveloped photographs, molds,
5052 printing plates, and other latent representational objects.

5053 (2) "Performance" means any physical human bodily activity, whether engaged in alone
5054 or with other persons, including but not limited to singing, speaking, dancing, acting, simulating,
5055 or pantomiming.

5056 (3) "Distribute" means to transfer possession of materials whether with or without
5057 consideration.

5058 (4) "Knowingly" means an awareness, whether actual or constructive, of the character of
5059 material or of a performance. A person has constructive knowledge if a reasonable inspection or
5060 observation under the circumstances would have disclosed the nature of the subject matter and if
5061 a failure to inspect or observe is either for the purpose of avoiding the disclosure or is criminally
5062 negligent.

5063 (5) "Exhibit" means to show.

5064 (6) "Nudity" means the showing of the human male or female genitals, pubic area, or
5065 buttocks, with less than an opaque covering, or the showing of a female breast with less than an
5066 opaque covering, or any portion thereof below the top of the nipple, or the depiction of covered
5067 male genitals in a discernibly turgid state.

5068 (7) "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of
5069 a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is a female, breast,
5070 whether alone or between members of the same or opposite sex or between humans and animals
5071 in an act of apparent or actual sexual stimulation or gratification.

5072 (8) "Sexual excitement" means a condition of human male or female genitals when in a
5073 state of sexual stimulation or arousal, or the sensual experiences of humans engaging in or
5074 witnessing sexual conduct or nudity.

5075 (9) "Sado-masochistic abuse" means flagellation or torture by or upon a person who is
5076 nude or clad in undergarments, a mask, or in a revealing or bizarre costume, or the condition of
5077 being fettered, bound, or otherwise physically restrained on the part of one so clothed.

5078 (10) "Minor" means any person less than eighteen years of age.

5079 (11) "Harmful to minors" means that quality of any description or representation, in
5080 whatsoever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when

5081 it:

5082 (i) taken as a whole, appeals to the prurient interest in sex of minors;

5083 (ii) is patently offensive to prevailing standards in the adult community as a whole with
5084 respect to what is suitable material for minors; and

5085 (iii) taken as a whole, does not have serious value for minors. Serious value includes only
5086 serious literary, artistic, political or scientific value for minors.

5087 (12) "Contemporary community standards" means those current standards in the vicinage
5088 where an offense alleged under this act has occurred, is occurring, or will occur.

5089 (13) "Public place" includes a place to which admission is gained by payment of a
5090 membership or admission fee, however designated, notwithstanding its being designated a private
5091 club or by words of like import.

5092 Section 117. Section **76-10-1306** is amended to read:

5093 **76-10-1306. Aggravated exploitation of prostitution.**

5094 (1) A person is guilty of aggravated exploitation if:

5095 (a) in committing an act of exploiting prostitution, as defined in section 76-10-1305, he
5096 uses any force, threat, or fear against any person; or

5097 (b) the person procured, transported, or [~~pursuaded~~] persuaded or with whom he shares
5098 the proceeds of prostitution is under eighteen years of age or is the wife of the actor.

5099 (2) Aggravated exploitation of prostitution is a felony of the second degree.

5100 Section 118. Section **78-14-5** is amended to read:

5101 **78-14-5. Failure to obtain informed consent -- Proof required of patient -- Defenses**
5102 **-- Consent to health care.**

5103 (1) When a person submits to health care rendered by a health care provider, it shall be
5104 presumed that what the health care provider did was either expressly or impliedly authorized to
5105 be done. For a patient to recover damages from a health care provider in an action based upon the
5106 provider's failure to obtain informed consent, the patient must prove the following:

5107 (a) that a provider-patient relationship existed between the patient and health care
5108 provider;

5109 (b) the health care provider rendered health care to the patient;

5110 (c) the patient suffered personal injuries arising out of the health care rendered;

5111 (d) the health care rendered carried with it a substantial and significant risk of causing the

5112 patient serious harm;

5113 (e) the patient was not informed of the substantial and significant risk;

5114 (f) a reasonable, prudent person in the patient's position would not have consented to the
5115 health care rendered after having been fully informed as to all facts relevant to the decision to give
5116 consent. In determining what a reasonable, prudent person in the patient's position would do under
5117 the circumstances, the finder of fact shall use the viewpoint of the patient before health care was
5118 provided and before the occurrence of any personal injuries alleged to have arisen from said health
5119 care; and

5120 (g) the unauthorized part of the health care rendered was the proximate cause of personal
5121 injuries suffered by the patient.

5122 (2) It shall be a defense to any malpractice action against a health care provider based upon
5123 alleged failure to obtain informed consent if:

5124 (a) the risk of the serious harm which the patient actually suffered was relatively minor;

5125 (b) the risk of serious harm to the patient from the health care provider was commonly
5126 known to the public;

5127 (c) the patient stated, prior to receiving the health care complained of, that he would accept
5128 the health care involved regardless of the risk; or that he did not want to be informed of the matters
5129 to which he would be entitled to be informed;

5130 (d) the health care provider, after considering all of the attendant facts and [~~circumstanct~~]
5131 circumstances, used reasonable discretion as to the manner and extent to which risks were
5132 disclosed, if the health care provider reasonably believed that additional disclosures could be
5133 expected to have a substantial and adverse effect on the patient's condition; or

5134 (e) the patient or his representative executed a written consent which sets forth the nature
5135 and purpose of the intended health care and which contains a declaration that the patient accepts
5136 the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial results of
5137 health care and which acknowledges that health care providers involved have explained his
5138 condition and the proposed health care in a satisfactory manner and that all questions asked about
5139 the health care and its attendant risks have been answered in a manner satisfactory to the patient
5140 or his representative; such written consent shall be a defense to an action against a health care
5141 provider based upon failure to obtain informed consent unless the patient proves that the person
5142 giving the consent lacked capacity to consent or shows by clear and convincing proof that the

5143 execution of the written consent was induced by the defendant's affirmative acts of fraudulent
5144 misrepresentation or fraudulent omission to state material facts.

5145 (3) Nothing contained in this act shall be construed to prevent any person 18 years of age
5146 or over from refusing to consent to health care for his own person upon personal or religious
5147 grounds.

5148 (4) The following persons are authorized and empowered to consent to any health care not
5149 prohibited by law:

5150 (a) any parent, whether an adult or a minor, for his minor child;

5151 (b) any married person, for a spouse;

5152 (c) any person temporarily standing in loco parentis, whether formally serving or not, for
5153 the minor under his care and any guardian for his ward;

5154 (d) any person 18 years of age or over for his or her parent who is unable by reason of age,
5155 physical or mental condition, to provide such consent;

5156 (e) any patient 18 years of age or over;

5157 (f) any female regardless of age or marital status, when given in connection with her
5158 pregnancy or childbirth;

5159 (g) in the absence of a parent, any adult for his minor brother or sister; and

5160 (h) in the absence of a parent, any grandparent for his minor grandchild.

5161 (5) No person who in good faith consents or authorizes health care treatment or procedures
5162 for another as provided by this act shall be subject to civil liability.

5163 Section 119. Section **78-23-10** is amended to read:

5164 **78-23-10. Allowable claims against exempt property.**

5165 (1) Notwithstanding other provisions of this chapter, but subject to the provisions of the
5166 Utah Uniform Consumer Credit Code:

5167 (a) A creditor may levy against exempt property of any kind to enforce a claim for:

5168 (i) alimony, support, or maintenance;

5169 (ii) unpaid earnings of up to one month's compensation or the full-time equivalent of one
5170 month's compensation for personal services of an employee; or

5171 (iii) state or local taxes.

5172 (b) A creditor may levy against exempt property to enforce a claim for:

5173 (i) the purchase price of the property or a loan made for the purpose of enabling an

5174 individual to purchase the specific property used for that purpose;

5175 (ii) [~~For~~] labor or materials furnished to make, repair, improve, preserve, store, or

5176 transport the specific property; and

5177 (iii) a special assessment imposed to defray costs of a public improvement benefiting the

5178 property.

5179 (2) This section does not affect the right to enforce any statutory lien or security interest

5180 in exempt property.

5181 Section 120. **Repealer.**

5182 This act repeals:

5183 Section **63C-5-101, Utah Pioneer Sesquicentennial Celebration -- Purpose.**

5184 Section **63C-5-103, Duties -- Responsibilities -- Quorum.**

5185 Section **63C-5-104, Removal of members -- Vacancies.**

5186 Section **63C-5-105, Staffing -- Division of State History -- Responsibilities.**

5187 Section **63C-5-106, Utah Pioneer Sesquicentennial Fund -- Use.**

5188 Section **63C-5-107, Repeal date.**

Legislative Review Note

as of 1-2-01 9:59 AM

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

Office of Legislative Research and General Counsel