

**REVISOR'S STATUTE**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Rebecca D. Lockhart**

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**LONG TITLE**

**General Description:**

This bill modifies parts of the Utah Code to make technical corrections including wording, cross references, and numbering changes.

**Highlighted Provisions:**

This bill:

► modifies parts of the Utah Code by making technical corrections including wording, cross referencing, and numbering changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-6-151**, as last amended by Chapter 90, Laws of Utah 2004

**11-36-501**, as enacted by Chapter 239, Laws of Utah 2002

**16-10a-1503**, as enacted by Chapter 277, Laws of Utah 1992

**16-10a-1530**, as enacted by Chapter 277, Laws of Utah 1992

**17-37-7**, as last amended by Chapter 95, Laws of Utah 2002

**17-43-201**, as last amended by Chapters 80 and 228, Laws of Utah 2004

**17-43-301**, as last amended by Chapter 80, Laws of Utah 2004

**17A-1-444**, as renumbered and amended by Chapter 186, Laws of Utah 1990



28           **17A-1-501**, as last amended by Chapter 30, Laws of Utah 1992  
29           **17A-2-325**, as renumbered and amended by Chapter 186, Laws of Utah 1990  
30           **17A-2-1051**, as last amended by Chapter 295, Laws of Utah 2004  
31           **17A-2-1409**, as last amended by Chapter 20, Laws of Utah 2004  
32           **17B-2-515.5**, as enacted by Chapter 257, Laws of Utah 2003  
33           **17B-4-1304**, as enacted by Chapter 133, Laws of Utah 2001  
34           **20A-3-302**, as last amended by Chapter 195, Laws of Utah 2004  
35           **20A-9-202**, as last amended by Chapter 146, Laws of Utah 2004  
36           **26-6b-3**, as last amended by Chapter 21, Laws of Utah 1999  
37           **31A-22-716**, as last amended by Chapter 108, Laws of Utah 2004  
38           **32A-12-505**, as last amended by Chapter 314, Laws of Utah 2003  
39           **34A-2-103**, as last amended by Chapter 116, Laws of Utah 2001  
40           **34A-2-105**, as last amended by Chapter 9, Laws of Utah 2001  
41           **35A-3-608**, as renumbered and amended by Chapter 90, Laws of Utah 2003  
42           **38-1-27.2**, as enacted by Chapter 148, Laws of Utah 2004  
43           **41-1a-1314**, as last amended by Chapter 48, Laws of Utah 2001  
44           **48-1-42**, as last amended by Chapter 41, Laws of Utah 1996  
45           **48-2c-1604**, as enacted by Chapter 260, Laws of Utah 2001  
46           **48-2c-1612**, as enacted by Chapter 260, Laws of Utah 2001  
47           **49-12-202**, as last amended by Chapter 330, Laws of Utah 2004  
48           **49-13-202**, as last amended by Chapter 330, Laws of Utah 2004  
49           **51-5-4.5**, as last amended by Chapter 159, Laws of Utah 2002  
50           **51-7-2**, as last amended by Chapter 159, Laws of Utah 2002  
51           **51-7-4**, as last amended by Chapters 159 and 250, Laws of Utah 2002  
52           **53-2-107**, as last amended by Chapter 195, Laws of Utah 2000  
53           **53A-17a-112**, as last amended by Chapter 320, Laws of Utah 2003  
54           **58-1-307**, as last amended by Chapters 156 and 280, Laws of Utah 2004  
55           **58-16a-501**, as last amended by Chapter 48, Laws of Utah 2004  
56           **58-17b-309**, as enacted by Chapter 280, Laws of Utah 2004  
57           **58-31d-103**, as enacted by Chapter 15, Laws of Utah 2004  
58           **58-42a-102**, as enacted by Chapter 240, Laws of Utah 1994

59           **61-6-5**, as last amended by Chapter 106, Laws of Utah 2000  
60           **62A-3-104.1**, as last amended by Chapter 254, Laws of Utah 1998  
61           **62A-4a-209**, as last amended by Chapters 265 and 306, Laws of Utah 2002  
62           **62A-15-108**, as last amended by Chapter 100, Laws of Utah 2003  
63           **62A-15-110**, as last amended by Chapter 100, Laws of Utah 2003  
64           **62A-15-713**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
65 Special Session  
66           **63-2-204**, as last amended by Chapter 280, Laws of Utah 1992  
67           **63-5b-102**, as last amended by Chapters 14 and 159, Laws of Utah 2002  
68           **63-34-14**, as enacted by Chapter 179, Laws of Utah 1997  
69           **63-38-8.1**, as last amended by Chapter 175, Laws of Utah 2001  
70           **63-38-9.5**, as last amended by Chapter 159, Laws of Utah 2002  
71           **63-38a-102**, as last amended by Chapter 159, Laws of Utah 2002  
72           **63-55-263**, as last amended by Chapters 37, 90 and 238, Laws of Utah 2004  
73           **63-56-5**, as last amended by Chapters 159 and 178, Laws of Utah 2002  
74           **63A-1-113**, as last amended by Chapter 159, Laws of Utah 2002  
75           **63A-9-101**, as enacted by Chapter 334, Laws of Utah 1996  
76           **67-3-1**, as last amended by Chapter 78, Laws of Utah 2003  
77           **67-5b-104**, as enacted by Chapter 192, Laws of Utah 1994  
78           **67-5b-106**, as last amended by Chapter 377, Laws of Utah 1997  
79           **70A-8-101**, as repealed and reenacted by Chapter 204, Laws of Utah 1996  
80           **75-5a-119**, as enacted by Chapter 272, Laws of Utah 1990  
81           **77-19-201**, as enacted by Chapter 137, Laws of Utah 2004  
82           **78-12-33.5**, as enacted by Chapter 208, Laws of Utah 1988

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

85           Section 1. Section **10-6-151** is amended to read:

86           **10-6-151. Independent audits required.**

87           Independent audits of all cities are required, to be performed in conformity with Title  
88 51, Chapter [2, ~~Audits of~~] 2a, Accounting Reports from Political Subdivisions, Interlocal  
89 Organizations, and Other Local Entities Act. In the case of a city organized under Title 10,

90 Chapter 3, Part 12, Optional Forms of Municipal Government Act, the council shall appoint an  
91 independent auditor for the purpose of complying with the requirements of this section and of  
92 Title 51, Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from Political Subdivisions, Interlocal  
93 Organizations, and Other Local Entities Act.

94 Section 2. Section **11-36-501** is amended to read:

95 **11-36-501. Private entity assessment of impact fees -- Notice and hearing -- Audit.**

96 (1) A private entity may only impose a charge for public facilities as a condition of  
97 development approval by imposing an impact fee. A private entity shall comply with the  
98 requirements of this chapter before imposing an impact fee.

99 (2) Except as otherwise specified in this chapter, a private entity is subject to the same  
100 requirements of this chapter as a local political subdivision.

101 (3) Where notice and hearing requirements are specified, a private entity shall comply  
102 with the notice and hearing requirements for special districts.

103 (4) A private entity that assesses an impact fee under this chapter is subject to the audit  
104 requirements of Title 51, Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from Political  
105 Subdivisions, Interlocal Organizations, and Other Local Entities Act.

106 Section 3. Section **16-10a-1503** is amended to read:

107 **16-10a-1503. Application for authority to transact business.**

108 (1) A foreign corporation may apply for authority to transact business in this state by  
109 delivering to the division for filing an application for authority to transact business setting  
110 forth:

111 (a) its corporate name and its assumed name, if any;

112 (b) the name of the state or country under whose law it is incorporated;

113 (c) its date of incorporation and period of its corporate duration;

114 (d) the street address of its principal office;

115 (e) the address of its registered office in this state and the name of its registered agent  
116 at that office;

117 (f) the names and usual business addresses of its current directors and officers;

118 (g) the date it commenced or expects to commence transacting business in this state;

119 and

120 (h) any additional information the division may determine is necessary or appropriate

121 to determine whether the application for authority to transact business should be filed.

122 (2) The foreign corporation shall deliver with the completed application for authority to  
123 transact business a certificate of existence, or a document of similar import, duly authorized by  
124 the ~~[secretary of state]~~ lieutenant governor or other official having custody of corporate records  
125 in the state or country under whose law it is incorporated. The certificate of existence shall be  
126 dated within 90 days prior to the filing of the application for authority to transact business by  
127 the division.

128 (3) The foreign corporation shall include in the application for authority to transact  
129 business, or in an accompanying document, the written consent to appointment by the  
130 designated registered agent.

131 Section 4. Section **16-10a-1530** is amended to read:

132 **16-10a-1530. Grounds for revocation.**

133 The division may commence a proceeding under Section 16-10a-1531 to revoke the  
134 authority of a foreign corporation to transact business in this state if:

135 (1) the foreign corporation does not deliver its annual report to the division when it is  
136 due;

137 (2) the foreign corporation does not pay when they are due any taxes, fees, or penalties  
138 imposed by this chapter or other applicable laws of this state;

139 (3) the foreign corporation is without a registered agent or registered office in this  
140 state;

141 (4) the foreign corporation does not inform the division under Section 16-10a-1509 or  
142 16-10a-1510 that its registered agent or registered office has changed, that its registered agent  
143 has resigned, or that its registered office has been discontinued;

144 (5) an incorporator, director, officer, or agent of the foreign corporation signs a  
145 document knowing it is false in any material respect with intent that the document be delivered  
146 to the division for filing; or

147 (6) the division receives a duly authenticated certificate from the ~~[secretary of state]~~  
148 lieutenant governor or other official having custody of corporate records in the state or country  
149 under whose law the foreign corporation is incorporated stating that the corporation has  
150 dissolved or disappeared as the result of a merger.

151 Section 5. Section **17-37-7** is amended to read:

152           **17-37-7. Annual report -- Financial statement.**

153           To the extent that independent accounting records are prepared and maintained by the  
154 planetarium, the planetarium board of directors shall make, or in the case of a contracting  
155 entity, require that there be made, an annual report to the county executive and the county  
156 legislative body on the condition and operation of the planetarium, including a financial  
157 statement. The financial statement shall be prepared in accordance with generally accepted  
158 accounting principles consistently applied and shall be reviewed by the county auditor. The  
159 planetarium shall be included in the annual audit of the county conducted by an independent  
160 public accountant as required by Title 51, Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from  
161 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

162           Section 6. Section **17-43-201** is amended to read:

163           **17-43-201. Local substance abuse authorities -- Responsibilities.**

164           (1) (a) (i) In each county operating under a county executive-council form of  
165 government under Section 17-52-504, the county legislative body is the local substance abuse  
166 authority, provided however that any contract for plan services shall be administered by the  
167 county executive.

168           (ii) In each county operating under a council-manager form of government under  
169 Section 17-52-505, the county manager is the local substance abuse authority.

170           (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
171 county legislative body is the local substance abuse authority.

172           (b) Within legislative appropriations and county matching funds required by this  
173 section, and under the policy direction of the board and the administrative direction of the  
174 division, each local substance abuse authority shall:

175           (i) develop substance abuse prevention and treatment services plans; and

176           (ii) provide substance abuse services to residents of the county.

177           (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
178 Cooperation Act, two or more counties may join to provide substance abuse prevention and  
179 treatment services.

180           (b) The legislative bodies of counties joining to provide services may establish  
181 acceptable ways of apportioning the cost of substance abuse services.

182           (c) Each agreement for joint substance abuse services shall:

183 (i) (A) designate the treasurer of one of the participating counties or another person as  
184 the treasurer for the combined substance abuse authorities and as the custodian of moneys  
185 available for the joint services; and

186 (B) provide that the designated treasurer, or other disbursing officer authorized by the  
187 treasurer, may make payments from the moneys for the joint services upon audit of the  
188 appropriate auditing officer or officers representing the participating counties;

189 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
190 the participating counties as the designated auditing officer for the combined substance abuse  
191 authorities;

192 (iii) (A) provide for the appointment of the county or district attorney of one of the  
193 participating counties as the designated legal officer for the combined substance abuse  
194 authorities; and

195 (B) authorize the designated legal officer to request and receive the assistance of the  
196 county or district attorneys of the other participating counties in defending or prosecuting  
197 actions within their counties relating to the combined substance abuse authorities; and

198 (iv) provide for the adoption of management, clinical, financial, procurement,  
199 personnel, and administrative policies as already established by one of the participating  
200 counties or as approved by the legislative body of each participating county or interlocal board.

201 (d) An agreement for joint substance abuse services may provide for joint operation of  
202 services and facilities or for operation of services and facilities under contract by one  
203 participating local substance abuse authority for other participating local substance abuse  
204 authorities.

205 (3) (a) Each local substance abuse authority is accountable to the department, the  
206 Department of Health, and the state with regard to the use of state and federal funds received  
207 from those departments for substance abuse services, regardless of whether the services are  
208 provided by a private contract provider.

209 (b) Each local substance abuse authority shall comply, and require compliance by its  
210 contract provider, with all directives issued by the department and the Department of Health  
211 regarding the use and expenditure of state and federal funds received from those departments  
212 for the purpose of providing substance abuse programs and services. The department and  
213 Department of Health shall ensure that those directives are not duplicative or conflicting, and

214 shall consult and coordinate with local substance abuse authorities with regard to programs and  
215 services.

216 (4) Each local substance abuse authority shall:

217 (a) review and evaluate substance abuse prevention and treatment needs and services,  
218 including substance abuse needs and services for individuals incarcerated in a county jail or  
219 other county correctional facility;

220 (b) annually prepare and submit to the division a plan approved by the county  
221 legislative body for funding and service delivery that includes:

222 (i) provisions for services, either directly by the substance abuse authority or by  
223 contract, for adults, youth, and children, including those incarcerated in a county jail or other  
224 county correctional facility; and

225 (ii) primary prevention, targeted prevention, early intervention, and treatment services;

226 (c) establish and maintain, either directly or by contract, programs licensed under Title  
227 62A, Chapter 2, Licensure of Programs and Facilities;

228 (d) appoint directly or by contract a full or part time director for substance abuse  
229 programs, and prescribe the director's duties;

230 (e) provide input and comment on new and revised policies established by the board;

231 (f) establish and require contract providers to establish administrative, clinical,  
232 procurement, personnel, financial, and management policies regarding substance abuse services  
233 and facilities, in accordance with the policies of the board, and state and federal law;

234 (g) establish mechanisms allowing for direct citizen input;

235 (h) annually contract with the division to provide substance abuse programs and  
236 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and  
237 Mental Health Act;

238 (i) comply with all applicable state and federal statutes, policies, audit requirements,  
239 contract requirements, and any directives resulting from those audits and contract requirements;

240 (j) promote or establish programs for the prevention of substance abuse within the  
241 community setting through community-based prevention programs;

242 (k) provide funding equal to at least 20% of the state funds that it receives to fund  
243 services described in the plan;

244 (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal

245 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts  
246 Act, and Title 51, Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from Political Subdivisions,  
247 Interlocal Organizations, and Other Local Entities Act;

248 (m) for persons convicted of driving under the influence in violation of Subsection  
249 41-6-44(2) or Section 41-6-44.6, conduct the following as defined in Section 41-6-44:

250 (i) a screening;

251 (ii) an assessment;

252 (iii) an educational series; and

253 (iv) substance abuse treatment; and

254 (n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to  
255 supplement the cost of providing the services described in Subsection (4)(m).

256 (5) Before disbursing any public funds, each local substance abuse authority shall  
257 require that each entity that receives any public funds from the local substance abuse authority  
258 agrees in writing that:

259 (a) the entity's financial records and other records relevant to the entity's performance  
260 of the services provided to the local substance abuse authority shall be subject to examination  
261 by:

262 (i) the division;

263 (ii) the local substance abuse authority director;

264 (iii) (A) the county treasurer and county or district attorney; or

265 (B) if two or more counties jointly provide substance abuse services under an  
266 agreement under Subsection (2), the designated treasurer and the designated legal officer;

267 (iv) the county legislative body; and

268 (v) in a county with a county executive that is separate from the county legislative  
269 body, the county executive;

270 (b) the county auditor may examine and audit the entity's financial and other records  
271 relevant to the entity's performance of the services provided to the local substance abuse  
272 authority; and

273 (c) the entity will comply with the provisions of Subsection (3)(b).

274 (6) A local substance abuse authority may receive property, grants, gifts, supplies,  
275 materials, contributions, and any benefit derived therefrom, for substance abuse services. If

276 those gifts are conditioned upon their use for a specified service or program, they shall be so  
277 used.

278 (7) (a) As used in this section, "public funds" means the same as that term is defined in  
279 Section 17-43-203.

280 (b) Public funds received for the provision of services pursuant to the local substance  
281 abuse plan may not be used for any other purpose except those authorized in the contract  
282 between the local substance abuse authority and the provider for the provision of plan services.

283 Section 7. Section **17-43-301** is amended to read:

284 **17-43-301. Local mental health authorities -- Responsibilities.**

285 (1) (a) (i) In each county operating under a county executive-council form of  
286 government under Section 17-52-504, the county legislative body is the local mental health  
287 authority, provided however that any contract for plan services shall be administered by the  
288 county executive.

289 (ii) In each county operating under a council-manager form of government under  
290 Section 17-52-505, the county manager is the local mental health authority.

291 (iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the  
292 county legislative body is the local mental health authority.

293 (b) Within legislative appropriations and county matching funds required by this  
294 section, under the policy direction of the board and the administrative direction of the division,  
295 each local mental health authority shall provide mental health services to persons within the  
296 county.

297 (2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal  
298 Cooperation Act, two or more counties may join to provide mental health prevention and  
299 treatment services.

300 (b) The legislative bodies of counties joining to provide services may establish  
301 acceptable ways of apportioning the cost of mental health services.

302 (c) Each agreement for joint mental health services shall:

303 (i) (A) designate the treasurer of one of the participating counties or another person as  
304 the treasurer for the combined mental health authorities and as the custodian of moneys  
305 available for the joint services; and

306 (B) provide that the designated treasurer, or other disbursing officer authorized by the

307 treasurer, may make payments from the moneys available for the joint services upon audit of  
308 the appropriate auditing officer or officers representing the participating counties;

309 (ii) provide for the appointment of an independent auditor or a county auditor of one of  
310 the participating counties as the designated auditing officer for the combined mental health  
311 authorities;

312 (iii) (A) provide for the appointment of the county or district attorney of one of the  
313 participating counties as the designated legal officer for the combined mental health  
314 authorities; and

315 (B) authorize the designated legal officer to request and receive the assistance of the  
316 county or district attorneys of the other participating counties in defending or prosecuting  
317 actions within their counties relating to the combined mental health authorities; and

318 (iv) provide for the adoption of management, clinical, financial, procurement,  
319 personnel, and administrative policies as already established by one of the participating  
320 counties or as approved by the legislative body of each participating county or interlocal board.

321 (d) An agreement for joint mental health services may provide for:

322 (i) joint operation of services and facilities or for operation of services and facilities  
323 under contract by one participating local mental health authority for other participating local  
324 mental health authorities; and

325 (ii) allocation of appointments of members of the mental health advisory council  
326 between or among participating counties.

327 (3) (a) Each local mental health authority is accountable to the department, the  
328 Department of Health, and the state with regard to the use of state and federal funds received  
329 from those departments for mental health services, regardless of whether the services are  
330 provided by a private contract provider.

331 (b) Each local mental health authority shall comply, and require compliance by its  
332 contract provider, with all directives issued by the department and the Department of Health  
333 regarding the use and expenditure of state and federal funds received from those departments  
334 for the purpose of providing mental health programs and services. The department and  
335 Department of Health shall ensure that those directives are not duplicative or conflicting, and  
336 shall consult and coordinate with local mental health authorities with regard to programs and  
337 services.

338 (4) (a) Each local mental health authority shall:

339 (i) review and evaluate mental health needs and services, including mental health needs

340 and services for persons incarcerated in a county jail or other county correctional facility;

341 (ii) as provided in Subsection (4)(b), annually prepare and submit to the division a

342 plan approved by the county legislative body for mental health funding and service delivery,

343 either directly by the local mental health authority or by contract;

344 (iii) establish and maintain, either directly or by contract, programs licensed under Title

345 62A, Chapter 2, Licensure of Programs and Facilities;

346 (iv) appoint, directly or by contract, a full-time or part-time director for mental health

347 programs and prescribe the director's duties;

348 (v) provide input and comment on new and revised policies established by the board;

349 (vi) establish and require contract providers to establish administrative, clinical,

350 personnel, financial, procurement, and management policies regarding mental health services

351 and facilities, in accordance with the policies of the board and state and federal law;

352 (vii) establish mechanisms allowing for direct citizen input;

353 (viii) annually contract with the division to provide mental health programs and

354 services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and

355 Mental Health Act;

356 (ix) comply with all applicable state and federal statutes, policies, audit requirements,

357 contract requirements, and any directives resulting from those audits and contract requirements;

358 (x) provide funding equal to at least 20% of the state funds that it receives to fund

359 services described in the plan;

360 (xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal

361 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts

362 Act, and Title 51, Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from Political Subdivisions,

363 Interlocal Organizations, and Other Local Entities Act; and

364 (xii) take and retain physical custody of minors committed to the physical custody of

365 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,

366 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

367 (b) Each plan under Subsection (4)(a)(ii) shall include services for adults, youth, and

368 children, which shall include:

- 369 (i) inpatient care and services;
- 370 (ii) residential care and services;
- 371 (iii) outpatient care and services;
- 372 (iv) 24-hour crisis care and services;
- 373 (v) psychotropic medication management;
- 374 (vi) psychosocial rehabilitation, including vocational training and skills development;
- 375 (vii) case management;
- 376 (viii) community supports, including in-home services, housing, family support  
377 services, and respite services;
- 378 (ix) consultation and education services, including case consultation, collaboration  
379 with other county service agencies, public education, and public information; and
- 380 (x) services to persons incarcerated in a county jail or other county correctional facility.
- 381 (5) Before disbursing any public funds, each local mental health authority shall require  
382 that each entity that receives any public funds from a local mental health authority agrees in  
383 writing that:
  - 384 (a) the entity's financial records and other records relevant to the entity's performance  
385 of the services provided to the mental health authority shall be subject to examination by:
    - 386 (i) the division;
    - 387 (ii) the local mental health authority director;
    - 388 (iii) (A) the county treasurer and county or district attorney; or  
389 (B) if two or more counties jointly provide mental health services under an agreement  
390 under Subsection (2), the designated treasurer and the designated legal officer;
    - 391 (iv) the county legislative body; and
    - 392 (v) in a county with a county executive that is separate from the county legislative  
393 body, the county executive;
  - 394 (b) the county auditor may examine and audit the entity's financial and other records  
395 relevant to the entity's performance of the services provided to the local mental health  
396 authority; and
  - 397 (c) the entity will comply with the provisions of Subsection (3)(b).
- 398 (6) A local mental health authority may receive property, grants, gifts, supplies,  
399 materials, contributions, and any benefit derived therefrom, for mental health services. If those

400 gifts are conditioned upon their use for a specified service or program, they shall be so used.

401 (7) (a) As used in this section, "public funds" means the same as that term is defined in  
402 Section 17-43-303.

403 (b) Public funds received for the provision of services pursuant to the local mental  
404 health plan may not be used for any other purpose except those authorized in the contract  
405 between the local mental health authority and the provider for the provision of plan services.

406 Section 8. Section **17A-1-444** is amended to read:

407 **17A-1-444. Independent audits required.**

408 Independent audits of all districts are required to be performed in conformity with Title  
409 51, Chapter [2] 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations,  
410 and Other Local Entities Act. The governing body shall appoint an independent auditor for the  
411 purpose of complying with the requirements of this section and with Title 51, Chapter [2] 2a,  
412 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
413 Entities Act.

414 Section 9. Section **17A-1-501** is amended to read:

415 **17A-1-501. Definitions.**

416 As used in this part:

417 (1) "Audit reports" means the reports of any independent audit of the district performed  
418 by:

419 (a) an independent auditor as required by Title 51, Chapter [2] 2a, Accounting Reports  
420 from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

421 (b) the state auditor; or

422 (c) the legislative auditor.

423 (2) "Board" means the governing body of any special district.

424 (3) "Budget" means a plan of financial operations for a fiscal year that includes:

425 (a) estimates of proposed expenditures for given purposes and the proposed means of  
426 financing them;

427 (b) the source and amount of estimated revenue for the district for the fiscal year;

428 (c) fund balance in each fund at the beginning of the fiscal year and the projected fund  
429 balance for each fund at the end of the fiscal year; and

430 (d) capital projects or budgets for proposed construction or improvement to capital

431 facilities within the district.

432 (4) "Constituent entity" means any county, city, or town that levies property taxes  
433 within the boundaries of the district.

434 (5) (a) "Customer agencies" means those governmental entities, except school districts,  
435 institutions of higher education, and federal government agencies that purchase or obtain  
436 services from the special district.

437 (b) "Customer agencies" for purposes of state agencies means the state auditor.

438 (6) "Independent special district" means any special district established under authority  
439 of Title 17A, Chapter 2.

440 Section 10. Section **17A-2-325** is amended to read:

441 **17A-2-325. Creation of districts authorized.**

442 Improvement districts may be created within this state under authority of Chapter 24,  
443 Laws of Utah, 1949, as amended by this session of the Legislature, despite the fact that all or  
444 any part of any district thereby created lies within the boundaries of a water [~~conservance~~  
445 conservancy district theretofore or thereafter created under authority of [~~Chapter 2;~~ Part 14,  
446 Water Conservancy Districts.

447 Section 11. Section **17A-2-1051** is amended to read:

448 **17A-2-1051. Members of board subject to recall.**

449 (1) (a) A member of the board of trustees of a district is subject to recall at any time by  
450 the governing body of the municipality, county, or unincorporated county area from which the  
451 member is appointed.

452 (b) A recall of a member of the board of trustees shall be made in the same manner as  
453 original appointment.

454 (c) The appointing entities shall provide written notice to the member of the board of  
455 trustees being recalled.

456 (2) Upon written notice to the board, a member may resign the board member's  
457 position as trustee.

458 (3) If a member of the board is recalled or resigns under this section, the vacancy shall  
459 be filled in accordance with Subsection 17A-2-1038[~~(7)~~](5).

460 Section 12. Section **17A-2-1409** is amended to read:

461 **17A-2-1409. Board of trustees -- Selection of members -- Number --**

462 **Qualifications -- Terms -- Vacancies -- Surety bonds -- Meetings -- Reports.**

463 (1) (a) Within 45 days after entry of the decree incorporating the district, the board of  
464 trustees shall be selected as provided in this Subsection (1).

465 (b) For a district that consists of a single county, the county legislative body of that  
466 county shall appoint each trustee.

467 (c) (i) For a district that consists of more than a single county, the governor, with the  
468 consent of the Senate, shall appoint each trustee from nominees submitted as provided in this  
469 Subsection (1)(c).

470 (ii) (A) Except as provided in Subsection (1)(c)(ii)(B), in a division composed solely of  
471 incorporated cities, the legislative body of each city within the division shall submit two  
472 nominees per trustee.

473 (B) Notwithstanding Subsection (1)(c)(ii)(A), the legislative body of a city may submit  
474 fewer than two nominees per trustee if the legislative body certifies in writing to the governor  
475 that the legislative body is unable, after reasonably diligent effort, to identify two nominees  
476 who are willing and qualified to serve as trustee.

477 (iii) (A) Except as provided in Subsection (1)(c)(iii)(B), in all other divisions, the  
478 county legislative body of the county in which the division is located shall submit three  
479 nominees per trustee.

480 (B) Notwithstanding Subsection (1)(c)(iii)(A), the county legislative body may submit  
481 fewer than three nominees per trustee if the county legislative body certifies in writing to the  
482 governor that the county legislative body is unable, after reasonably diligent effort, to identify  
483 three nominees who are willing and qualified to serve as trustee.

484 (iv) If a trustee represents a division located in more than one county, the county  
485 governing bodies of those counties shall collectively compile the list of three nominees.

486 (v) For purposes of this Subsection (1)(c), a city that is located in more than one county  
487 shall be considered to be located in only the county in which more of the city area is located  
488 than in any other county.

489 (d) In districts where substantial water is allocated for irrigated agriculture, one trustee  
490 appointed in that district shall be a person who owns irrigation rights and uses those rights as  
491 part of that person's livelihood.

492 (2) (a) The court shall establish the number, representation, and votes of trustees for

493 each district in the decree creating the district. The board of trustees of the district shall consist  
494 of not more than 11 persons who are residents of the district. If the district consists of five or  
495 more counties, the board of trustees shall consist of not more than 21 persons who are residents  
496 of the district.

497 (b) At least 90 days before expiration of a trustee's term, the secretary of the board  
498 shall:

499 (i) give written notice of vacancies in any office of trustee and of the expiration date of  
500 terms of office of trustees to the county legislative body in single county districts and to the  
501 nominating entities and the governor in all other districts; and

502 (ii) publish the notice in a newspaper having general circulation.

503 (c) (i) Upon receipt of the notice of the expiration of a trustee's term or notice of a  
504 vacancy in the office of trustee, the legislative body of the city or the county legislative body,  
505 as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to  
506 Subsection (1).

507 (ii) If the entity charged with nominating candidates for appointment by the governor  
508 has not submitted the list of nominees within 90 days after service of the notice, the governor  
509 shall make the appointment from qualified candidates without consultation with the legislative  
510 body of the city or the county legislative body.

511 (iii) If the governor fails to appoint, the incumbent shall continue to serve until a  
512 successor is appointed and qualified.

513 (iv) Appointment by the governor vests in the appointee, upon qualification, the  
514 authority to discharge the duties of trustee, subject only to the consent of the Senate.

515 (d) Each trustee shall hold office during the term for which appointed and until a  
516 successor is duly appointed and has qualified.

517 (3) Each trustee shall furnish a corporate surety bond at the expense of the district, in  
518 amount and form fixed and approved by the court, conditioned for the faithful performance of  
519 duties as a trustee.

520 (4) (a) A report of the business transacted during the preceding year by the district,  
521 including a financial report prepared by certified public accountants, shall be filed with:

522 (i) the clerk of the district court;

523 (ii) the governing bodies of counties with lands within the district; and

524 (iii) cities charged with nominating trustees.

525 (b) No more than 14 days and no less than five days prior to the annual meeting, the  
526 district shall have published at least once in a newspaper having general circulation within the  
527 district:

528 (i) a notice of the annual meeting; and

529 (ii) the names of the trustees.

530 (c) The district shall have published a summary of its financial report in a newspaper  
531 having general circulation within the district. The summary shall be published no later than 30  
532 days after the date the audit report required under Title 51, Chapter [~~2, Audits of~~] 2a,  
533 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
534 Entities Act, is required to be filed with the state auditor.

535 (d) Subsections (4)(b) and (c) do not apply to districts with annual revenues of less  
536 than \$1,000,000.

537 Section 13. Section **17B-2-515.5** is amended to read:

538 **17B-2-515.5. Automatic annexation to a district providing fire protection,**  
539 **paramedic, and emergency services.**

540 (1) An area outside the boundaries of a local district that is annexed to a municipality  
541 or added to a municipality by a boundary adjustment under Title 10, Chapter 2, Part 4,  
542 Annexation, is automatically annexed to the local district if:

543 (a) the local district provides fire protection, paramedic, and emergency services;

544 (b) an election for the creation of the local district was not required because of  
545 Subsection 17B-2-214(3)(c); and

546 (c) before the municipal annexation or boundary adjustment, the entire municipality  
547 that is annexing the area or adding the area by boundary adjustment was included within the  
548 local district.

549 (2) The effective date of an annexation under this section is governed by Subsection  
550 17B-2-514[~~(2)(b)(iv)](3)(b).~~

551 Section 14. Section **17B-4-1304** is amended to read:

552 **17B-4-1304. Audit requirements.**

553 Each agency shall comply with the audit requirements of Title 51, Chapter [~~2, Audits~~  
554 ~~of~~] 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other

555 Local Entities Act.

556 Section 15. Section **20A-3-302** is amended to read:

557 **20A-3-302. Absentee voting -- No polling place for remote districts.**

558 (1) Whenever, on the 60th day before an election, there are 500 or [~~less~~] fewer persons  
559 registered to vote in a voting precinct, the county legislative body of the county in which the  
560 voting precinct is located may elect to administer an election entirely by absentee ballot.

561 (2) If the county legislative body of the county in which the voting precinct is located  
562 decides to administer an election entirely by absentee ballot, the county clerk shall mail to each  
563 registered voter within that voting precinct:

564 (a) an absentee ballot;

565 (b) a statement that there will be no polling place for the election;

566 (c) instructions for returning the ballot that include an express notice about any  
567 relevant deadlines that the voter must meet in order for his vote to be counted; and

568 (d) a warning, on a separate page of colored paper in bold face print, indicating that if  
569 the voter fails to follow the instructions included with the absentee ballot, he will be unable to  
570 vote in that election because there will be no polling place in the voting precinct on the day of  
571 the election.

572 (3) Any voter who votes by absentee ballot under this subsection is not required to  
573 apply for an absentee ballot as required by this part.

574 (4) (a) The county clerk of a county that administers an election entirely by absentee  
575 ballot shall:

576 (i) obtain, in person, the signatures of each voter within that voting precinct before the  
577 election; and

578 (ii) maintain the signatures on file in the county clerk's office.

579 (b) (i) Upon receiving the returned absentee ballots, the county clerk shall compare the  
580 signature on each absentee ballot with the voter's signature that is maintained on file and verify  
581 that the signatures are the same.

582 (ii) If the county clerk questions the authenticity of the signature on the absentee ballot,  
583 the clerk shall immediately contact the voter to verify the signature.

584 (iii) If the voter does not confirm his signature on the absentee ballot, the county clerk  
585 shall:

586 (A) immediately send another absentee ballot and other voting materials as required by  
587 this subsection to the voter; and

588 (B) disqualify the initial absentee ballot.

589 Section 16. Section **20A-9-202** is amended to read:

590 **20A-9-202. Declarations of candidacy for regular general elections --**  
591 **Requirements for candidates.**

592 (1) (a) Each person seeking to become a candidate for elective office for any county  
593 office that is to be filled at the next regular general election shall:

594 (i) file a declaration of candidacy in person with the county clerk [~~between the~~] on or  
595 after March 7 and before 5 p.m. on the March 17 before the next regular general election; and

596 (ii) pay the filing fee.

597 (b) Each person intending to become a candidate for any legislative office or  
598 multicounty office that is to be filled at the next regular general election shall:

599 (i) file a declaration of candidacy in person with either the lieutenant governor or the  
600 county clerk in the candidate's county of residence [~~between the~~] on or after March 7 and  
601 before 5 p.m. on the March 17 before the next regular general election; and

602 (ii) pay the filing fee.

603 (c) (i) Each county clerk who receives a declaration of candidacy from a candidate for  
604 multicounty office shall transmit the filing fee and a copy of the candidate's declaration of  
605 candidacy to the lieutenant governor within one working day after it is filed.

606 (ii) Each day during the filing period, each county clerk shall notify the lieutenant  
607 governor electronically or by telephone of legislative candidates who have filed in their office.

608 (d) Each person seeking to become a candidate for elective office for any federal office  
609 or constitutional office that is to be filled at the next regular general election shall:

610 (i) file a declaration of candidacy in person with the lieutenant governor [~~between the~~]  
611 on or after March 7 and before 5 p.m. on the March 17 before the next regular general election;  
612 and

613 (ii) pay the filing fee.

614 (e) Each person seeking the office of lieutenant governor, the office of district attorney,  
615 or the office of President or Vice President of the United States shall comply with the specific  
616 declaration of candidacy requirements established by this section.

617 (2) (a) Each person intending to become a candidate for the office of district attorney  
618 within a multicounty prosecution district that is to be filled at the next regular general election  
619 shall:

620 (i) file a declaration of candidacy with the clerk designated in the interlocal agreement  
621 creating the prosecution district [~~between the~~] on or after March 7 and before 5 p.m. on the  
622 March 17 before the next regular general election; and

623 (ii) pay the filing fee.

624 (b) The designated clerk shall provide to the county clerk of each county in the  
625 prosecution district a certified copy of each declaration of candidacy filed for the office of  
626 district attorney.

627 (3) (a) Within five working days of nomination, each lieutenant governor candidate  
628 shall:

629 (i) file a declaration of candidacy with the lieutenant governor; and

630 (ii) pay the filing fee.

631 (b) (i) Any candidate for lieutenant governor who fails to file within five working days  
632 is disqualified.

633 (ii) If a lieutenant governor is disqualified, another candidate shall be nominated to  
634 replace the disqualified candidate.

635 (4) Each registered political party shall:

636 (a) certify the names of its candidates for President and Vice President of the United  
637 States to the lieutenant governor by September 3; or

638 (b) provide written authorization for the lieutenant governor to accept the certification  
639 of candidates for President and Vice President of the United States from the national office of  
640 the registered political party.

641 (5) (a) A declaration of candidacy filed under this section is valid unless a written  
642 objection is filed with the clerk or lieutenant governor within five days after the last day for  
643 filing.

644 (b) If an objection is made, the clerk or lieutenant governor shall:

645 (i) mail or personally deliver notice of the objection to the affected candidate  
646 immediately; and

647 (ii) decide any objection within 48 hours after it is filed.

648 (c) If the clerk or lieutenant governor sustains the objection, the candidate may cure the  
649 problem by amending the declaration or petition within three days after the objection is  
650 sustained or by filing a new declaration within three days after the objection is sustained.

651 (d) (i) The clerk's or lieutenant governor's decision upon objections to form is final.

652 (ii) The clerk's or lieutenant governor's decision upon substantive matters is reviewable  
653 by a district court if prompt application is made to the court.

654 (iii) The decision of the district court is final unless the Supreme Court, in the exercise  
655 of its discretion, agrees to review the lower court decision.

656 (6) Any person who filed a declaration of candidacy may withdraw as a candidate by  
657 filing a written affidavit with the clerk.

658 Section 17. Section **26-6b-3** is amended to read:

659 **26-6b-3. Temporary involuntary treatment, isolation, and quarantine.**

660 (1) The department, or the local health department having jurisdiction over the location  
661 where an individual who is subject to supervision is found, may issue an order for the  
662 individual's temporary involuntary treatment, quarantine, or isolation pursuant to Subsection  
663 26-1-30(2), 26A-1-114(1)(b), or Section 26-6-4 upon compliance with the requirements of this  
664 section.

665 (2) An individual who is subject to supervision who willfully fails to voluntarily  
666 submit to treatment, quarantine, or isolation as requested by the department or the local health  
667 department may be ordered to submit to treatment, quarantine, or isolation upon:

668 (a) written affidavit of the department or the local health department stating:

669 (i) a belief that the individual who is subject to supervision is likely to fail to submit to  
670 treatment, quarantine, or isolation if not immediately restrained;

671 (ii) this failure would pose a threat to the public health; and

672 (iii) the personal knowledge of the individual's condition or the circumstances that lead  
673 to that belief; and

674 (b) a written statement by a licensed physician indicating the physician finds the  
675 individual is subject to supervision.

676 (3) A temporary order issued under Subsection (1) may:

677 (a) be made by the department or by the local health department;

678 (b) order the individual to submit to reasonable involuntary treatment, quarantine, and

679 isolation, or any of these; and

680 (c) not require an individual to be subject to [~~involuntarily~~] involuntary quarantine,  
681 isolation, or treatment for more than five days, excluding Saturdays, Sundays, and legal  
682 holidays, unless a petition has been filed with the district court pursuant to Section 26-6b-5.

683 (4) (a) Pending issuance of an examination order pursuant to Section 26-6b-5 or an  
684 order for involuntary quarantine, isolation, or treatment from a district court pursuant to  
685 Section 26-6b-6, the individual who is the subject of the temporary order may be required to  
686 submit to involuntary quarantine, isolation, or treatment in his home, a hospital, or any other  
687 suitable facility under reasonable conditions prescribed by the department or the local health  
688 department.

689 (b) The department or the local health department, whichever initially ordered the  
690 quarantine, isolation, or treatment, shall take reasonable measures, including the provision of  
691 medical care, as may be necessary to assure proper care related to the reason for the involuntary  
692 treatment, isolation, or quarantine of an individual ordered to submit to involuntary treatment,  
693 isolation, or quarantine.

694 (5) The individual who is subject to supervision shall be served a copy of the  
695 temporary order, together with the affidavit and the physician's written statement, upon being  
696 taken into custody. A copy shall also be maintained at the place of quarantine, isolation, or  
697 treatment.

698 Section 18. Section **31A-22-716** is amended to read:

699 **31A-22-716. Required provision for notice of termination.**

700 (1) Every policy for group or blanket accident and health coverage issued or renewed  
701 after July 1, 1990, shall include a provision that obligates the policyholder to give 30 days prior  
702 written notice of termination to each employee or group member and to notify each employee  
703 or group member of his rights to continue coverage upon termination.

704 (2) An insurer's monthly notice to the policyholder of premium payments due shall  
705 include a statement of the policyholder's obligations as set forth in Subsection (1). Insurers  
706 shall provide a sample notice to the policyholder at least once a year.

707 (3) For the purpose of compliance with federal law and the Health Insurance Portability  
708 and Accountability Act, P.L. No. 104-191, 110 Stat. 1960, all health benefit plans, health  
709 insurers, and student health plans must provide a certificate of creditable coverage to each

710 covered person upon ~~[their]~~ the person's termination from the plan as soon as reasonably  
711 possible.

712 Section 19. Section **32A-12-505** is amended to read:

713 **32A-12-505. Lawful transportation.**

714 Nothing contained in ~~[Sections 32A-12-503 and]~~ Section 32A-12-504 prohibits any  
715 carrier from:

- 716 (1) transporting alcoholic products in the course of export from the state; or
- 717 (2) transporting alcoholic products across any part of this state while in transit pursuant  
718 to a bona fide consignment of the alcoholic products to a person outside of this state.

719 Section 20. Section **34A-2-103** is amended to read:

720 **34A-2-103. Employers enumerated and defined -- Regularly employed --**  
721 **Statutory employers.**

722 (1) (a) The state, and each county, city, town, and school district in the state are  
723 considered employers under this chapter and Chapter 3, Utah Occupational Disease Act.

724 (b) For the purposes of the exclusive remedy in this chapter and Chapter 3, Utah  
725 Occupational Disease Act prescribed in Sections 34A-2-105 and 34A-3-102, the state is  
726 considered to be a single employer and includes any office, department, agency, authority,  
727 commission, board, institution, hospital, college, university, or other instrumentality of the  
728 state.

729 (2) Except as provided in Subsection (4), each person, including each public utility and  
730 each independent contractor, who regularly employs one or more workers or operatives in the  
731 same business, or in or about the same establishment, under any contract of hire, express or  
732 implied, oral or written, is considered an employer under this chapter and Chapter 3, Utah  
733 Occupational Disease Act. As used in this Subsection (2):

734 (a) "Independent contractor" means any person engaged in the performance of any  
735 work for another who, while so engaged, is:

- 736 (i) independent of the employer in all that pertains to the execution of the work;
- 737 (ii) not subject to the routine rule or control of the employer;
- 738 (iii) engaged only in the performance of a definite job or piece of work; and
- 739 (iv) subordinate to the employer only in effecting a result in accordance with the  
740 employer's design.

741 (b) "Regularly" includes all employments in the usual course of the trade, business,  
742 profession, or occupation of the employer, whether continuous throughout the year or for only a  
743 portion of the year.

744 (3) (a) The client company in an employee leasing arrangement under Title 58, Chapter  
745 59, Professional Employer Organization [~~Licensing~~] Registration Act, is considered the  
746 employer of leased employees and shall secure workers' compensation benefits for them by  
747 complying with Subsection 34A-2-201(1) or (2) and commission rules.

748 (b) Insurance carriers may underwrite workers' compensation secured in accordance  
749 with Subsection (3)(a) showing the leasing company as the named insured and each client  
750 company as an additional insured by means of individual endorsements.

751 (c) Endorsements shall be filed with the division as directed by commission rule.

752 (d) The division shall promptly inform the Division of Occupation and Professional  
753 Licensing within the Department of Commerce if the division has reason to believe that an  
754 employee leasing company is not in compliance with Subsection 34A-2-201(1) or (2) and  
755 commission rules.

756 (4) A domestic employer who does not employ one employee or more than one  
757 employee at least 40 hours per week is not considered an employer under this chapter and  
758 Chapter 3, Utah Occupational Disease Act.

759 (5) (a) As used in this Subsection (5):

760 (i) (A) "agricultural employer" means a person who employs agricultural labor as  
761 defined in Subsections 35A-4-206(1) and (2) and does not include employment as provided in  
762 Subsection 35A-4-206(3); and

763 (B) notwithstanding Subsection (5)(a)(i)(A), only for purposes of determining who is a  
764 member of the employer's immediate family under Subsection (5)(a)(ii), if the agricultural  
765 employer is a corporation, partnership, or other business entity, "agricultural employer" means  
766 an officer, director, or partner of the business entity;

767 (ii) "employer's immediate family" means:

768 (A) an agricultural employer's:

769 (I) spouse;

770 (II) grandparent;

771 (III) parent;

- 772 (IV) sibling;
- 773 (V) child;
- 774 (VI) grandchild;
- 775 (VII) nephew; or
- 776 (VIII) niece;
- 777 (B) a spouse of any person provided in Subsection (5)(a)(ii)(A)(II) through (VIII); or
- 778 (C) an individual who is similar to those listed in Subsections (5)(a)(ii)(A) or (B) as
- 779 defined by rules of the commission; and

780 (iii) "nonimmediate family" means a person who is not a member of the employer's  
781 immediate family.

782 (b) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an  
783 agricultural employer is not considered an employer of a member of the employer's immediate  
784 family.

785 (c) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an  
786 agricultural employer is not considered an employer of a nonimmediate family employee if:

787 (i) for the previous calendar year the agricultural employer's total annual payroll for all  
788 nonimmediate family employees was less than \$8,000; or

789 (ii) (A) for the previous calendar year the agricultural employer's total annual payroll  
790 for all nonimmediate family employees was equal to or greater than \$8,000 but less than  
791 \$50,000; and

792 (B) the agricultural employer maintains insurance that covers job-related injuries of the  
793 employer's nonimmediate family employees in at least the following amounts:

794 (I) \$300,000 liability insurance, as defined in Section 31A-1-301; and

795 (II) \$5,000 for health care benefits similar to benefits under health care insurance as  
796 defined in Section 31A-1-301.

797 (d) For purposes of this chapter and Chapter 3, Utah Occupational Disease Act, an  
798 agricultural employer is considered an employer of a nonimmediate family employee if:

799 (i) for the previous calendar year the agricultural employer's total annual payroll for all  
800 nonimmediate family employees is equal to or greater than \$50,000; or

801 (ii) (A) for the previous year the agricultural employer's total payroll for nonimmediate  
802 family employees was equal to or exceeds \$8,000 but is less than \$50,000; and

803 (B) the agricultural employer fails to maintain the insurance required under Subsection  
804 (5)(c)(ii).

805 (6) An employer of agricultural laborers or domestic servants who is not considered an  
806 employer under this chapter and Chapter 3, Utah Occupational Disease Act, may come under  
807 this chapter and Chapter 3, Utah Occupational Disease Act, by complying with:

808 (a) this chapter and Chapter 3, Utah Occupational Disease Act; and

809 (b) the rules of the commission.

810 (7) (a) If any person who is an employer procures any work to be done wholly or in  
811 part for the employer by a contractor over whose work the employer retains supervision or  
812 control, and this work is a part or process in the trade or business of the employer, the  
813 contractor, all persons employed by the contractor, all subcontractors under the contractor, and  
814 all persons employed by any of these subcontractors, are considered employees of the original  
815 employer for the purposes of this chapter and Chapter 3, Utah Occupational Disease Act.

816 (b) Any person who is engaged in constructing, improving, repairing, or remodeling a  
817 residence that the person owns or is in the process of acquiring as the person's personal  
818 residence may not be considered an employee or employer solely by operation of Subsection  
819 (7)(a).

820 (c) A partner in a partnership or an owner of a sole proprietorship may not be  
821 considered an employee under Subsection (7)(a) if the employer who procures work to be done  
822 by the partnership or sole proprietorship obtains and relies on either:

823 (i) a valid certification of the partnership's or sole proprietorship's compliance with  
824 Section 34A-2-201 indicating that the partnership or sole proprietorship secured the payment of  
825 workers' compensation benefits pursuant to Section 34A-2-201; or

826 (ii) if a partnership or sole proprietorship with no employees other than a partner of the  
827 partnership or owner of the sole proprietorship, a workers' compensation policy issued by an  
828 insurer pursuant to Subsection 31A-21-104(8) stating that:

829 (A) the partnership or sole proprietorship is customarily engaged in an independently  
830 established trade, occupation, profession, or business; and

831 (B) the partner or owner personally waives the partner's or owner's entitlement to the  
832 benefits of this chapter and Chapter 3, Utah Occupational Disease Act, in the operation of the  
833 partnership or sole proprietorship.

834 (d) A director or officer of a corporation may not be considered an employee under  
835 Subsection (7)(a) if the director or officer is excluded from coverage under Subsection  
836 34A-2-104(4).

837 (e) A contractor or subcontractor is not an employee of the employer under Subsection  
838 (7)(a), if the employer who procures work to be done by the contractor or subcontractor obtains  
839 and relies on either:

840 (i) a valid certification of the contractor's or subcontractor's compliance with Section  
841 34A-2-201; or

842 (ii) if a partnership, corporation, or sole proprietorship with no employees other than a  
843 partner of the partnership, officer of the corporation, or owner of the sole proprietorship, a  
844 workers' compensation policy issued by an insurer pursuant to Subsection 31A-21-104(8)  
845 stating that:

846 (A) the partnership, corporation, or sole proprietorship is customarily engaged in an  
847 independently established trade, occupation, profession, or business; and

848 (B) the partner, corporate officer, or owner personally waives the partner's, corporate  
849 officer's, or owner's entitlement to the benefits of this chapter and Chapter 3, Utah  
850 Occupational Disease Act, in the operation of the partnership's, corporation's, or sole  
851 proprietorship's enterprise under a contract of hire for services.

852 Section 21. Section **34A-2-105** is amended to read:

853 **34A-2-105. Exclusive remedy against employer, and officer, agent, or employee of**  
854 **employer – Employee leasing arrangements.**

855 (1) The right to recover compensation pursuant to this chapter for injuries sustained by  
856 an employee, whether resulting in death or not, shall be the exclusive remedy against the  
857 employer and shall be the exclusive remedy against any officer, agent, or employee of the  
858 employer and the liabilities of the employer imposed by this chapter shall be in place of any  
859 and all other civil liability whatsoever, at common law or otherwise, to the employee or to the  
860 employee's spouse, widow, children, parents, dependents, next of kin, heirs, personal  
861 representatives, guardian, or any other person whomsoever, on account of any accident or  
862 injury or death, in any way contracted, sustained, aggravated, or incurred by the employee in  
863 the course of or because of or arising out of the employee's employment, and no action at law  
864 may be maintained against an employer or against any officer, agent, or employee of the

865 employer based upon any accident, injury, or death of an employee. Nothing in this section,  
866 however, shall prevent an employee, or the employee's dependents, from filing a claim for  
867 compensation in those cases in accordance with Chapter 3, Utah Occupational Disease Act.

868 (2) The exclusive remedy provisions of this section apply to both the client company  
869 and the employee leasing company in an employee leasing arrangement under Title 58, Chapter  
870 59, Professional Employer Organization [~~Licensing~~] Registration Act.

871 (3) (a) For purposes of this section:

872 (i) "Temporary employee" means an individual who for temporary work assignment is:

873 (A) an employee of a temporary staffing company; or

874 (B) registered by or otherwise associated with a temporary staffing company.

875 (ii) "Temporary staffing company" means a company that engages in the assignment of  
876 individuals as temporary full-time or part-time employees to fill assignments with a finite  
877 ending date to another independent entity.

878 (b) If the temporary staffing company secures the payment of workers' compensation in  
879 accordance with Section 34A-2-201 for all temporary employees of the temporary staffing  
880 company, the exclusive remedy provisions of this section apply to both the temporary staffing  
881 company and the client company and its employees and provide the temporary staffing  
882 company the same protection that a client company and its employees has under this section for  
883 the acts of any of the temporary staffing company's temporary employees on assignment at the  
884 client company worksite.

885 Section 22. Section **35A-3-608** is amended to read:

886 **35A-3-608. Schedule of payments to be paid upon liability -- Establishment --**  
887 **Cancellation.**

888 (1) At any time, the department may:

889 (a) consistent with the income, earning capacity, and resources of the obligor, set or  
890 reset the level and schedule of payments to be paid upon the liability; and

891 (b) at any time, cancel the schedule of payments and demand immediate payment in  
892 full.

893 (2) The department may recover an overpayment through deductions from cash  
894 assistance or food stamps pursuant to Section [~~35A-1-502~~] 35A-3-603.

895 Section 23. Section **38-1-27.2** is amended to read:

896 **38-1-27.2. Notice to subcontractor.**

897 (1) As used in this section, "project" means a project or improvement for which [the  
898 original contractor has received] a preliminary notice has been filed pursuant to Section  
899 [~~38-1-27~~] 38-1-32.

900 (2) If a subcontractor requests a notice described in this [~~Subsection (2)~~] section, an  
901 original contractor shall provide notice:

902 (a) to the subcontractor who requests the notice described in this [~~Subsection (2)~~]  
903 section;

904 (b) within 14 calendar days after the day on which the subcontractor requests the notice  
905 described in this [~~Subsection (2)~~] section; and

906 (c) informing the subcontractor of each preliminary notice the original contractor has  
907 received for the project.

908 Section 24. Section **41-1a-1314** is amended to read:

909 **41-1a-1314. Unauthorized control for extended time.**

910 (1) Except as provided in Subsection (3), it is a class A misdemeanor for a person to  
911 exercise unauthorized control over a motor vehicle that is not his own, without the consent of  
912 the owner or lawful custodian, and with the intent to temporarily deprive the owner or lawful  
913 custodian of possession of the motor vehicle.

914 (2) The consent of the owner or legal custodian of a motor vehicle to its control by the  
915 actor is not in any case presumed or implied because of the owner's or legal custodian's consent  
916 on a previous occasion to the control of the motor vehicle by the same or a different person.

917 (3) Violation of this section is a third degree felony if:

918 (a) the person does not return the motor vehicle to the owner or lawful custodian within  
919 24 hours after the exercise of unlawful control; or

920 (b) regardless of the mental state or conduct of the person committing the offense:

921 (i) the motor vehicle is damaged in an amount of \$500 or more;

922 (ii) the motor vehicle is used to commit a felony; or

923 (iii) the motor vehicle is damaged in any amount to facilitate entry into it or its

924 operation.

925 (4) It is not a defense to Subsection (3)(a) that someone other than the person, or an  
926 agent of the person, returned the motor vehicle within 24 hours.

927 (5) A violation of this section is a lesser included offense of theft under Section  
928 76-6-404, when the theft is of an operable motor vehicle under Subsection  
929 76-6-412(1)(a)[(†)](ii).

930 Section 25. Section **48-1-42** is amended to read:

931 **48-1-42. Registration of limited liability partnerships.**

932 (1) (a) A partnership shall register with the Division of Corporations and Commercial  
933 Code by filing an application or a renewal statement:

934 (i) to become and to continue as a limited liability partnership; or

935 (ii) to do business in this state as a foreign limited liability partnership.

936 (b) The application or renewal statement shall include:

937 (i) the name of the limited liability partnership;

938 (ii) the address of its principal office;

939 (iii) if the principal office of the limited liability partnership is not located in this state,  
940 the address of a registered office and the name and address of a registered agent for service of  
941 process in this state;

942 (iv) the number of partners;

943 (v) a brief statement of the business in which the limited liability partnership engages;

944 (vi) a brief statement that the partnership is applying for, or seeking to renew its status  
945 as a limited liability partnership; and

946 (vii) if a foreign limited liability partnership, an original certificate of fact or good  
947 standing from the office of the ~~secretary of state~~ lieutenant governor or other responsible  
948 authority of the state in which the limited liability partnership is formed.

949 (2) The application or renewal statement required by Subsection (1) shall be executed  
950 by a majority in voting interest of the partners or by one or more partners authorized by the  
951 partnership to execute an application or renewal statement.

952 (3) The application or renewal statement shall be accompanied by a filing fee  
953 established under Section 63-38-3.2.

954 (4) The division shall register as a limited liability partnership any partnership that  
955 submits a completed application with the required fee.

956 (5) (a) The registration expires one year after the date an application is filed unless the  
957 registration is voluntarily withdrawn by filing with the division a written withdrawal notice

958 executed by a majority in voting interest of the partners or by one or more partners authorized  
959 to execute a withdrawal notice.

960 (b) Registration of a partnership as a limited liability partnership shall be renewed if no  
961 earlier than 60 days before the date the registration expires and no later than the date of  
962 expiration, the limited liability partnership files with the division a renewal statement.

963 (c) The division shall renew the registration as a limited liability partnership of any  
964 limited liability partnership that timely submits a completed renewal statement with the  
965 required fee.

966 (d) If a renewal statement is timely filed, the registration is effective for one year after  
967 the date the registration would have expired but for the filing of the renewal statement.

968 (6) The status of a partnership as a limited liability partnership is not affected by  
969 changes in the information stated in the application or renewal statement which take place after  
970 the filing of an application or a renewal statement.

971 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
972 division may issue rules providing for the form content and submittal of applications for  
973 registration or of renewal statements.

974 Section 26. Section **48-2c-1604** is amended to read:

975 **48-2c-1604. Application for authority to transact business.**

976 (1) A foreign company may apply for authority to transact business in this state by  
977 delivering to the division for filing an application for authority to transact business setting  
978 forth:

979 (a) its name and its assumed name, if any;

980 (b) the name of the state or country under whose law it is formed or organized;

981 (c) the nature of the business or purposes to be conducted or promoted in this state;

982 (d) its date of formation or organization and period of its duration;

983 (e) the street address of its principal office;

984 (f) the address of its registered office in this state and the name of its registered agent at  
985 that office;

986 (g) the names and street addresses of its current managers, if it is a manager-managed  
987 company, or of its members, if it is a member-managed company;

988 (h) the date it commenced or expects to commence transacting business in this state;

989 and

990 (i) any additional information the division may determine is necessary or appropriate to  
991 determine whether the application for authority to transact business should be filed.

992 (2) The foreign company shall deliver with the completed application for authority to  
993 transact business a certificate of existence, or a document of similar import, duly authorized by  
994 the [~~secretary of state~~] lieutenant governor or other official having custody of records in the  
995 state or country under whose law it is formed or organized. The certificate of existence shall be  
996 dated within 90 days prior to the filing of the application for authority to transact business by  
997 the division.

998 (3) The foreign company shall include in the application for authority to transact  
999 business, or in an accompanying document, the written consent to appointment by the  
1000 designated registered agent in this state.

1001 Section 27. Section **48-2c-1612** is amended to read:

1002 **48-2c-1612. Grounds for revocation.**

1003 The division may commence a proceeding under Section 48-2c-1613 to revoke the  
1004 authority of a foreign company to transact business in this state if:

1005 (1) the foreign company does not deliver its annual report to the division when it is  
1006 due;

1007 (2) the foreign company does not pay when they are due any taxes, fees, or penalties  
1008 imposed by this chapter or other applicable laws of this state;

1009 (3) the foreign company is without a registered agent or registered office in this state;

1010 (4) the foreign company does not inform the division under Section 48-2c-303 that its  
1011 registered agent or registered office has changed, that its registered agent has resigned, or that  
1012 its registered office has been discontinued;

1013 (5) an organizer, member, manager, or agent of the foreign company signs a document  
1014 knowing it is false in any material respect with intent that the document be delivered to the  
1015 division for filing; or

1016 (6) the division receives a duly authenticated certificate from the [~~secretary of state~~]  
1017 lieutenant governor or other official having custody of limited liability company records in the  
1018 state or country under whose law the foreign company is formed or organized stating that the  
1019 foreign company has dissolved or disappeared as the result of a merger.

1020 Section 28. Section **49-12-202** is amended to read:

1021 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
1022 **requirements -- Exceptions -- Nondiscrimination requirements.**

1023 (1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating  
1024 employer and may not withdraw from participation in this system.

1025 (b) In addition to their participation in this system, participating employers may  
1026 provide or participate in public or private retirement, supplemental or defined contribution  
1027 plan, either directly or indirectly, for their employees.

1028 (2) An employer not initially admitted or included as a participating employer in this  
1029 system prior to January 1, 1982, may be excluded from participation in this system if:

1030 (a) the employer elects not to provide or participate in any type of private or public  
1031 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
1032 employees, except for Social Security; or

1033 (b) the employer offers another collectively bargained retirement benefit and has  
1034 continued to do so on an uninterrupted basis since that date.

1035 (3) An employer that is a charter school sponsored by the State Board of Education or a  
1036 [local] school district that makes an election of nonparticipation in accordance with Section  
1037 53A-1a-512 may be excluded as a participating employer.

1038 (4) An employer who did not become a participating employer in this system prior to  
1039 July 1, 1986, may not participate in this system.

1040 (5) If a participating employer purchases service credit on behalf of regular full-time  
1041 employees for service rendered prior to the participating employer's admission to this system,  
1042 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and  
1043 former regular full-time employees who were eligible for service credit at the time service was  
1044 rendered.

1045 Section 29. Section **49-13-202** is amended to read:

1046 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
1047 **requirements -- Nondiscrimination requirements.**

1048 (1) (a) Unless excluded under Subsection (2) or (3), an employer is a participating  
1049 employer and may not withdraw from participation in this system.

1050 (b) In addition to their participation in this system, participating employers may

1051 provide or participate in any additional public or private retirement, supplemental or defined  
1052 contribution plan, either directly or indirectly, for their employees.

1053 (2) An employer not initially admitted or included as a participating employer in this  
1054 system prior to January 1, 1982, may be excluded from participation in this system if:

1055 (a) the employer elects not to provide or participate in any type of private or public  
1056 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
1057 employees, except for Social Security; or

1058 (b) the employer offers another collectively bargained retirement benefit and has  
1059 continued to do so on an uninterrupted basis since that date.

1060 (3) An employer that is a charter school sponsored by the State Board of Education or a  
1061 [local] school district that makes an election of nonparticipation in accordance with Section  
1062 53A-1a-512 shall be excluded as a participating employer.

1063 (4) If an employer, except an employer that maintains a collectively bargained plan  
1064 under Subsection (2)(b), elects at any time to provide or participate in any type of public or  
1065 private retirement, supplemental or defined contribution plan, either directly or indirectly,  
1066 except for Social Security, the employer shall be a participating employer in this system.

1067 (5) (a) Any employer may by resolution of its governing body apply for admission to  
1068 this system.

1069 (b) Upon approval of the board, the employer is a participating employer in this system  
1070 and is subject to this title.

1071 (6) If a participating employer purchases service credit on behalf of regular full-time  
1072 employees for service rendered prior to the participating employer's admission to this system,  
1073 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and  
1074 former regular full-time employees who were eligible for service credit at the time service was  
1075 rendered.

1076 Section 30. Section **51-5-4.5** is amended to read:

1077 **51-5-4.5. Housing Corporation exempt.**

1078 The Utah Housing Corporation [~~and the Utah Technology Finance Corporation are~~] is  
1079 exempt from this chapter.

1080 Section 31. Section **51-7-2** is amended to read:

1081 **51-7-2. Exemptions from chapter.**

1082 The following funds are exempt from this chapter:

1083 (1) funds invested in accordance with the participating employees' designation or  
1084 direction pursuant to a public employees' deferred compensation plan established and operated  
1085 in compliance with Section 457 of the Internal Revenue Code of 1954, as amended;

1086 (2) funds of the Workers' Compensation Fund;

1087 (3) funds of the Utah State Retirement Board; and

1088 [~~(4) funds of the Utah Technology Finance Corporation; and~~]

1089 [~~(5)~~] (4) funds of the Utah Housing Corporation.

1090 Section 32. Section **51-7-4** is amended to read:

1091 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**  
1092 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

1093 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the  
1094 functions, powers, and duties vested by law in each and every state officer, board, commission,  
1095 institution, department, division, agency, and other similar instrumentalities relating to the  
1096 deposit, investment, or reinvestment of public funds, and the purchase, sale, or exchange of any  
1097 investments or securities of or for any funds or accounts under the control and management of  
1098 these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

1099 (a) funds assigned to the Utah State Retirement Board for investment under Section  
1100 49-11-302;

1101 (b) funds of member institutions of the state system of higher education:

1102 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

1103 (ii) derived from student fees or from income from operations of auxiliary enterprises,  
1104 which fees and income are pledged or otherwise dedicated to the payment of interest and  
1105 principal of bonds issued by such institutions; and

1106 (iii) any other funds which are not included in the institution's work program as  
1107 approved by the State Board of Regents;

1108 [~~(c) funds of the Utah Technology Finance Corporation;~~]

1109 [~~(d)~~] (c) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work  
1110 Programs for Prisoners;

1111 [~~(e)~~] (d) trust funds established by judicial order;

1112 [~~(f)~~] (e) funds of the Workers' Compensation Fund; and

1113 [~~g~~] (f) funds of the Utah Housing Corporation.

1114 (2) All public funds held or administered by the state or any of its boards,  
1115 commissions, institutions, departments, divisions, agencies, or similar instrumentalities and not  
1116 transferred to the state treasurer as provided by this section shall be:

1117 (a) deposited and invested by the custodian in accordance with this chapter, unless  
1118 otherwise required by statute or by applicable federal law; and

1119 (b) reported to the state treasurer in a form prescribed by the state treasurer.

1120 (3) Unless otherwise provided by the constitution or laws of this state or by contractual  
1121 obligation, the income derived from the investment of state money by the state treasurer shall  
1122 be deposited in and become part of the General Fund.

1123 Section 33. Section **53-2-107** is amended to read:

1124 **53-2-107. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking**  
1125 **-- Distribution.**

1126 (1) "Reimbursable expenses," as used in this section, means those reasonable costs  
1127 incidental to search and rescue activities, not including any salary or overtime paid to any  
1128 person on a regular or permanent payroll, including permanent part-time employees, of any  
1129 agency or political subdivision of the state, including:

1130 (a) rental for fixed wing aircraft, helicopters, snowmobiles, boats, and generators;

1131 (b) replacement and upgrade of search and rescue equipment;

1132 (c) training of search and rescue volunteers; and

1133 (d) any other equipment or expenses necessary or appropriate for conducting search  
1134 and rescue activities.

1135 (2) There is created the Search and Rescue Financial Assistance Program within the  
1136 division.

1137 (3) (a) The program shall be funded from the following revenue sources:

1138 (i) any voluntary contributions to the state received for search and rescue operations;

1139 (ii) monies received by the state under Section 23-19-42 and Section 41-22-34; and

1140 (iii) appropriations made to the program by the Legislature.

1141 (b) All funding for the program shall be nonlapsing.

1142 (4) The director shall use the monies to reimburse counties for all or a portion of each  
1143 county's reimbursable expenses for search and rescue operations subject to:

1144 (a) the approval of the Search and Rescue Advisory Board as provided in Section  
1145 [~~53-2-104~~] 53-2-109;

1146 (b) monies available in the program; and

1147 (c) rules made under Subsection (7).

1148 (5) Program monies may not be used to reimburse for any paid personnel costs or paid  
1149 man hours spent in emergency response and search and rescue related activities.

1150 (6) The Legislature finds that these funds are for a general and statewide public  
1151 purpose.

1152 (7) The division, with the approval of the Search and Rescue Advisory Board, shall  
1153 make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
1154 consistent with this act, establishing:

1155 (a) the costs that qualify as reimbursable expenses;

1156 (b) the procedures of agencies to submit expenses and be reimbursed; and

1157 (c) a formula to govern the distribution of available monies between counties based on:

1158 (i) the total qualifying expenses submitted;

1159 (ii) the number of search and rescue incidents per county population;

1160 (iii) the number of victims that reside outside the county; and

1161 (iv) the number of volunteer hours spent in each county in emergency response and  
1162 search and rescue related activities per county population.

1163 Section 34. Section **53A-17a-112** is amended to read:

1164 **53A-17a-112. Preschool special education appropriation -- Extended year**  
1165 **program appropriation -- Appropriation for special education programs in state**  
1166 **institutions.**

1167 (1) (a) Money appropriated to the State Board of Education for the preschool special  
1168 education program in Section 53A-17a-104 shall be allocated to school districts to provide a  
1169 free, appropriate public education to preschool students with a disability, ages three through  
1170 five.

1171 (b) The monies shall be distributed on the basis of a school district's previous year  
1172 December 1 disabled preschool child count as mandated by federal law.

1173 [~~3~~] 2 Monies appropriated for the extended school year program for the severely  
1174 disabled in Section 53A-17a-104 shall be limited to students with severe disabilities with

1175 education program goals identifying significant regression and recoupment disability as  
1176 approved by the State Board of Education.

1177 ~~[(4)]~~ (3) (a) Monies appropriated in Section 53A-17a-104 for self-contained regular  
1178 special education programs may not be used to supplement other school programs.

1179 (b) Monies in any of the other restricted line item appropriations may not be reduced  
1180 more than 2% to be used for purposes other than those specified by the appropriation, unless  
1181 otherwise provided by law.

1182 ~~[(5)]~~ (4) (a) The State Board of Education shall compute preschool funding by a factor  
1183 of 1.47 times the current December 1 child count of eligible preschool aged three, four, and  
1184 five-year-olds times the WPU value, limited to 8% growth over the prior year December 1  
1185 count.

1186 (b) The board shall develop guidelines to implement the funding formula for preschool  
1187 special education, and establish prevalence limits for distribution of the monies.

1188 Section 35. Section **58-1-307** is amended to read:

1189 **58-1-307. Exemptions from licensure.**

1190 (1) Except as otherwise provided by statute or rule, the following persons may engage  
1191 in the practice of their occupation or profession, subject to the stated circumstances and  
1192 limitations, without being licensed under this title:

1193 (a) a person serving in the armed forces of the United States, the United States Public  
1194 Health Service, the United States Department of Veterans Affairs, or other federal agencies  
1195 while engaged in activities regulated under this chapter as a part of employment with that  
1196 federal agency if the person holds a valid license to practice a regulated occupation or  
1197 profession issued by any other state or jurisdiction recognized by the division;

1198 (b) a student engaged in activities constituting the practice of a regulated occupation or  
1199 profession while in training in a recognized school approved by the division to the extent the  
1200 activities are supervised by qualified faculty, staff, or designee and the activities are a defined  
1201 part of the training program;

1202 (c) an individual engaged in an internship, residency, preceptorship, postceptorship,  
1203 fellowship, apprenticeship, or on-the-job training program approved by the division while  
1204 under the supervision of qualified persons;

1205 (d) an individual residing in another state and licensed to practice a regulated

1206 occupation or profession in that state, who is called in for a consultation by an individual  
1207 licensed in this state, and the services provided are limited to that consultation;

1208 (e) an individual who is invited by a recognized school, association, society, or other  
1209 body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a  
1210 regulated occupation or profession if the individual does not establish a place of business or  
1211 regularly engage in the practice of the regulated occupation or profession in this state;

1212 (f) an individual licensed under the laws of this state, other than under this title, to  
1213 practice or engage in an occupation or profession, while engaged in the lawful, professional,  
1214 and competent practice of that occupation or profession;

1215 (g) an individual licensed in a health care profession in another state who performs that  
1216 profession while attending to the immediate needs of a patient for a reasonable period during  
1217 which the patient is being transported from outside of this state, into this state, or through this  
1218 state;

1219 (h) an individual licensed in another state or country who is in this state temporarily to  
1220 attend to the needs of an athletic team or group, except that the practitioner may only attend to  
1221 the needs of the athletic team or group, including all individuals who travel with the team or  
1222 group in any capacity except as a spectator;

1223 (i) an individual licensed and in good standing in another state, who is in this state:

1224 (i) temporarily, under the invitation and control of a sponsoring entity;

1225 (ii) for a reason associated with a special purpose event, based upon needs that may  
1226 exceed the ability of this state to address through its licensees, as determined by the division;  
1227 and

1228 (iii) for a limited period of time not to exceed the duration of that event, together with  
1229 any necessary preparatory and conclusionary periods;

1230 (j) an individual who:

1231 (i) is certified as an athletic trainer by the National Athletic Trainers Association Board  
1232 of Certification or another entity approved by the division;

1233 (ii) is employed or officially associated with an educational institution, a professional  
1234 sports organization, or a bona fide amateur sports organization; and

1235 (iii) only provides athletic training services:

1236 (A) to athletes of the educational institution or sports organization to which the

1237 individual is employed or officially associated;

1238 (B) at an official athletic training, practice, or competition site; and

1239 (C) that are within the scope of the individual's certification; and

1240 (k) a law enforcement officer, as defined under Section 53-13-103, who:

1241 (i) is operating a voice stress analyzer in the course of the officer's full-time  
1242 employment with a federal, state, or local law enforcement agency;

1243 (ii) has completed the manufacturer's training course and is certified by the  
1244 manufacturer to operate that voice stress analyzer; and

1245 (iii) is operating the voice stress analyzer in accordance with Section 58-64-601,  
1246 regarding deception detection instruments.

1247 (2) A practitioner temporarily in this state who is exempted from licensure under  
1248 Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the  
1249 practitioner derives authority to practice. Violation of any limitation imposed by this section  
1250 constitutes grounds for removal of exempt status, denial of license, or other disciplinary  
1251 proceedings.

1252 (3) An individual who is licensed under a specific chapter of this title to practice or  
1253 engage in an occupation or profession may engage in the lawful, professional, and competent  
1254 practice of that occupation or profession without additional licensure under other chapters of  
1255 this title, except as otherwise provided by this title.

1256 (4) Upon the declaration of a national, state, or local emergency, a public health  
1257 emergency as defined in Section 26-23b-102, or a declaration by the President of the United  
1258 States or other federal official requesting public health-related activities, the division in  
1259 collaboration with the board may:

1260 (a) suspend the requirements for permanent or temporary licensure of persons who are  
1261 licensed in another state. Persons exempt under this Subsection (4)(a) shall be exempt from  
1262 licensure for the duration of the emergency while engaged in the scope of practice for which  
1263 they are licensed in the other state;

1264 (b) modify, under the circumstances described in this Subsection (4) and Subsection  
1265 (5), the scope of practice restrictions under this title for persons who are licensed under this  
1266 title as:

1267 (i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah

1268 Osteopathic Medical Practice Act;

1269 (ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure

1270 Compact;

1271 (iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

1272 (iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17b,

1273 Pharmacy Practice Act;

1274 (v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and

1275 (vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist

1276 Practice Act;

1277 (c) suspend the requirements for licensure under this title and modify the scope of

1278 practice in the circumstances described in this Subsection (4) and Subsection (5) for medical

1279 services personnel or paramedics required to be certified under Section 26-8a-302; and

1280 (d) suspend requirements in Subsections 58-17b-620(3) through (6) which require

1281 certain prescriptive procedures.

1282 (5) Persons exempt under Subsection (4)(c) and persons operating under modified

1283 scope of practice provisions under Subsection (4)(b):

1284 (a) shall be exempt from licensure or subject to modified scope of practice for the

1285 duration of the emergency;

1286 (b) must be engaged in the distribution of medicines or medical [~~devises~~] devices in

1287 response to the emergency or declaration; and

1288 (c) must be employed by or volunteering for a local or state department of health.

1289 Section 36. Section **58-16a-501** is amended to read:

1290 **58-16a-501. Unlawful conduct.**

1291 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

1292 (1) buying, selling, or fraudulently obtaining, any optometry diploma, license,

1293 certificate, or registration;

1294 (2) aiding or abetting the buying, selling, or fraudulently obtaining, of any optometry

1295 diploma, license, certificate, or registration;

1296 (3) selling or providing contact lenses in a manner inconsistent with Section

1297 58-16a-801 or intentionally altering a prescription unless the person selling or providing the

1298 lenses is a licensed optometrist or ophthalmologist; or

1299 (4) representing oneself as or using the title of "optometrist," "optometric physician,"  
1300 "doctor of optometry," or "O.D.," unless currently licensed under this chapter.

1301 Section 37. Section **58-17b-309** is amended to read:

1302 **58-17b-309. Exemptions from licensure.**

1303 (1) In addition to the exemptions from licensure in Section 58-1-307, the following  
1304 individuals may engage in the acts or practices described in this Subsection (1) without being  
1305 licensed under this chapter:

1306 (a) a person selling or providing contact lenses in accordance with Section 58-16a-801;  
1307 and

1308 (b) an individual engaging in the practice of pharmacy technician under the direct  
1309 personal supervision of a pharmacist while making satisfactory progress in an approved  
1310 program as defined in division rule.

1311 (2) In accordance with Subsection 58-1-303(1)(a), an individual exempt under  
1312 Subsection (1)(b) must take all examinations as required by division rule following completion  
1313 of an approved curriculum of education, within the required time frame. This exemption  
1314 expires immediately upon notification of a failing score of an examination, and the individual  
1315 may not continue working as a pharmacy technician even under direct supervision.

1316 Section 38. Section **58-31d-103** is amended to read:

1317 **58-31d-103. Rulemaking authority -- Enabling provisions.**

1318 (1) The division may adopt rules necessary to implement Section 58-31d-102.

1319 (2) As used in Article VIII (1) of the Advanced Practice Registered Nurse Compact,  
1320 "head of the licensing board" means the executive administrator of the Utah Board of Nursing.

1321 (3) For purposes of the Advanced Practice Registered Nurse Compact, "APRN" as  
1322 defined in Article II (1) of the compact includes an individual who is licensed to practice under  
1323 Subsection [~~58-31b-302(2)(d)~~] 58-31b-301(2) as an advanced practice registered nurse.

1324 (4) An APRN practicing in this state under a multistate licensure privilege may only be  
1325 granted prescriptive authority if that individual can document completion of graduate level  
1326 course work in the following areas:

1327 (a) advanced health assessment;

1328 (b) pharmacotherapeutics; and

1329 (c) diagnosis and treatment.

1330 (5) (a) An APRN practicing in this state under a multistate privilege who seeks to  
1331 obtain prescriptive authority must:

- 1332 (i) meet all the requirements of Subsection (4) and this Subsection (5); and
- 1333 (ii) be placed on a registry with the division.

1334 (b) To be placed on a registry under Subsection (5)(a)(ii), an APRN must:

- 1335 (i) submit a form prescribed by the division;
- 1336 (ii) pay a fee; and
- 1337 (iii) if prescribing a controlled substance:

1338 (A) obtain a controlled substance license as required under Section 58-37-6; and

1339 (B) if prescribing a Schedule II or III controlled substance, have a consultation and  
1340 referral plan with a physician licensed in Utah as required under Subsection  
1341 58-31b-102[~~(16)~~](19)(c)(iii).

1342 Section 39. Section **58-42a-102** is amended to read:

1343 **58-42a-102. Definitions.**

1344 In addition to the definitions in Section 58-1-102, as used in this chapter:

1345 (1) "Assessment" means the use of skilled observation or evaluation by administering  
1346 and interpreting standardized or nonstandardized tests and measurements to identify areas for  
1347 occupational therapy services.

1348 (2) "Board" means the Occupational Therapy Board created in Section 58-42a-201.

1349 (3) "Certified occupational therapy assistant" or "COTA" means a person certified as a  
1350 certified occupational therapy assistant by the ~~[American]~~ National Board for Certification in  
1351 Occupational Therapy [~~Certification Board~~].

1352 (4) "Individual treatment plan" includes:

1353 (a) planning and directing specific exercises and programs to improve sensory  
1354 integration and motor functioning at the level of performance neurologically appropriate for the  
1355 individual's stage of development;

1356 (b) establishing a program of instruction to teach a patient in skills, behaviors, and  
1357 attitudes necessary for the patient's independent productive, emotional, and social functioning;

1358 (c) analyzing, selecting, and adapting functional exercises to achieve and maintain the  
1359 patient's optimal functioning in daily living tasks and to prevent further disability; and

1360 (d) planning and directing specific programs to evaluate and enhance perceptual,

1361 motor, and cognitive skills.

1362 (5) "Occupational therapist" or "OT" means a person licensed in the state to practice  
1363 occupational therapy.

1364 (6) "Occupational therapist registered" or "OTR" means a person certified as an  
1365 occupational therapist registered by the [~~American~~] National Board for Certification in  
1366 Occupational Therapy [~~Certification Board~~].

1367 (7) "Occupational therapy" means the use of purposeful activity or occupational  
1368 therapy interventions to develop or restore the highest possible level of independence of an  
1369 individual who is limited by a physical injury or illness, a dysfunctional condition, a cognitive  
1370 impairment, a psychosocial dysfunction, a mental illness, a developmental or learning  
1371 disability, or an adverse environmental condition.

1372 (8) "Occupational therapy assistant" or "OTA" means a person licensed in the state to  
1373 practice occupational therapy under the supervision of an occupational therapist as set forth in  
1374 Section 58-42a-306.

1375 (9) "Occupational therapy services" include:

1376 (a) assessing, treating, educating, or consulting with an individual, family, or other  
1377 persons;

1378 (b) developing, improving, or restoring an individual's daily living skills, work  
1379 readiness, work performance, play skills, or leisure capacities, or enhancing an individual's  
1380 educational performance skills;

1381 (c) developing, improving, or restoring an individual's sensory-motor, oral-motor,  
1382 perceptual, or neuromuscular functioning, or the individual's range of motion;

1383 (d) developing, improving, or restoring the individual's emotional, motivational,  
1384 cognitive, or psychosocial components of performance;

1385 (e) assessing the need for and recommending, developing, adapting, designing, or  
1386 fabricating splints or assistive technology devices for individuals;

1387 (f) training individuals in the use of rehabilitative or assistive technology devices such  
1388 as selected orthotic or prosthetic devices;

1389 (g) applying physical agent modalities as an adjunct to or in preparation for purposeful  
1390 activity;

1391 (h) applying the use of ergonomic principles; and

1392 (i) adapting or modifying environments and processes to enhance or promote the  
1393 functional performance, health, and wellness of individuals.

1394 (10) "Practice of occupational therapy" means rendering or offering to render  
1395 occupational therapy services to individuals, groups, agencies, organizations, industries, or the  
1396 public.

1397 (11) "Unprofessional conduct" is as defined in Section 58-42a-501.

1398 Section 40. Section **61-6-5** is amended to read:

1399 **61-6-5. "Issuing public corporation" defined.**

1400 (1) As used in this chapter, "issuing public corporation" means a corporation, other  
1401 than a depository institution, that is organized under the laws of this state and that has:

1402 (a) 100 or more shareholders;

1403 (b) its principal place of business, its principal office, or substantial assets within the  
1404 state; and

1405 (c) (i) more than 10% of its shareholders resident in the state;

1406 (ii) more than 10% of its shares owned by Utah residents; or

1407 (iii) 10,000 shareholders resident in the state.

1408 (2) The residence of a shareholder is presumed to be the address appearing in the  
1409 records of the corporation.

1410 (3) Shares held by banks or other depository institutions (except as trustee or guardian),  
1411 brokers, or nominees shall be disregarded for purposes of calculating the percentages or  
1412 numbers described in this section.

1413 (4) As used in this chapter, "depository institution" means a depository institution or a  
1414 depository institution holding company as defined in Section 7-1-103.

1415 Section 41. Section **62A-3-104.1** is amended to read:

1416 **62A-3-104.1. Powers and duties of area agencies.**

1417 (1) An area agency that provides services to the aged, high risk adults, or both shall  
1418 within its respective jurisdiction:

1419 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,  
1420 hearings, and levies that affect those persons;

1421 (b) design and implement a comprehensive and coordinated system of services within a  
1422 designated planning and service area;

- 1423 (c) conduct periodic reviews and evaluations of needs and services;
- 1424 (d) prepare and submit to the division plans for funding and service delivery for  
1425 services within the designated planning and service area;
- 1426 (e) establish, either directly or by contract, programs licensed under Chapter 2 [~~of this~~  
1427 title], Licensure of Programs and Facilities;
- 1428 (f) appoint an area director, prescribe his duties, and provide adequate and qualified  
1429 staff to carry out the area plan described in Subsection (1)(d);
- 1430 (g) establish rules not contrary to policies of the board and rules of the division,  
1431 regulating local services and facilities;
- 1432 (h) operate other services and programs funded by sources other than those  
1433 administered by the division;
- 1434 (i) establish mechanisms to provide direct citizen input, including an area agency  
1435 advisory council with a majority of members who are eligible for services from the area  
1436 agency;
- 1437 (j) establish fee schedules; and
- 1438 (k) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
1439 Cooperation Act, and with the requirements and procedures of Title 51, Chapter [2] 2a,  
1440 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
1441 Entities Act.
- 1442 (2) Before disbursing any public funds, an area agency shall require that all entities  
1443 receiving any public funds agree in writing that:
- 1444 (a) the division may examine the entity's program and financial records; and
- 1445 (b) the auditor of the local area agency may examine and audit the entity's program and  
1446 financial records, if requested by the local area agency.
- 1447 (3) Local area agencies may receive property, grants, gifts, supplies, materials,  
1448 including any benefit derived therefrom, and contributions for the purpose of providing  
1449 services pursuant to this part. If those gifts are conditioned upon their use for a specified  
1450 service or program, they shall be so used.
- 1451 (4) (a) Area agencies shall award all public funds in compliance with the requirements  
1452 of Title 63, Chapter 56, Utah Procurement Code, or with a county procurement ordinance that  
1453 requires similar procurement procedures.

1454 (b) If all initial bids on a project are rejected, the area agency shall publish a new  
1455 invitation to bid. If no satisfactory bid is received by the area agency when the bids received  
1456 from the second invitation are opened, the area agency may execute a contract without  
1457 requiring competitive bidding.

1458 (c) An area agency need not comply with the procurement provisions of this section  
1459 when it disburses public funds to other governmental entities. For purposes of this Subsection  
1460 (4)(c), "governmental entity" means any political subdivision or institution of higher education  
1461 of the state.

1462 (d) Contracts awarded by an area agency shall be for a fixed amount and limited  
1463 period. Contracts may be modified due to changes in available funding for the same contract  
1464 purpose without competition.

1465 (5) Local area agencies shall comply with all applicable state and federal statutes,  
1466 policies, audit requirements, and any directives resulting from those audits.

1467 Section 42. Section **62A-4a-209** is amended to read:

1468 **62A-4a-209. Emergency kinship placement.**

1469 (1) The division may use an emergency kinship placement under Subsection  
1470 62A-4a-202.1[~~(6)~~](4)(b)(ii) when:

1471 (a) the case worker has made the determination that:

1472 (i) the child's home is unsafe;

1473 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

1474 (iii) the child's custodial parent or guardian will agree to not remove the child from the  
1475 relative's home who serves as the kinship placement and not have any contact with the child  
1476 until after the shelter hearing required by Section 78-3a-306;

1477 (b) a relative, with preference being given to a noncustodial parent in accordance with  
1478 Section 78-3a-307, can be identified who has the ability and is willing to provide care for the  
1479 child who would otherwise be placed in shelter care, including:

1480 (i) taking the child to medical, mental health, dental, and educational appointments at  
1481 the request of the division; and

1482 (ii) the relative has the ability to make the child available to division services and the  
1483 guardian ad litem; and

1484 (c) the relative agrees to care for the child on an emergency basis under the following

1485 conditions:

1486 (i) the relative meets the criteria for an emergency kinship placement under Subsection  
1487 (2);

1488 (ii) the relative agrees to not allow the custodial parent or guardian to have any contact  
1489 with the child until after the shelter hearing unless authorized by the division in writing;

1490 (iii) the relative agrees to contact law enforcement and the division if the custodial  
1491 parent or guardian attempts to make unauthorized contact with the child;

1492 (iv) the relative agrees to allow the division and the child's guardian ad litem to have  
1493 access to the child;

1494 (v) the relative has been informed and understands that the division may continue to  
1495 search for other possible kinship placements for long-term care, if needed;

1496 (vi) the relative is willing to assist the custodial parent or guardian in reunification  
1497 efforts at the request of the division, and to follow all court orders; and

1498 (vii) the child is comfortable with the relative.

1499 (2) Before the division places a child in an emergency kinship placement, the division  
1500 must:

1501 (a) request the name of a reference and when possible, contact the reference and  
1502 determine the answer to the following questions:

1503 (i) would the person identified as a reference place a child in the home of the  
1504 emergency kinship placement; and

1505 (ii) are there any other relatives to consider as a possible emergency or long-term  
1506 placement for the child;

1507 (b) have the custodial parent or guardian sign an emergency kinship placement  
1508 agreement form during the investigation;

1509 (c) complete a criminal background check described in Sections 62A-4a-202.4 and  
1510 78-3a-307.1 on all persons living in the relative's household;

1511 (d) complete a home inspection of the relative's home; and

1512 (e) have the emergency kinship placement approved by a family service specialist.

1513 (3) As soon as possible after the emergency placement and prior to the shelter hearing  
1514 required by Section 78-3a-306, the division shall convene a family unity meeting.

1515 (4) After an emergency kinship placement, the division caseworker must:

1516 (a) respond to the emergency kinship placement's calls within one hour if the custodial  
1517 parents or guardians attempt to make unauthorized contact with the child or attempt to remove  
1518 the child;

1519 (b) complete all removal paperwork, including the notice provided to the custodial  
1520 parents and guardians under Section 78-3a-306;

1521 (c) contact the attorney general to schedule a shelter hearing;

1522 (d) complete the kinship procedures required in Section 78-3a-307, including, within  
1523 five days after placement, the criminal history record check described in Subsection (5); and

1524 (e) continue to search for other relatives as a possible long-term placement, if needed.

1525 (5) (a) In order to determine the suitability of the kinship placement and to conduct a  
1526 background screening and investigation of individuals living in the household in which a child  
1527 is placed, each individual living in the household in which the child is placed who has not lived  
1528 in the state substantially year round for the most recent five consecutive years ending on the  
1529 date the investigation is commenced shall be fingerprinted. If no disqualifying record is  
1530 identified at the state level, the fingerprints shall be forwarded by the division to the Federal  
1531 Bureau of Investigation for a national criminal history record check.

1532 (b) The cost of those investigations shall be borne by whomever received placement of  
1533 the child, except that the division may pay all or part of the cost of those investigations if the  
1534 person with whom the child is placed is unable to pay.

1535 Section 43. Section **62A-15-108** is amended to read:

1536 **62A-15-108. Formula for allocation of funds to local substance abuse authorities**  
1537 **and local mental health authorities.**

1538 (1) The board shall establish, by rule, formulas for allocating funds to local substance  
1539 abuse authorities and local mental health authorities through contracts, to provide substance  
1540 abuse prevention and treatment services in accordance with the provisions of this chapter and  
1541 Title [~~17A~~] 17, Chapter [~~3~~] 43, Part [~~7~~] 2, Local Substance Abuse Authorities, and mental  
1542 health services in accordance with the provisions of this chapter and Title [~~17A~~] 17, Chapter  
1543 [~~3~~] 43, Part [~~6~~] 3, Local Mental Health Authorities. The formulas shall provide for allocation  
1544 of funds based on need. Determination of need shall be based on population unless the board  
1545 establishes, by valid and accepted data, that other defined factors are relevant and reliable  
1546 indicators of need. The formulas shall include a differential to compensate for additional costs

1547 of providing services in rural areas.

1548 (2) The formulas established under Subsection (1) apply to all state and federal funds  
1549 appropriated by the Legislature to the division for local substance abuse authorities and local  
1550 mental health authorities, but does not apply to:

1551 (a) funds that local substance abuse authorities and local mental health authorities  
1552 receive from sources other than the division;

1553 (b) funds that local substance abuse authorities and local mental health authorities  
1554 receive from the division to operate specific programs within their jurisdictions which are  
1555 available to all residents of the state;

1556 (c) funds that local substance abuse authorities and local mental health authorities  
1557 receive from the division to meet needs that exist only within their local areas; and

1558 (d) funds that local substance abuse authorities and local mental health authorities  
1559 receive from the division for research projects.

1560 Section 44. Section **62A-15-110** is amended to read:

1561 **62A-15-110. Contracts for substance abuse and mental health services --**  
1562 **Provisions -- Responsibilities.**

1563 (1) If the division contracts with a local substance abuse authority or a local mental  
1564 health authority to provide substance abuse or mental health programs and services in  
1565 accordance with the provision of this chapter and Title ~~[17A]~~ 17, Chapter [3] 43, Part [7] 2,  
1566 Local Substance Abuse Authorities, or Title ~~[17A]~~ 17, Chapter [3] 43, Part [6] 3, Local Mental  
1567 Health Authorities, it shall ensure that those contracts include at least the following provisions:

1568 (a) that an independent auditor shall conduct any audit of the local substance abuse  
1569 authority or its contract provider's programs or services and any audit of the local mental health  
1570 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,  
1571 Chapter ~~[2, Audits of]~~ 2a, Accounting Reports from Political Subdivisions, Interlocal  
1572 Organizations, and Other Local Entities Act;

1573 (b) in addition to the requirements described in Title 51, Chapter ~~[2, Audits of]~~ 2a,  
1574 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
1575 Entities Act, the division:

1576 (i) shall prescribe guidelines and procedures, in accordance with those formulated by  
1577 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of

1578 officers, directors, and specified employees of the private contract provider, to assure the state  
1579 that no personal benefit is gained from travel or other expenses; and

1580 (ii) may prescribe specific items to be addressed by that audit, depending upon the  
1581 particular needs or concerns relating to the local substance abuse authority, local mental health  
1582 authority, or contract provider at issue;

1583 (c) the local substance abuse authority or its contract provider and the local mental  
1584 health authority and its contract provider shall invite and include all funding partners in its  
1585 auditor's pre- and exit conferences;

1586 (d) each member of the local substance abuse authority and each member of the local  
1587 mental health authority shall annually certify that he has received and reviewed the independent  
1588 audit and has participated in a formal interview with the provider's executive officers;

1589 (e) requested information and outcome data will be provided to the division in the  
1590 manner and within the time lines defined by the division; and

1591 (f) all audit reports by state or county persons or entities concerning the local substance  
1592 abuse authority or its contract provider, or the local mental health authority or its contract  
1593 provider shall be provided to the executive director of the department, the local substance  
1594 abuse authority or local mental health authority, and members of the contract provider's  
1595 governing board.

1596 (2) Each contract between the division and a local substance abuse authority or a local  
1597 mental health authority shall authorize the division to withhold funds, otherwise allocated  
1598 under Section 62A-15-108, to cover the costs of audits, attorney fees, and other expenditures  
1599 associated with reviewing the expenditure of public funds by a local substance abuse authority  
1600 or its contract provider or a local mental health authority or its contract provider, if there has  
1601 been an audit finding or judicial determination that public funds have been misused by the local  
1602 substance abuse authority or its contract provider or the local mental health authority or its  
1603 contract provider.

1604 Section 45. Section **62A-15-713** is amended to read:

1605 **62A-15-713. Contracts with local mental health authorities -- Provisions.**

1606 When the division contracts with a local mental health authority to provide mental  
1607 health programs and services in accordance with the provision of this chapter and Title ~~[17A]~~  
1608 17, Chapter ~~[3]~~ 43, Part ~~[6]~~ 3, Local Mental Health Authorities, it shall ensure that those

1609 contracts include at least the following provisions:

1610 (1) that an independent auditor shall conduct any audit of the local mental health  
1611 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,  
1612 Chapter [~~2, Audits of~~] 2a, Accounting Reports from Political Subdivisions, Interlocal  
1613 Organizations, and Other Local Entities Act;

1614 (2) in addition to the requirements described in Title 51, Chapter [~~2, Audits of~~] 2a,  
1615 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
1616 Entities Act, the division:

1617 (a) shall prescribe guidelines and procedures, in accordance with those formulated by  
1618 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of  
1619 officers, directors, and specified employees of the private contract provider, to assure the state  
1620 that no personal benefit is gained from travel or other expenses; and

1621 (b) may prescribe specific items to be addressed by that audit, depending upon the  
1622 particular needs or concerns relating to the local mental health authority or contract provider at  
1623 issue;

1624 (3) the local mental health authority or its contract provider shall invite and include all  
1625 funding partners in its auditor's pre- and exit conferences;

1626 (4) each member of the local mental health authority shall annually certify that he has  
1627 received and reviewed the independent audit and has participated in a formal interview with the  
1628 provider's executive officers;

1629 (5) requested information and outcome data will be provided to the division in the  
1630 manner and within the timelines defined by the division;

1631 (6) all audit reports by state or county persons or entities concerning the local mental  
1632 health authority or its contract provider shall be provided to the executive director of the  
1633 department, the local mental health authority, and members of the contract provider's governing  
1634 board; and

1635 (7) the local mental health authority or its contract provider will offer and provide  
1636 mental health services to residents who are indigent and who meet state criteria for serious and  
1637 persistent mental illness or severe emotional disturbance.

1638 Section 46. Section **63-2-204** is amended to read:

1639 **63-2-204. Requests -- Time limit for response and extraordinary circumstances.**

1640 (1) A person making a request for a record shall furnish the governmental entity with a  
1641 written request containing his name, mailing address, daytime telephone number, if available,  
1642 and a description of the records requested that identifies the record with reasonable specificity.

1643 (2) A governmental entity may make rules in accordance with Title 63, Chapter 46a,  
1644 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall  
1645 be directed.

1646 (3) (a) As soon as reasonably possible, but no later than ten business days after  
1647 receiving a written request, or five business days after receiving a written request if the  
1648 requester demonstrates that expedited response to the record request benefits the public rather  
1649 than the person, the governmental entity shall respond to the request by:

1650 (i) approving the request and providing the record;

1651 (ii) denying the request;

1652 (iii) notifying the requester that it does not maintain the record and providing, if  
1653 known, the name and address of the governmental entity that does maintain the record; or

1654 (iv) notifying the requester that because of one of the extraordinary circumstances  
1655 listed in Subsection (4), it cannot immediately approve or deny the request~~[- The];~~ this notice  
1656 shall describe the circumstances relied upon and specify the date when the records will be  
1657 available.

1658 (b) Any person who requests a record to obtain information for a story or report for  
1659 publication or broadcast to the general public is presumed to be acting to benefit the public  
1660 rather than a person.

1661 (4) The following circumstances constitute "extraordinary circumstances" that allow a  
1662 governmental entity to delay approval or denial by an additional period of time as specified in  
1663 Subsection ~~[63-2-204]~~ (5) if the governmental entity determines that due to the extraordinary  
1664 circumstances it cannot respond within the time limits provided in Subsection (3):

1665 (a) another governmental entity is using the record, in which case the originating  
1666 governmental entity shall promptly request that the governmental entity currently in possession  
1667 return the record;

1668 (b) another governmental entity is using the record as part of an audit, and returning the  
1669 record before the completion of the audit would impair the conduct of the audit;

1670 (c) the request is for a voluminous quantity of records;

1671 (d) the governmental entity is currently processing a large number of records requests;

1672 (e) the request requires the governmental entity to review a large number of records to  
1673 locate the records requested;

1674 (f) the decision to release a record involves legal issues that require the governmental  
1675 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case  
1676 law;

1677 (g) segregating information that the requester is entitled to inspect from information  
1678 that the requester is not entitled to inspect requires extensive editing; or

1679 (h) segregating information that the requester is entitled to inspect from information  
1680 that the requester is not entitled to inspect requires computer programming.

1681 (5) If one of the extraordinary circumstances listed in Subsection (4) precludes  
1682 approval or denial within the time specified in Subsection (3), the following time limits apply  
1683 to the extraordinary circumstances:

1684 (a) for claims under Subsection (4)(a), the governmental entity currently in possession  
1685 of the record shall return the record to the originating entity within five business days of the  
1686 request for the return unless returning the record would impair the holder's work;

1687 (b) for claims under Subsection (4)(b), the originating governmental entity shall notify  
1688 the requester when the record is available for inspection and copying;

1689 (c) for claims under Subsections (4)(c), (d), and (e), the governmental entity shall:

1690 (i) disclose the records that it has located which the requester is entitled to inspect;

1691 (ii) provide the requester with an estimate of the amount of time it will take to finish  
1692 the work required to respond to the request; and

1693 (iii) complete the work and disclose those records that the requester is entitled to  
1694 inspect as soon as reasonably possible;

1695 (d) for claims under Subsection (4)(f), the governmental entity shall either approve or  
1696 deny the request within five business days after the response time specified for the original  
1697 request has expired;

1698 (e) for claims under Subsection (4)(g), the governmental entity shall fulfill the request  
1699 within 15 business days from the date of the original request; or

1700 (f) for claims under Subsection (4)(h), the governmental entity shall complete its  
1701 programming and disclose the requested records as soon as reasonably possible.

1702 (6) (a) If a request for access is submitted to an office of a governmental entity other  
1703 than that specified by rule in accordance with Subsection (2), the office shall promptly forward  
1704 the request to the appropriate office.

1705 (b) If the request is forwarded promptly, the time limit for response begins when the  
1706 record is received by the office specified by rule.

1707 (7) If the governmental entity fails to provide the requested records or issue a denial  
1708 within the specified time period, that failure is considered the equivalent of a determination  
1709 denying access to the records.

1710 Section 47. Section **63-5b-102** is amended to read:

1711 **63-5b-102. Definitions.**

1712 (1) (a) "Absent" means:

1713 (i) not physically present or not able to be communicated with for 48 hours; or

1714 (ii) for local government officers, as defined by local ordinances.

1715 (b) "Absent" does not include a person who can be communicated with via telephone,  
1716 radio, or telecommunications.

1717 (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action  
1718 against the United States of America or this state.

1719 (3) "Department" means the Department of Administrative Services, the Department of  
1720 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of  
1721 Commerce, the Department of Community and Economic Development, the Department of  
1722 Corrections, the Department of Environmental Quality, the Department of Financial  
1723 Institutions, the Department of Health, the Department of Human Resource Management, the  
1724 Department of Workforce Services, the Labor Commission, the National Guard, the  
1725 Department of Insurance, the Department of Natural Resources, the Department of Public  
1726 Safety, the Public Service Commission, the Department of Human Services, the State Tax  
1727 Commission, the Department of Transportation, any other major administrative subdivisions of  
1728 state government, the State Board of Education, the State Board of Regents, the Utah Housing  
1729 Corporation, [~~the Utah Technology Finance Corporation,~~] the Workers' Compensation Fund,  
1730 the State Retirement Board, and each institution of higher education within the system of  
1731 higher education.

1732 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,

1733 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,  
1734 natural phenomenon, or technological hazard.

1735 (5) "Division" means the Division of Emergency Services and Homeland Security  
1736 established in Title 53, Chapter 2, Emergency [~~Services and Homeland Security Act~~]  
1737 Management.

1738 (6) "Emergency interim successor" means a person designated by this chapter to  
1739 exercise the powers and discharge the duties of an office when the person legally exercising the  
1740 powers and duties of the office is unavailable.

1741 (7) "Executive director" means the person with ultimate responsibility for managing  
1742 and overseeing the operations of each department, however denominated.

1743 (8) "Internal disturbance" means a riot, prison break, disruptive terrorism, or strike.

1744 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,  
1745 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

1746 (10) (a) "Office" includes all state and local offices, the powers and duties of which are  
1747 defined by constitution, statutes, charters, optional plans, ordinances, articles, or bylaws.

1748 (b) "Office" does not include the office of governor or the legislative or judicial offices.

1749 (11) "Place of governance" means the physical location where the powers of an office  
1750 are being exercised.

1751 (12) "Political subdivision" includes counties, cities, towns, townships, districts,  
1752 authorities, and other public corporations and entities whether organized and existing under  
1753 charter or general law.

1754 (13) "Political subdivision officer" means a person holding an office in a political  
1755 subdivision.

1756 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and  
1757 the executive director of each department.

1758 (15) "Technological hazard" means any hazardous materials accident, mine accident,  
1759 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

1760 (16) "Unavailable" means:

1761 (a) absent from the place of governance during a disaster that seriously disrupts normal  
1762 governmental operations, whether or not that absence or inability would give rise to a vacancy  
1763 under existing constitutional or statutory provisions; or

1764 (b) as otherwise defined by local ordinance.

1765 Section 48. Section **63-34-14** is amended to read:

1766 **63-34-14. Species Protection Account.**

1767 (1) As used in this section, "species protection" means an action to protect any plant or  
1768 animal species identified as sensitive by the state or as threatened or endangered under the  
1769 Endangered Species Act of 1973, 16 U.S.C. [~~16~~] Sec. 1531 et seq.

1770 (2) There is created within the General Fund a restricted account known as the Species  
1771 Protection Account.

1772 (3) The account shall consist of:

1773 (a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23,  
1774 Brine Shrimp Royalty Act; and

1775 (b) interest earned on monies in the account.

1776 (4) Monies in the account may be appropriated by the Legislature for the following  
1777 purposes:

1778 (a) to develop and implement species status assessments and species protection  
1779 measures;

1780 (b) to obtain biological opinions of proposed species protection measures;

1781 (c) to conduct studies, investigations, and research into the effects of proposed species  
1782 protection measures;

1783 (d) to verify species protection proposals that are not based on valid biological data;

1784 (e) for Great Salt Lake wetlands mitigation projects in connection with the western  
1785 transportation corridor;

1786 (f) to pay for the state's voluntary contributions to the Utah Reclamation Mitigation and  
1787 Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575,  
1788 Titles II-VI, 106 Stat. 4605-4655; and

1789 (g) to pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine  
1790 Shrimp Royalty Act.

1791 (5) The purposes specified in Subsections (4)(a) through (4)(d) may be accomplished  
1792 by the state or, in an appropriation act, the Legislature may authorize the Department of Natural  
1793 Resources to award grants to political subdivisions of the state to accomplish those purposes.

1794 (6) Monies in the account may not be used to develop or implement a habitat

1795 conservation plan required under federal law unless the federal government pays for at least 1/3  
1796 of the habitat conservation plan costs.

1797 Section 49. Section **63-38-8.1** is amended to read:

1798 **63-38-8.1. Nonlapsing authority.**

1799 (1) As used in this section:

1800 (a) (i) "Agency" means each department, commission, board, council, agency,  
1801 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
1802 unit, bureau, panel, or other administrative unit of the state.

1803 (ii) "Agency" does not include those entities whose unappropriated and unencumbered  
1804 balances are made nonlapsing by the operation of Subsection 63-38-8(2).

1805 (b) "Appropriation balance" means the unexpended and unencumbered balance of a  
1806 line item appropriation made by the Legislature to an agency that exists at the end of a fiscal  
1807 year.

1808 (c) "Nonlapsing" means that an agency's appropriation balance is not closed out to the  
1809 appropriate fund at the end of a fiscal year as required by Section 63-38-8.

1810 (d) "One-time project" means a project or program that can be completed with the  
1811 appropriation balance and includes such items as employee incentive awards and bonuses,  
1812 purchase of equipment, and one-time training.

1813 (e) "One-time [~~project's~~] projects list" means:

1814 (i) a prioritized list of one-time projects, upon which an agency would like to spend  
1815 any appropriation balance; and

1816 (ii) for each project, the maximum amount the agency is estimating for the project.

1817 (f) "Program" means a service provided by an agency to members of the public, other  
1818 agencies, or to employees of the agency.

1819 (2) Notwithstanding the requirements of Section 63-38-8, an agency may:

1820 (a) by following the procedures and requirements of this section, retain and expend any  
1821 appropriation balance; and

1822 (b) comply with the requirements of Subsections 63-9-67(2) and 63-38-18(2).

1823 (3) (a) Each agency that wishes to preserve any part or all of its appropriation balance  
1824 as nonlapsing shall include a one-time [~~project's~~] projects list as part of the budget request that  
1825 it submits to the governor and the Legislature at the annual general session of the Legislature

1826 immediately before the end of the fiscal year in which the agency may have an appropriation  
1827 balance.

1828 (b) An agency may not include a proposed expenditure on its one-time [~~project's~~]  
1829 projects list if:

- 1830 (i) the expenditure creates a new program;
- 1831 (ii) the expenditure enhances the level of an existing program; or
- 1832 (iii) the expenditure will require a legislative appropriation in the next fiscal year.

1833 (c) The governor:

1834 (i) may approve some or all of the items from an agency's one-time [~~project's~~] projects  
1835 list; and

1836 (ii) shall identify and prioritize any approved one-time projects in the budget that he  
1837 submits to the Legislature.

1838 (4) The Legislature:

1839 (a) may approve some or all of the specific items from an agency's one-time [~~project's~~]  
1840 projects list as authorized expenditures of an agency's appropriation balance;

1841 (b) shall identify any authorized one-time projects in the appropriate line item  
1842 appropriation; and

1843 (c) may prioritize one-time projects in intent language.

1844 Section 50. Section **63-38-9.5** is amended to read:

1845 **63-38-9.5. Agency exempt from act.**

1846 The Utah Housing Corporation [~~and the Utah Technology Finance Corporation are~~] is  
1847 exempt from this act.

1848 Section 51. Section **63-38a-102** is amended to read:

1849 **63-38a-102. Definitions.**

1850 As used in this chapter:

1851 (1) (a) "Agency" means each department, commission, board, council, agency,  
1852 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
1853 unit, bureau, panel, or other administrative unit of the state.

1854 (b) "Agency" does not include the legislative branch, the board of regents, the Utah  
1855 Higher Education Assistance Authority, the board of trustees of each higher education  
1856 institution, each higher education institution and its associated branches, centers, divisions,

1857 institutes, foundations, hospitals, colleges, schools, or departments, a public education entity,  
1858 or an independent agency.

1859 (2) (a) "Dedicated credits revenues" means revenues from collections by an agency that  
1860 are deposited directly into an account for expenditure on a separate line item and program.

1861 (b) "Dedicated credits" does not mean:

1862 (i) federal revenues and the related pass through or the related state match paid by one  
1863 agency to another;

1864 (ii) revenues that are not deposited in governmental funds;

1865 (iii) revenues from any contracts; and

1866 (iv) revenues received by the Attorney General's Office from billings for professional  
1867 services.

1868 (3) "Fees" means revenue collected by an agency for performing a service or providing  
1869 a function that the agency deposits or accounts for as dedicated credits or fixed collections.

1870 (4) (a) "Fixed collections revenues" means revenue from collections:

1871 (i) fixed by law or by the appropriation act at a specific amount; and

1872 (ii) required by law to be deposited into a separate line item and program.

1873 (b) "Fixed collections" does not mean:

1874 (i) federal revenues and the related pass through or the related state match paid by one  
1875 agency to another;

1876 (ii) revenues that are not deposited in governmental funds;

1877 (iii) revenues from any contracts; and

1878 (iv) revenues received by the Attorney General's Office from billings for professional  
1879 services.

1880 (5) (a) "Governmental fund" means funds used to account for the acquisition, use, and  
1881 balances of expendable financial resources and related liabilities using a measurement focus  
1882 that emphasizes the flow of financial resources.

1883 (b) "Governmental fund" does not include internal service funds, enterprise funds,  
1884 capital projects funds, debt service funds, or trust and agency funds as established in Section  
1885 51-5-4.

1886 (6) "Independent agency" means the Utah State Retirement Office, the Utah Housing  
1887 Corporation, [~~the Utah Technology Finance Corporation,~~] and the Workers' Compensation

1888 Fund.

1889 (7) "Program" means the function or service provided by an agency for which the  
1890 agency collects fees.

1891 (8) "Revenue types" means the categories established by the Division of Finance under  
1892 the authority of this chapter that classify revenue according to the purpose for which it is  
1893 collected.

1894 Section 52. Section **63-55-263** is amended to read:

1895 **63-55-263. Repeal dates, Titles 63 to 63E.**

1896 (1) Title 63, Chapter 25a, Part 3, Sentencing Commission, is repealed January 1, 2012.

1897 (2) The Crime Victims' Reparations Board, created in Section 63-25a-404, is repealed  
1898 July 1, 2007.

1899 [~~(4)~~] (3) Title 63, Chapter 38c, State Appropriations and Tax Limitation Act, is  
1900 repealed July 1, 2005.

1901 [~~(3)~~] (4) The Resource Development Coordinating Committee, created in Section  
1902 63-38d-501, is repealed July 1, 2005.

1903 (5) Title 63, Chapter 47, Utah Commission for Women and Families, is repealed July  
1904 1, 2005.

1905 (6) Title 63, Chapter 75, Families, Agencies, and Communities Together for Children  
1906 and Youth At Risk Act, is repealed July 1, 2006.

1907 (7) Title 63, Chapter 88, Navajo Trust Fund, is repealed July 1, 2005.

1908 (8) Sections 63A-4-204 and 63A-4-205, authorizing the Risk Management Fund to  
1909 provide coverage to nonstate entities, are repealed July 1, 2006.

1910 [~~(9) Title 63A, Chapter 10, State Olympic Coordination Act, is repealed July 1, 2004.]~~

1911 Section 53. Section **63-56-5** is amended to read:

1912 **63-56-5. Definitions.**

1913 As used in this chapter:

1914 (1) "Architect-engineer services" are those professional services within the scope of the  
1915 practice of architecture as defined in Section 58-3a-102, or professional engineering as defined  
1916 in Section 58-22-102.

1917 (2) "Business" means any corporation, partnership, individual, sole proprietorship,  
1918 joint stock company, joint venture, or any other private legal entity.

1919 (3) "Change order" means a written order signed by the procurement officer, directing  
1920 the contractor to suspend work or make changes, which the appropriate clauses of the contract  
1921 authorize the procurement officer to order without the consent of the contractor or any written  
1922 alteration in specifications, delivery point, rate of delivery, period of performance, price,  
1923 quantity, or other provisions of any contract accomplished by mutual action of the parties to the  
1924 contract.

1925 (4) (a) "Construction" means the process of building, renovation, alteration,  
1926 improvement, or repair of any public building or public work.

1927 (b) "Construction" does not mean the routine operation, routine repair, or routine  
1928 maintenance of existing structures, buildings, or real property.

1929 (5) (a) "Construction Manager/General Contractor" means any contractor who enters  
1930 into a contract for the management of a construction project when that contract allows the  
1931 contractor to subcontract for additional labor and materials that were not included in the  
1932 contractor's cost proposal submitted at the time of the procurement of the Construction  
1933 Manager/General Contractor's services.

1934 (b) "Construction Manager/General Contractor" does not mean a contractor whose only  
1935 subcontract work not included in the contractor's cost proposal submitted as part of the  
1936 procurement of construction is to meet subcontracted portions of change orders approved  
1937 within the scope of the project.

1938 (6) "Contract" means any state agreement for the procurement or disposal of supplies,  
1939 services, or construction.

1940 (7) "Cooperative purchasing" means procurement conducted by, or on behalf of, more  
1941 than one public procurement unit, or by a public procurement unit with an external  
1942 procurement unit.

1943 (8) "Cost-reimbursement contract" means a contract under which a contractor is  
1944 reimbursed for costs which are allowed and allocated in accordance with the contract terms and  
1945 the provisions of this chapter, and a fee, if any.

1946 (9) (a) "Design-build" means the procurement of architect-engineer services and  
1947 construction by the use of a single contract with the design-build provider.

1948 (b) This method of design and construction can include the design-build provider  
1949 supplying the site as part of the contract.

1950 (10) "Established catalogue price" means the price included in a catalogue, price list,  
1951 schedule, or other form that:

1952 (a) is regularly maintained by a manufacturer or contractor;

1953 (b) is either published or otherwise available for inspection by customers; and

1954 (c) states prices at which sales are currently or were last made to a significant number  
1955 of any category of buyers or buyers constituting the general buying public for the supplies or  
1956 services involved.

1957 (11) "External procurement unit" means any buying organization not located in this  
1958 state which, if located in this state, would qualify as a public procurement unit. An agency of  
1959 the United States is an external procurement unit.

1960 (12) "Grant" means the furnishing by the state or by any other public or private source  
1961 assistance, whether financial or otherwise, to any person to support a program authorized by  
1962 law. It does not include an award whose primary purpose is to procure an end product, whether  
1963 in the form of supplies, services, or construction. A contract resulting from the award is not a  
1964 grant but a procurement contract.

1965 (13) "Invitation for bids" means all documents, whether attached or incorporated by  
1966 reference, utilized for soliciting bids.

1967 (14) "Local public procurement unit" means any political subdivision or institution of  
1968 higher education of the state or public agency of any subdivision, public authority, educational,  
1969 health, or other institution, and to the extent provided by law, any other entity which expends  
1970 public funds for the procurement of supplies, services, and construction, but not counties,  
1971 municipalities, political subdivisions created by counties or municipalities under the Interlocal  
1972 Cooperation Act, the Utah Housing Corporation, [~~the Utah Technology Finance Corporation,~~]  
1973 or the Legislature and its staff offices. It includes two or more local public procurement units  
1974 acting under legislation which authorizes intergovernmental cooperation.

1975 (15) "Person" means any business, individual, union, committee, club, other  
1976 organization, or group of individuals, not including a state agency or a local public  
1977 procurement unit.

1978 (16) "Policy board" means the procurement policy board created by Section 63-56-6.

1979 (17) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference  
1980 under the requirements of this chapter.

1981 (18) "Procurement" means buying, purchasing, renting, leasing, leasing with an option  
1982 to purchase, or otherwise acquiring any supplies, services, or construction. It also includes all  
1983 functions that pertain to the obtaining of any supply, service, or construction, including  
1984 description of requirements, selection, and solicitation of sources, preparation, and award of a  
1985 contract, and all phases of contract administration.

1986 (19) "Procurement officer" means any person or board duly authorized to enter into and  
1987 administer contracts and make written determinations with respect thereto. It also includes an  
1988 authorized representative acting within the limits of authority.

1989 (20) "Public procurement unit" means either a local public procurement unit or a state  
1990 public procurement unit.

1991 (21) "Purchase description" means the words used in a solicitation to describe the  
1992 supplies, services, or construction to be purchased, and includes specifications attached to or  
1993 made a part of the solicitation.

1994 (22) "Purchasing agency" means any state agency other than the Division of Purchasing  
1995 and General Services that is authorized by this chapter or its implementing regulations, or by  
1996 delegation from the chief procurement officer, to enter into contracts.

1997 (23) "Request for proposals" means all documents, whether attached or incorporated by  
1998 reference, used for soliciting proposals.

1999 (24) "Responsible bidder or offeror" means a person who has the capability in all  
2000 respects to perform fully the contract requirements and who has the integrity and reliability  
2001 which will assure good faith performance.

2002 (25) "Responsive bidder" means a person who has submitted a bid which conforms in  
2003 all material respects to the invitation for bids.

2004 (26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids  
2005 or proposals in addition to bids or proposals manually sealed and submitted.

2006 (27) "Services" means the furnishing of labor, time, or effort by a contractor, not  
2007 involving the delivery of a specific end product other than reports which are merely incidental  
2008 to the required performance. It does not include employment agreements or collective  
2009 bargaining agreements.

2010 (28) "Specification" means any description of the physical or functional characteristics,  
2011 or of the nature of a supply, service, or construction item. It may include a description of any

2012 requirement for inspecting, testing, or preparing a supply, service, or construction item for  
2013 delivery.

2014 (29) "State agency" or "the state" means any department, division, commission,  
2015 council, board, bureau, committee, institution, government corporation, or other establishment,  
2016 official, or employee of this state.

2017 (30) "State public procurement unit" means the Division of Purchasing and General  
2018 Services and any other purchasing agency of this state.

2019 (31) "Supplies" means all property, including equipment, materials, and printing.

2020 (32) "Using agency" means any state agency which utilizes any supplies, services, or  
2021 construction procured under this chapter.

2022 Section 54. Section **63A-1-113** is amended to read:

2023 **63A-1-113. Agency exempt from title.**

2024 The Utah Housing Corporation [~~and the Utah Technology Finance Corporation are~~] is  
2025 exempt from this title.

2026 Section 55. Section **63A-9-101** is amended to read:

2027 **63A-9-101. Definitions.**

2028 (1) (a) "Agency" means each department, commission, board, council, agency,  
2029 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
2030 unit, bureau, panel, or other administrative unit of the state.

2031 (b) "Agency" includes the State Board of Education, the Office of Education, each  
2032 Applied Technology Center, the board of regents, the institutional councils of each higher  
2033 education institution, and each higher education institution.

2034 (c) "Agency" includes the legislative and judicial branches.

2035 (2) "Committee" means the Motor Vehicle Review Committee created by this chapter.

2036 [~~(4)~~] (3) "Director" means the director of the division.

2037 [~~(3)~~] (4) "Division" means the Division of Fleet Operations created by this chapter.

2038 (5) "Executive director" means the executive director of the Department of  
2039 Administrative Services.

2040 (6) (a) "Motor vehicle" means a self-propelled vehicle capable of carrying passengers.

2041 (b) "Motor vehicle" includes vehicles used for construction and other nontransportation  
2042 purposes.

2043 (7) "State vehicle" means each motor vehicle owned, operated, or in the possession of  
2044 an agency.

2045 Section 56. Section **67-3-1** is amended to read:

2046 **67-3-1. Functions and duties.**

2047 (1) (a) The state auditor is the auditor of public accounts and is independent of any  
2048 executive or administrative officers of the state.

2049 (b) The state auditor is not limited in the selection of personnel or in the determination  
2050 of the reasonable and necessary expenses of his office.

2051 (2) The state auditor shall examine and certify annually in respect to each fiscal year,  
2052 financial statements showing:

2053 (a) the condition of the state's finances;

2054 (b) the revenues received or accrued;

2055 (c) expenditures paid or accrued;

2056 (d) the amount of unexpended or unencumbered balances of the appropriations to the  
2057 agencies, departments, divisions, commissions, and institutions; and

2058 (e) the cash balances of the funds in the custody of the state treasurer.

2059 (3) (a) The state auditor shall:

2060 (i) audit each permanent fund, each special fund, the General Fund, and the accounts of  
2061 any department of state government or any independent agency or public corporation as the law  
2062 requires, as the auditor determines is necessary, or upon request of the governor or the  
2063 Legislature;

2064 (ii) perform the audits in accordance with generally accepted auditing standards and  
2065 other auditing procedures as promulgated by recognized authoritative bodies;

2066 (iii) as the auditor determines is necessary, conduct the audits to determine:

2067 (A) honesty and integrity in fiscal affairs;

2068 (B) accuracy and reliability of financial statements;

2069 (C) effectiveness and adequacy of financial controls; and

2070 (D) compliance with the law.

2071 (b) If any state entity receives federal funding, the state auditor shall ensure that the  
2072 audit is performed in accordance with federal audit requirements.

2073 (c) (i) The costs of the federal compliance portion of the audit may be paid from an

2074 appropriation to the state auditor from the General Fund.

2075 (ii) If an appropriation is not provided, or if the federal government does not  
2076 specifically provide for payment of audit costs, the costs of the federal compliance portions of  
2077 the audit shall be allocated on the basis of the percentage that each state entity's federal funding  
2078 bears to the total federal funds received by the state.

2079 (iii) The allocation shall be adjusted to reflect any reduced audit time required to audit  
2080 funds passed through the state to local governments and to reflect any reduction in audit time  
2081 obtained through the use of internal auditors working under the direction of the state auditor.

2082 (4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to  
2083 financial audits, and as the auditor determines is necessary, conduct performance and special  
2084 purpose audits, examinations, and reviews of any entity that receives public funds, including a  
2085 determination of any or all of the following:

2086 (i) the honesty and integrity of all its fiscal affairs;

2087 (ii) whether or not its administrators have faithfully complied with legislative intent;

2088 (iii) whether or not its operations have been conducted in an efficient, effective, and  
2089 cost-efficient manner;

2090 (iv) whether or not its programs have been effective in accomplishing the intended  
2091 objectives; and

2092 (v) whether or not its management, control, and information systems are adequate and  
2093 effective.

2094 (b) The auditor may not conduct performance and special purpose audits,  
2095 examinations, and reviews of any entity that receives public funds if the entity:

2096 (i) has an elected auditor; and

2097 (ii) has, within the entity's last budget year, had its financial statements or performance  
2098 formally reviewed by another outside auditor.

2099 (5) The state auditor shall administer any oath or affirmation necessary to the  
2100 performance of the duties of the auditor's office, and may subpoena witnesses and documents,  
2101 whether electronic or otherwise, and examine into any matter that the auditor considers  
2102 necessary.

2103 (6) The state auditor may require all persons who have had the disposition or  
2104 management of any property of this state or its political subdivisions to submit statements

2105 regarding it at the time and in the form that the auditor requires.

2106 (7) The state auditor shall:

2107 (a) except where otherwise provided by law, institute suits in Salt Lake County in

2108 relation to the assessment, collection, and payment of its revenues against:

2109 (i) persons who by any means have become entrusted with public monies or property

2110 and have failed to pay over or deliver those monies or property; and

2111 (ii) all debtors of the state;

2112 (b) collect and pay into the state treasury all fees received by the state auditor;

2113 (c) perform the duties of a member of all boards of which the state auditor is a member

2114 by the constitution or laws of the state, and any other duties that are prescribed by the

2115 constitution and by law;

2116 (d) stop the payment of the salary of any state official or state employee who:

2117 (i) refuses to settle accounts or provide required statements about the custody and

2118 disposition of public funds or other state property;

2119 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling

2120 board or department head with respect to the manner of keeping prescribed accounts or funds;

2121 or

2122 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the

2123 official's or employee's attention;

2124 (e) establish accounting systems, methods, and forms for public accounts in all taxing

2125 or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

2126 (f) superintend the contractual auditing of all state accounts;

2127 (g) subject to Subsection (8), withhold state allocated funds or the disbursement of

2128 property taxes from any state taxing or fee-assessing unit, if necessary, to ensure that officials

2129 and employees in those taxing units of the state comply with state laws and procedures in the

2130 budgeting, expenditures, and financial reporting of public funds; and

2131 (h) subject to Subsection (9), withhold the disbursement of tax monies from any

2132 county, if necessary, to ensure that officials and employees in the county comply with Section

2133 59-2-303.1.

2134 (8) Except as otherwise provided by law, the state auditor may not withhold funds

2135 under Subsection (7)(g) until a taxing or fee-assessing unit has received formal written notice

2136 of noncompliance from the auditor and has been given 60 days to make the specified  
2137 corrections.

2138 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
2139 received formal written notice of noncompliance from the auditor and has been given 60 days  
2140 to make the specified corrections.

2141 (10) The state auditor shall:

2142 (a) establish audit guidelines and procedures for audits of local mental health and  
2143 substance abuse authorities and their contract providers, conducted pursuant to Title [~~17A~~] 17,  
2144 Chapter [~~3~~] 43, Parts [~~6~~] 2, Local Substance Abuse Authorities and [~~7, Title 62A, Chapter 15,~~  
2145 ~~and~~] 3, Local Mental Health Authorities, Title 51, Chapter [~~2~~] 2a, Accounting Reports from  
2146 Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A,  
2147 Chapter 15, Substance Abuse and Mental Health Act; and

2148 (b) ensure that those guidelines and procedures provide assurances to the state that:

2149 (i) state and federal funds appropriated to local mental health authorities are used for  
2150 mental health purposes;

2151 (ii) a private provider under an annual or otherwise ongoing contract to provide  
2152 comprehensive mental health programs or services for a local mental health authority is in  
2153 compliance with state and local contract requirements, and state and federal law;

2154 (iii) state and federal funds appropriated to local substance abuse authorities are used  
2155 for substance abuse programs and services; and

2156 (iv) a private provider under an annual or otherwise ongoing contract to provide  
2157 comprehensive substance abuse programs or services for a local substance abuse authority is in  
2158 compliance with state and local contract requirements, and state and federal law.

2159 (11) The state auditor may, in accordance with the auditor's responsibilities for political  
2160 subdivisions of the state as provided in Title 51, Chapter [~~2, Audits of~~] 2a, Accounting Reports  
2161 from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate  
2162 audits or investigations of any political subdivision that are necessary to determine honesty and  
2163 integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and  
2164 adequacy of financial controls and compliance with the law.

2165 (12) (a) The state auditor may not audit work that the state auditor performed before  
2166 becoming state auditor.

2167 (b) If the state auditor has previously been a responsible official in state government  
2168 whose work has not yet been audited, the Legislature shall:

2169 (i) designate how that work shall be audited; and

2170 (ii) provide additional funding for those audits, if necessary.

2171 (13) (a) The following records in the custody or control of the state auditor are  
2172 protected records under Title 63, Chapter 2, Government Records Access and Management  
2173 Act:

2174 (i) records that would disclose information relating to allegations of personal  
2175 misconduct, gross mismanagement, or illegal activity of a past or present governmental  
2176 employee if the information or allegation cannot be corroborated by the state auditor through  
2177 other documents or evidence, and the records relating to the allegation are not relied upon by  
2178 the state auditor in preparing a final audit report;

2179 (ii) records and audit workpapers to the extent they would disclose the identity of a  
2180 person who during the course of an audit, communicated the existence of any waste of public  
2181 funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation  
2182 adopted under the laws of this state, a political subdivision of the state, or any recognized entity  
2183 of the United States, if the information was disclosed on the condition that the identity of the  
2184 person be protected;

2185 (iii) before an audit is completed and the final audit report is released, records or drafts  
2186 circulated to a person who is not an employee or head of a governmental entity for their  
2187 response or information;

2188 (iv) records that would disclose an outline or part of any audit survey plans or audit  
2189 program; and

2190 (v) requests for audits, if disclosure would risk circumvention of an audit.

2191 (b) The provisions of Subsections (13)(a)(i), (ii), and (iii) do not prohibit the disclosure  
2192 of records or information that relate to a violation of the law by a governmental entity or  
2193 employee to a government prosecutor or peace officer.

2194 (c) The provisions of this Subsection (13) do not limit the authority otherwise given to  
2195 the state auditor to classify a document as public, private, controlled, or protected under Title  
2196 63, Chapter 2, Government Records Access and Management Act.

2197 Section 57. Section **67-5b-104** is amended to read:

2198 **67-5b-104. Requirements of agreement.**

2199 (1) To qualify for contracting as a Children's Justice Center, a comprehensive,  
2200 multidisciplinary, nonprofit, intergovernmental body consisting of two or more public agencies  
2201 and other persons shall enter into written agreements with one another for joint or cooperative  
2202 action pursuant to this part.

2203 (2) Any agreement to create a center shall specify the following:

2204 (a) its duration, not to exceed 50 years;

2205 (b) the precise organization, composition, membership, and nature of any separate legal  
2206 or administrative entity created, together with the powers delegated;

2207 (c) its purpose;

2208 (d) the manner of financing the joint or intergovernmental undertaking and of  
2209 establishing and maintaining a budget;

2210 (e) the contracting public agency designated to oversee the accountability of the center,  
2211 including the budget, costs, personnel, and management pursuant to Title 51, Chapter [2,  
2212 ~~Audits of~~ 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
2213 Other Local Entities Act;

2214 (f) the permissible method or methods to be employed in accomplishing the partial or  
2215 complete termination of the agreement and in disposing of property upon the partial or  
2216 complete termination; and

2217 (g) any other necessary and proper matters.

2218 (3) Any agreement made pursuant to this part shall, prior to and as a condition  
2219 precedent to its becoming effective, be reviewed by the attorney general and the county  
2220 attorney of the county where the center is located and approved for form and compatibility with  
2221 the laws of this state.

2222 (4) Prior to its becoming effective, any agreement made pursuant to this part shall be  
2223 filed with the person who keeps the records of each of the public agencies and other persons  
2224 who are parties to it.

2225 (5) No agreement made pursuant to this part shall relieve any public agency of any  
2226 obligation or responsibility imposed upon it by law except that actual and timely performance  
2227 by an intergovernmental legal entity created to perform joint intergovernmental functions by an  
2228 agreement made under this section may be offered in satisfaction of the obligation or

2229 responsibility.

2230 (6) Any public agency entering into an agreement pursuant to this part may appropriate  
2231 funds and may sell, lease, give, or otherwise supply tangible and intangible property to a center  
2232 created to operate the joint or intergovernmental undertaking and may provide personnel or  
2233 services as may be within its legal power to appropriate, sell, lease, give, supply, or furnish.

2234 (7) Any one or more public agencies may contract with each other or with a legal or  
2235 administrative entity created pursuant to this part to perform any governmental service,  
2236 activity, or undertaking which each public agency or person entering into the contract is  
2237 authorized by law to perform, provided that such contract is authorized by the governing body  
2238 of each party to the contract.

2239 (8) Any facility or improvement jointly owned or jointly operated by any two or more  
2240 public agencies and other persons or acquired or constructed pursuant to an agreement under  
2241 this part may be operated by the intergovernmental body as may be provided by appropriate  
2242 contract. Payment for the cost of the operation of the facility or improvement shall be made as  
2243 provided in the contract and in accordance with any appropriation or funding restrictions.

2244 Section 58. Section **67-5b-106** is amended to read:

2245 **67-5b-106. Advisory Board on Children's Justice -- Membership -- Terms --**  
2246 **Duties -- Authority.**

2247 (1) The attorney general shall create the Advisory Board on Children's Justice to advise  
2248 him about the Children's Justice Center Program.

2249 (2) The board shall be composed of:

2250 (a) the director of each Children's Justice Center;

2251 (b) the chair of each local advisory board established under Section 67-5b-105;

2252 (c) the attorney general or the attorney general's designee;

2253 (d) a representative of the Utah Sheriffs Association, appointed by the governor;

2254 (e) a chief of police, appointed by the governor;

2255 (f) one juvenile court judge and one district court judge, appointed by the chief justice;

2256 (g) a representative of the court appointed guardians ad litem, appointed by the chief

2257 justice;

2258 (h) a designated representative of the Division of Child and Family Services within the  
2259 Department of Human Services, appointed by the director of that division;

- 2260 (i) a licensed mental health professional, appointed by the governor;
- 2261 (j) a person experienced in working with children with disabilities, appointed by the
- 2262 governor;
- 2263 (k) one criminal defense attorney, licensed by the Utah State Bar and in good standing,
- 2264 appointed by the Utah Bar Commission;
- 2265 (l) one criminal prosecutor, licensed by the Utah State Bar and in good standing,
- 2266 appointed by the Prosecution Council;
- 2267 (m) a member of the governor's staff, appointed by the governor;
- 2268 (n) a member from the public, appointed by the governor, who exhibits sensitivity to
- 2269 the concerns of parents; and
- 2270 (o) additional members appointed as needed by the attorney general.
- 2271 (3) (a) Except as required by Subsection (3)(b), as terms of current board members
- 2272 expire, the appointing authority shall appoint each new member or reappointed member to a
- 2273 four-year term.
- 2274 (b) Notwithstanding the requirements of Subsection (3)(a), the appointing authority
- 2275 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the
- 2276 terms of board members are staggered so that approximately half of the board is appointed
- 2277 every two years.
- 2278 (4) The Advisory Board on Children's Justice shall:
- 2279 (a) coordinate and support the statewide purpose of the program;
- 2280 (b) recommend statewide guidelines for the administration of the program;
- 2281 (c) advise the contracting entities of each Children's Justice Center;
- 2282 (d) recommend training and improvements in training;
- 2283 (e) review, evaluate, and make recommendations concerning state investigative,
- 2284 administrative, and judicial handling in both civil and criminal cases of child abuse, child
- 2285 sexual abuse, and neglect;
- 2286 (f) recommend programs to improve the prompt and fair resolution of civil and
- 2287 criminal court proceedings; and
- 2288 (g) recommend changes to state laws and procedures to provide comprehensive
- 2289 protection for children of abuse, child sexual abuse, and neglect.
- 2290 (5) The Advisory Board on Children's Justice may not supersede the authority of the

2291 contracting public agency to oversee the accountability of the center, including the budget,  
2292 costs, personnel, and management pursuant to Section 67-5b-104 and Title 51, Chapter [2;  
2293 ~~Audits of]~~ 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and  
2294 Other Local Entities Act.

2295 Section 59. Section **70A-8-101** is amended to read:

2296 **70A-8-101. Definitions.**

2297 (1) As used in this chapter:

2298 (a) "Adverse claim" means a claim that a claimant has a property interest in a financial  
2299 asset and that it is a violation of the rights of the claimant for another person to hold, transfer,  
2300 or deal with the financial asset.

2301 (b) "Bearer form," as applied to a certificated security, means a form in which the  
2302 security is payable to the bearer of the security certificate according to its terms but not by  
2303 reason of an indorsement.

2304 (c) "Broker" means a person defined as a broker or dealer under the federal securities  
2305 laws, but without excluding a bank acting in that capacity.

2306 (d) "Certificated security" means a security that is represented by a certificate.

2307 (e) "Clearing corporation" means:

2308 (i) a person that is registered as a "clearing agency" under the federal securities laws;

2309 (ii) a federal reserve bank; or

2310 (iii) any other person that provides clearance or settlement services with respect to  
2311 financial assets that would require it to register as a clearing agency under the federal securities  
2312 laws but for an exclusion or exemption from the registration requirement, if its activities as a  
2313 clearing corporation, including promulgation of rules, are subject to regulation by a federal or  
2314 state governmental authority.

2315 (f) "Communicate" means to:

2316 (i) send a signed writing; or

2317 (ii) transmit information by any mechanism agreed upon by the persons transmitting  
2318 and receiving the information.

2319 (g) "Entitlement holder" means a person identified in the records of a securities  
2320 intermediary as the person having a security entitlement against the securities intermediary. If  
2321 a person acquired a security entitlement by virtue of Subsection 70A-8-501(2)(b) or (c), that

2322 person is the entitlement holder.

2323 (h) "Entitlement order" means a notification communicated to a securities intermediary  
2324 directing transfer or redemption of a financial asset to which the entitlement holder has a  
2325 security entitlement.

2326 (i) (i) "Financial asset," except as otherwise provided in Section 70A-8-102, means:

2327 (A) a security;

2328 (B) an obligation of a person or a share, participation, or other interest [~~is~~] in a person  
2329 or in property or an enterprise of a person, which is or is of a type, dealt in or traded on  
2330 financial markets, or which is recognized in any area in which it is issued or dealt in as a  
2331 medium for investment; or

2332 (C) any property that is held by a securities intermediary for another person in a  
2333 securities account if that securities intermediary has expressly agreed with the other person that  
2334 the property is to be treated as a financial asset under this chapter.

2335 (ii) As context requires, the term means either the interest itself or the means by which  
2336 a person's claim to it is evidenced, including a certificated or uncertificated security, a security  
2337 certificate, or a security entitlement.

2338 (j) "Good faith," for purposes of the obligation of good faith in the performance or  
2339 enforcement of contracts or duties within this chapter, means honesty in fact and the  
2340 observance of reasonable commercial standards of fair dealing.

2341 (k) "Indorsement" means a signature that alone or accompanied by other words is made  
2342 on a security certificate in registered form or on a separate document for the purpose of  
2343 assigning, transferring, or redeeming the security or granting a power to assign, transfer, or  
2344 redeem it.

2345 (l) "Instruction" means a notification communicated to the issuer of an uncertificated  
2346 security which directs that the transfer of the security be registered or that the security be  
2347 redeemed.

2348 (m) "Registered form," as applied to a certificated security, means a form in which:

2349 (i) the security certificate specifies a person entitled to the security; and

2350 (ii) a transfer of the security may be registered upon books maintained for that purpose  
2351 by or on behalf of the issuer, or the security certificate so states.

2352 (n) "Securities intermediary" means:

- 2353 (i) a clearing corporation; or  
2354 (ii) a person, including a bank or broker, that in the ordinary course of its business  
2355 maintains securities accounts for others and is acting in that capacity.
- 2356 (o) "Security," except as otherwise provided in Section 70A-8-102, means an  
2357 obligation of an issuer or a share, participation, or other interest in an issuer or in property or an  
2358 enterprise of an issuer:
- 2359 (i) which is represented by a security certificate in bearer or registered form, or the  
2360 transfer of which may be registered upon books maintained for that purpose by or on behalf of  
2361 the issuer;
- 2362 (ii) which is one of a class or series or by its terms is divisible into a class or series of  
2363 shares, participations, interests, or obligations; and
- 2364 (iii) which:
- 2365 (A) is, or is of a type, dealt in or traded on securities exchanges or securities markets;  
2366 or
- 2367 (B) is a medium for investment and by its terms expressly provides that it is a security  
2368 governed by this chapter.
- 2369 (p) "Security certificate" means a certificate representing a security.
- 2370 (q) "Security entitlement" means the rights and property interest of an entitlement  
2371 holder with respect to a financial asset specified in Part 5.
- 2372 (r) "Uncertificated security" means a security that is not represented by a certificate.
- 2373 (2) Other definitions applying to this chapter and the sections in which they appear are:
- 2374 (a) "appropriate person," Section 70A-8-106;  
2375 (b) "control," Section 70A-8-105;  
2376 (c) "delivery," Section 70A-8-301;  
2377 (d) "investment company security," Section 70A-8-102;  
2378 (e) "issuer," Section 70A-8-201;  
2379 (f) "overissue," Section 70A-8-210;  
2380 (g) "protected purchaser," Section 70A-8-303; and  
2381 (h) "securities account," Section 70A-8-501.
- 2382 (3) In addition, Chapter 1, General Provisions, contains general definitions and  
2383 principles of construction and interpretation applicable throughout this chapter.

2384 (4) The characterization of a person, business, or transaction for purposes of this  
2385 chapter does not determine the characterization of the person, business, or transaction for  
2386 purposes of any other law, regulation, or rule.

2387 Section 60. Section **75-5a-119** is amended to read:

2388 **75-5a-119. Renunciation, resignation, death, or removal of custodian --**  
2389 **Designation of successor custodian.**

2390 (1) A person nominated under Section 75-5a-104 or designated under Section  
2391 75-5a-110 as custodian may decline to serve by delivering a valid disclaimer to the person who  
2392 made the nomination or to the transferor or the transferor's legal representative. If the event  
2393 giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible  
2394 to serve was nominated under Section 75-5a-104, the person who made the nomination may  
2395 nominate a substitute custodian under Section 75-5a-104; otherwise the transferor or the  
2396 transferor's legal representative shall designate a substitute custodian at the time of the transfer,  
2397 in either case from among the persons eligible to serve as custodian for that kind of property  
2398 under Subsection 75-5a-110(1). The custodian designated has the rights of a successor  
2399 custodian.

2400 (2) A custodian at any time may designate a trust company or an adult other than a  
2401 transferor under Section [~~75-5a-104~~] 75-5a-105 as successor custodian by executing and dating  
2402 an instrument of designation before a subscribing witness other than the successor. If the  
2403 instrument of designation does not contain or is not accompanied by the resignation of the  
2404 custodian, the designation of the successor does not take effect until the custodian resigns, dies,  
2405 becomes incapacitated, or is removed.

2406 (3) A custodian may resign at any time by delivering written notice to the minor if the  
2407 minor is 14 years of age or older and to the successor custodian and by delivering the custodial  
2408 property to the successor custodian.

2409 (4) (a) If a custodian is ineligible, dies, or becomes incapacitated without having  
2410 effectively designated a successor and the minor is 14 years of age or older, the minor may  
2411 designate as successor custodian, in the manner prescribed in Subsection (2), an adult member  
2412 of the minor's family, a conservator of the minor, or a trust company. If the minor is not yet 14  
2413 years of age or fails to act within 60 days after the ineligibility, death, or incapacity, the  
2414 conservator of the minor becomes successor custodian.

2415 (b) If the minor has no conservator or the conservator declines to act, the transferor, the  
2416 legal representative of the transferor or of the custodian, an adult member of the minor's family,  
2417 or any other interested person may petition the court to designate a successor custodian.

2418 (5) A custodian who declines to serve under Subsection (1) or resigns under Subsection  
2419 (3), or the legal representative of a deceased or incapacitated custodian shall as soon as  
2420 practicable place the custodial property and records in the possession and control of the  
2421 successor custodian. The successor custodian by action may enforce the obligation to deliver  
2422 custodial property and records and becomes responsible for each item as received.

2423 (6) A transferor, the legal representative of a transferor, an adult member of the minor's  
2424 family, a guardian of the person of the minor, the conservator of the minor, or the minor if he is  
2425 14 years of age or older, may petition the court to remove the custodian for cause and to  
2426 designate a successor custodian other than a transferor under Section 75-5a-105 or to require  
2427 the custodian to give appropriate bond.

2428 Section 61. Section **77-19-201** is amended to read:

2429 **77-19-201. Definition.**

2430 As used in this part, "incompetent to be executed" means that [if], due to mental  
2431 condition, an inmate is unaware of either the punishment he is about to suffer or why he is to  
2432 suffer it.

2433 Section 62. Section **78-12-33.5** is amended to read:

2434 **78-12-33.5. Statute of limitations -- Asbestos damages -- Action by state or**  
2435 **governmental entity.**

2436 (1) (a) No statute of limitations or repose may bar an action by the state or other  
2437 governmental entity to recover damages from any manufacturer of any construction materials  
2438 containing asbestos, when the action arises out of the manufacturer's providing the materials,  
2439 directly or [~~through~~] through other persons, to the state or other governmental entity or to a  
2440 contractor on behalf of the state or other governmental entity.

2441 (b) Subsection (1)(a) provides for actions not yet barred, and also acts retroactively to  
2442 permit actions under this section that are otherwise barred.

2443 (2) As used in this section, "asbestos" means asbestiform varieties of:

2444 (a) chrysotile (serpentine);

2445 (b) crocidolite (riebeckite);

- 2446 (c) amosite (cummingtonite-grunerite);
- 2447 (d) anthophyllite;
- 2448 (e) tremolite; or
- 2449 (f) actinolite.

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**Legislative Review Note**  
**as of 1-5-05 3:11 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0176**

**Revisor's Statute**

*18-Jan-05*

*1:33 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**