

1 **REVISOR'S STATUTE**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Stephen H. Urquhart**

5 Senate Sponsor: John W. Hickman

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies parts of the Utah Code to make technical corrections including
10 eliminating references to repealed provisions, making minor wording changes, updating
11 cross references, and correcting numbering.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ modifies parts of the Utah Code to make technical corrections including eliminating
15 references to repealed provisions, making minor wording changes, updating cross
16 references, and correcting numbering.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23 **3-1-9**, Utah Code Annotated 1953

24 **3-1-17**, Utah Code Annotated 1953

25 **3-1-41**, as last amended by Chapter 82, Laws of Utah 1997

26 **7-1-104**, as last amended by Chapter 267, Laws of Utah 1989

27 **7-7-12**, as last amended by Chapter 200, Laws of Utah 1994

28 **10-8-2**, as last amended by Chapters 136 and 254, Laws of Utah 2005

29 **10-9a-801**, as renumbered and amended by Chapter 254, Laws of Utah 2005

30 **11-13-314**, as enacted by Chapter 136, Laws of Utah 2005
31 **13-5-9**, as last amended by Chapter 23, Laws of Utah 1965
32 **13-11a-3**, as enacted by Chapter 205, Laws of Utah 1989
33 **13-21-7**, as enacted by Chapter 29, Laws of Utah 1985
34 **16-6a-822**, as last amended by Chapter 228, Laws of Utah 2006
35 **17-27a-801**, as renumbered and amended by Chapter 254, Laws of Utah 2005
36 **17A-2-412**, as last amended by Chapter 368, Laws of Utah 1998
37 **23-13-1**, as enacted by Chapter 46, Laws of Utah 1971
38 **26-18-503**, as enacted by Chapter 215, Laws of Utah 2004
39 **26-34-2**, as enacted by Chapter 276, Laws of Utah 1989
40 **26-39-104**, as last amended by Chapter 37, Laws of Utah 2006
41 **31A-16-105**, as repealed and reenacted by Chapter 258, Laws of Utah 1992
42 **31A-17-402**, as last amended by Chapter 186, Laws of Utah 2002
43 **31A-26-210**, as last amended by Chapter 204, Laws of Utah 1986
44 **32A-13-103**, as last amended by Chapter 185, Laws of Utah 2002
45 **34-19-5**, as enacted by Chapter 85, Laws of Utah 1969
46 **35A-3-313**, as last amended by Chapter 29, Laws of Utah 2004
47 **36-26-102**, as enacted by Chapter 362, Laws of Utah 2006
48 **38-1-27**, as last amended by Chapter 297, Laws of Utah 2006
49 **38-2-3.2**, as enacted by Chapter 62, Laws of Utah 1953
50 **40-10-9**, as enacted by Chapter 145, Laws of Utah 1979
51 **41-3-408**, as last amended by Chapter 175, Laws of Utah 1994
52 **41-12a-305**, as enacted by Chapter 242, Laws of Utah 1985
53 **41-22-29**, as last amended by Chapter 114, Laws of Utah 1999
54 **49-12-203**, as last amended by Chapter 143, Laws of Utah 2006
55 **49-12-402**, as last amended by Chapter 116, Laws of Utah 2005
56 **49-13-203**, as last amended by Chapter 143, Laws of Utah 2006
57 **53A-1-706**, as last amended by Chapter 88, Laws of Utah 2004

- 58 **53A-2-120**, as enacted by Chapter 234, Laws of Utah 2003
- 59 **53A-2-213**, as last amended by Chapter 119, Laws of Utah 1993
- 60 **53A-8-105**, as last amended by Chapter 324, Laws of Utah 1999
- 61 **53A-17a-107**, as last amended by Chapter 268, Laws of Utah 1994
- 62 **53A-28-401**, as enacted by Chapter 62, Laws of Utah 1996
- 63 **53B-8a-108**, as last amended by Chapter 109, Laws of Utah 2005
- 64 **53C-1-201**, as last amended by Chapter 139, Laws of Utah 2006
- 65 **54-1-3**, as last amended by Chapter 246, Laws of Utah 1983
- 66 **54-4-8**, as last amended by Chapter 265, Laws of Utah 1998
- 67 **54-8-24**, as enacted by Chapter 157, Laws of Utah 1969
- 68 **54-9-103**, as last amended by Chapter 105, Laws of Utah 2005
- 69 **57-1-31.5**, as enacted by Chapter 209, Laws of Utah 2002
- 70 **57-2a-4**, as enacted by Chapter 155, Laws of Utah 1988
- 71 **57-2a-7**, as last amended by Chapter 88, Laws of Utah 1989
- 72 **57-12-2**, as enacted by Chapter 24, Laws of Utah 1972
- 73 **57-12-14**, as enacted by Chapters 295 and 321, Laws of Utah 1998
- 74 **58-13-2**, as last amended by Chapters 153 and 299, Laws of Utah 2005
- 75 **58-17b-504**, as enacted by Chapter 280, Laws of Utah 2004
- 76 **58-61-307**, as last amended by Chapter 281, Laws of Utah 2001
- 77 **59-2-201**, as last amended by Chapter 360, Laws of Utah 1997
- 78 **59-2-1108**, as last amended by Chapter 143, Laws of Utah 2003
- 79 **59-2-1302**, as last amended by Chapter 143, Laws of Utah 2003
- 80 **59-2-1331**, as last amended by Chapter 279, Laws of Utah 2006
- 81 **59-2-1347**, as last amended by Chapter 143, Laws of Utah 2003
- 82 **59-7-605**, as last amended by Chapters 108 and 294, Laws of Utah 2005
- 83 **59-10-1009**, as renumbered and amended by Chapter 223, Laws of Utah 2006
- 84 **59-11-102**, as renumbered and amended by Chapter 2, Laws of Utah 1987
- 85 **59-13-204**, as last amended by Chapter 232, Laws of Utah 2001

86 **59-14-208**, as renumbered and amended by Chapter 2, Laws of Utah 1987
87 **59-22-304**, as renumbered and amended by Chapter 229, Laws of Utah 2000
88 **59-22-307**, as renumbered and amended by Chapter 229, Laws of Utah 2000
89 **61-2b-25**, as last amended by Chapter 117, Laws of Utah 1999
90 **62A-4a-107**, as last amended by Chapter 75, Laws of Utah 2006
91 **63-11-1**, Utah Code Annotated 1953
92 **63-30d-203**, as enacted by Chapter 267, Laws of Utah 2004
93 **63-38f-501**, as last amended by Chapter 223, Laws of Utah 2006
94 **63-46b-3**, as last amended by Chapter 162, Laws of Utah 2006
95 **63-46b-8**, as last amended by Chapter 72, Laws of Utah 1988
96 **63-55-259**, as last amended by Chapters 232 and 289, Laws of Utah 2005
97 **63-55-263**, as last amended by Chapters 82 and 86, Laws of Utah 2006
98 **63-55b-154**, as last amended by Chapter 205, Laws of Utah 2003
99 **63-55b-159**, as last amended by Chapter 90, Laws of Utah 2004
100 **63-55b-163**, as last amended by Chapter 340, Laws of Utah 2006
101 **63-55b-178**, as last amended by Chapter 65, Laws of Utah 2004
102 **63-56-806**, as renumbered and amended by Chapter 25, Laws of Utah 2005
103 **63-65-2**, as last amended by Chapter 294, Laws of Utah 2005
104 **63-90-2**, as last amended by Chapter 293, Laws of Utah 1997
105 **63A-3-205**, as last amended by Chapter 294, Laws of Utah 2005
106 **63F-1-205**, as enacted by Chapter 169, Laws of Utah 2005
107 **64-13-14**, as last amended by Chapter 116, Laws of Utah 1987
108 **67-11-2**, as last amended by Chapter 92, Laws of Utah 1987
109 **67-11-3**, as last amended by Chapter 92, Laws of Utah 1987
110 **67-11-4**, Utah Code Annotated 1953
111 **67-11-5**, Utah Code Annotated 1953
112 **67-11-6**, as last amended by Chapter 92, Laws of Utah 1987
113 **70A-2-504**, as enacted by Chapter 154, Laws of Utah 1965

- 114 **70A-3-312**, as last amended by Chapter 79, Laws of Utah 1996
 - 115 **70A-10-102**, as enacted by Chapter 154, Laws of Utah 1965
 - 116 **70C-7-107**, as enacted by Chapter 24, Laws of Utah 1988
 - 117 **73-10-23**, as last amended by Chapter 234, Laws of Utah 1990
 - 118 **75-2-1105**, as last amended by Chapter 129, Laws of Utah 1993
 - 119 **75-3-902**, as enacted by Chapter 150, Laws of Utah 1975
 - 120 **75-5-428**, as enacted by Chapter 150, Laws of Utah 1975
 - 121 **76-6-505**, as last amended by Chapter 291, Laws of Utah 1995
 - 122 **76-6-506.2**, as last amended by Chapter 60, Laws of Utah 1991
 - 123 **76-6-603**, as enacted by Chapter 78, Laws of Utah 1979
 - 124 **77-13-1**, as last amended by Chapter 61, Laws of Utah 2002
 - 125 **77-19-4**, as enacted by Chapter 15, Laws of Utah 1980
 - 126 **77-27-24**, as enacted by Chapter 15, Laws of Utah 1980
 - 127 **77-27-29**, as enacted by Chapter 15, Laws of Utah 1980
 - 128 **77-30-23**, as last amended by Chapter 67, Laws of Utah 1984
 - 129 **77-30-25**, as enacted by Chapter 15, Laws of Utah 1980
 - 130 **77-32-303**, as last amended by Chapter 251, Laws of Utah 2001
 - 131 **78-13-1**, Utah Code Annotated 1953
 - 132 **78-14-9.5**, as last amended by Chapters 30 and 240, Laws of Utah 1992
 - 133 **78-24-14**, Utah Code Annotated 1953
 - 134 **78-25-16**, as last amended by Chapter 20, Laws of Utah 1995
 - 135 **78-31a-121**, as enacted by Chapter 326, Laws of Utah 2002
 - 136 **78-34-4.5**, as last amended by Chapter 358, Laws of Utah 2006
 - 137 **78-34-9**, as last amended by Chapter 223, Laws of Utah 2004
 - 138 **78-34-21**, as last amended by Chapter 214, Laws of Utah 2003
 - 139 **78-39-15**, Utah Code Annotated 1953
 - 140 **78-45-7.5**, as last amended by Chapter 324, Laws of Utah 2006
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142 *Be it enacted by the Legislature of the state of Utah:*

143 Section 1. Section **3-1-9** is amended to read:

144 **3-1-9. Powers.**

145 ~~[(H)]~~ (1) An association formed under this act, or an association which might be formed
146 under this act and which existed at the time this act took effect, shall have power and capacity
147 to act possessed by natural persons and may do each and everything necessary, suitable, or
148 proper for the accomplishment of any one or more of the purposes, or the attainment of any one
149 or more of the objects herein enumerated or conducive to or expedient for the interests or
150 benefit of the association, and may exercise all powers, rights, and privileges necessary or
151 incident thereto, including the exercise of any rights, powers, and privileges granted by the
152 laws of this state to corporations generally, excepting such as are inconsistent with the express
153 provisions of this act.

154 ~~[Special Authority.]~~

155 ~~[(H)]~~ (2) Without limiting or enlarging the grant of authority contained in ~~[Subdivision~~
156 ~~For this section]~~ Subsection (1), it is hereby specifically provided that every such association
157 shall have authority:

158 (a) to act as agent, broker, or attorney in fact for its members and other producers, and
159 for any subsidiary or affiliated association, and otherwise to assist or join with associations
160 engaged in any one or more of the activities authorized by its articles, and to hold title for its
161 members and other producers, and for subsidiary and affiliated association to property handled
162 or managed by the association on their behalf;

163 (b) to make contracts and to exercise by its board or duly authorized officers or agents,
164 all such incidental powers as may be necessary, suitable or proper for the accomplishment of
165 the purposes of the association and not inconsistent with law or its articles, and that may be
166 conducive to or expedient for the interest or benefit of the association;

167 (c) to make loans or advances to members or producer-patrons or to the members of an
168 association which is itself a member or subsidiary thereof; to purchase, or otherwise acquire,
169 endorse, discount, or sell any evidence of debt, obligation or security;

170 (d) to establish and accumulate reasonable reserves and surplus funds and to abolish
171 the same; also to create, maintain, and terminate revolving funds or other similar funds which
172 may be provided for in the bylaws of the association;

173 (e) to own and hold membership in or shares of the stock of other associations and
174 corporations and the bonds or other obligations thereof, engaged in any related activity; or, in
175 producing, warehousing or marketing any of the products handled by the association; or, in
176 financing its activities; and while the owner thereof, to exercise all the rights of ownership,
177 including the right to vote thereon;

178 (f) to acquire, hold, sell, dispose of, pledge, or mortgage, any property which its
179 purposes may require;

180 (g) to borrow money without limitation as to amount, and to give its notes, bonds, or
181 other obligations therefor and secure the payment thereof by mortgage or pledge;

182 (h) to deal in products of, and handle machinery, equipment, supplies and perform
183 services for nonmembers to an amount not greater in annual value than such as are dealt in,
184 handled or performed for or on behalf of its members, but the value of the annual purchases
185 made for persons who are neither members nor producers shall not exceed fifteen per centum
186 of the value of all its purchases. Business transacted by an association for or on behalf of the
187 United States or any agency or instrumentality thereof, shall be disregarded in determining the
188 volume or value of member and nonmember business transacted by such association;

189 (i) if engaged in marketing the products of its members, to hedge its operations;

190 (j) to have a corporate seal and to alter the same at pleasure;

191 (k) to continue as a corporation for the time limited in its articles, and if no time limit
192 is specified then perpetually;

193 (l) to sue and be sued in its corporate name;

194 (m) to conduct business in this state and elsewhere as may be permitted by law; and

195 (n) to dissolve and wind up.

196 Section 2. Section **3-1-17** is amended to read:

197 **3-1-17. Contracts with association.**

198 ~~[(H)]~~ (1) (a) The bylaws may require members to execute contracts with the association
199 in which the members agree to patronize the facilities created by the association, and to sell all
200 or a specified part of their products to or through it, or to buy all or a specified part of their
201 supplies from or through the association or any facilities created by it.

202 (b) If the members contract to sell through the association, the fact that for certain
203 purposes the relation between the association and its members may be one of agency shall not
204 prevent the passage from the member to the association of absolute and exclusive title to the
205 products which are the subject matter of the contract.

206 (c) Such title shall pass to the association upon delivery of the product, or at any other
207 time specified in the contract.

208 (d) If the period of the contract exceeds three years, the bylaws and the contracts
209 executed thereunder shall specify a reasonable period, not less than ten days in each year, after
210 the third year, during which the member, by giving to the association such reasonable notice as
211 the association may prescribe, may withdraw from the association; provided, that if the bylaws
212 or contracts executed hereunder so specify, a member may not withdraw from the association
213 while indebted thereto.

214 (e) In the absence of such a withdrawal provision, a member may withdraw at any time
215 after three years.

216 ~~[Damages for Breach.]~~

217 ~~[(H)]~~ (2) The contract may fix, as liquidated damages, which shall not be regarded as
218 penalties, specific sums to be paid by the members to the association upon the breach of any
219 provision of the contract regarding the use of any facilities of the association or the sale,
220 delivery, handling, or withholding of products; and may further provide that the member who
221 breaks his contract shall pay all costs, including premiums for bonds, and reasonable attorney's
222 fees, to be fixed by the court, in case the association prevails in any action upon the contract.

223 ~~[Equitable Relief.]~~

224 ~~[(H)]~~ (3) (a) A court of competent jurisdiction may grant an injunction to prevent the
225 breach or further breach of the contract by a member and may decree specific performance

226 thereof.

227 **(b)** Pending the adjudication of such an action and upon filing a verified complaint
228 showing the breach or threatened breach, and a bond in such form and amount as may be
229 approved by the court, the court may grant a temporary restraining order or preliminary
230 injunction against the member.

231 ~~[Remedy Not Exclusive.]~~

232 ~~[(IV)]~~ **(4)** No remedy, either legal or equitable, herein provided for, shall be exclusive,
233 but the association may avail itself of any and all such remedies, at the same or different times,
234 in any action or proceeding.

235 ~~[Landowners Presumed to Control Delivery.]~~

236 ~~[(V)]~~ **(5)** In any action upon such marketing contracts, it shall be conclusively
237 presumed that a landowner or landlord or lessor is able to control the delivery of products
238 produced on his land by tenants or others, whose tenancy or possession or work on such land or
239 the terms of whose tenancy or possession or labor thereon were created or changed after
240 execution by the landowner or landlord or lessor of such a marketing contract; and in such
241 actions, the foregoing remedies for nondelivery or breach shall lie and be enforceable against
242 such landowner, landlord, or lessor.

243 ~~[Filing Contract.]~~

244 ~~[(VI)]~~ **(6) (a)** The association may file contracts to sell agricultural products to or
245 through the association in the office of the county recorder of the county in which the products
246 are produced.

247 **(b)** If the association has uniform contracts with more than one member in any county,
248 it may, in lieu of filing the original contracts, file the affidavit of its president, vice president or
249 secretary, containing or having attached thereto:

250 ~~[(a)]~~ **(i)** a true copy of the uniform contract entered into with its members producing
251 such product in that county; and

252 ~~[(b)]~~ **(ii)** the names of the members who have executed such contract and a description
253 of the land on which the product is produced, if such description is contained in the contract.

254 (c) The association may file from time to time thereafter affidavits containing revised
255 or supplementary lists of the members producing such product in that county without setting
256 forth therein a copy of the uniform contract but referring to the filed or recorded copy thereof.

257 (d) All affidavits filed under this section shall state in substance that they are filed
258 pursuant to the provisions of this section.

259 (e) The county recorder shall file such affidavits and make endorsements thereon and
260 record and make entries thereof in the same manner as is required by law in the case of chattel
261 mortgages, and he shall compile and make available for public inspection a convenient index
262 containing the names of all signers of such contracts, and collect for his services hereunder the
263 same fees as for chattel mortgages.

264 (f) The filing of any such contract, or such affidavit, shall constitute constructive notice
265 of the contents thereof, and of the association's title or right to the product embraced in such
266 contract, to all subsequent purchasers, encumbrancers, creditors, and to all persons dealing with
267 the members with reference to such product.

268 (g) No title, right, or lien of any kind shall be acquired to or on the product thereafter
269 except through the association or with its consent, or subject to its rights; and the association
270 may recover the possession of such property from any and all subsequent purchasers,
271 encumbrancers, and creditors, and those claiming under them, in whose possession the same
272 may be found, by any appropriate action for the recovery of personal property, and it may have
273 relief by injunction and for damages.

274 Section 3. **3-1-41** is amended to read:

275 **3-1-41. Domestic or foreign corporations or associations -- Plan of merger --**

276 **Articles of merger -- Certificate of merger.**

277 (1) (a) A Utah cooperative association owning 90% of the outstanding shares of each
278 class of a foreign or domestic corporation or association may merge such other corporation or
279 association into itself without the approval of the shareholders or members of either
280 corporation or association.

281 (b) The governing board shall, by resolution, approve a plan of merger setting forth:

282 ~~[(a)]~~ (i) the name of the subsidiary corporation or association and the name of the
283 corporation or association owning 90% or more of its shares, which is hereafter designated as
284 the surviving corporation or association; and

285 ~~[(b)]~~ (ii) the manner and basis for converting each class of shares of the subsidiary
286 corporation or association into shares, obligations, or other securities of the surviving
287 corporation or association, or of any other corporation or association, in whole or in part, into
288 cash or other property.

289 (c) A copy of the plan of merger shall be mailed to each record member or shareholder
290 of the subsidiary corporation or association.

291 (2) (a) Articles of merger shall be executed in triplicate by the president or vice
292 president and the secretary or an assistant secretary of the surviving corporation or association
293 and verified by one of its officers.

294 (b) The articles of merger shall set forth:

295 ~~[(a)]~~ (i) the plan of merger;

296 ~~[(b)]~~ (ii) the number of outstanding shares of each class of the subsidiary corporation or
297 association and the number of such shares of each class owned by the surviving corporation or
298 association; and

299 ~~[(c)]~~ (iii) the date a copy of the plan of merger was mailed to shareholders or members
300 of the subsidiary corporation or association.

301 (3) (a) Triplicate originals of the articles of merger shall be delivered to the Division of
302 Corporations and Commercial Code on the 30th day after mailing a copy of the plan to
303 shareholders or members.

304 (b) If that division finds such articles conform to law and that all fees prescribed by this
305 act have been paid, it shall:

306 ~~[(a)]~~ (i) endorse on each of said triplicate originals the word "filed," together with the
307 month, date, and year of filing;

308 ~~[(b)]~~ (ii) file one of the triplicate originals with the Division of Corporations and
309 Commercial Code and forward another triplicate original to the state Department of

310 Agriculture and Food; and

311 ~~[(e)]~~ (iii) issue a certificate of merger with the remaining triplicate original affixed.

312 (c) The certificate of merger, together with a triplicate original of the articles of merger
313 affixed by the Division of Corporations and Commercial Code, shall be returned to the
314 surviving corporation or association or its representative.

315 (4) The merger of a foreign corporation or association into a Utah cooperative
316 association shall conform to the laws of the state under which each such foreign corporation or
317 association is organized.

318 Section 4. Section **7-1-104** is amended to read:

319 **7-1-104. Exemptions from application of title.**

320 (1) This title does not apply to:

321 ~~[(1)]~~ (a) investment companies registered under the Investment Company Act of 1940,
322 15 U.S.C. Sec. 80a-1 et seq.;

323 ~~[(2)]~~ (b) securities brokers and dealers registered pursuant to ~~[the]~~:

324 (i) Title 61, Chapter 1, Utah Uniform Securities Act; or

325 (ii) the federal Securities Exchange Act of 1934, 15 U.S.C. Sec. 78a et seq.;

326 ~~[(3)]~~ (c) depository or other institutions performing transaction account services,
327 including third party transactions, in connection with:

328 (i) the purchase and redemption of investment company shares~~[-];~~ or ~~[in connection~~
329 ~~with]~~

330 (ii) access to a margin or cash securities account maintained by a person identified in
331 Subsection ~~[(2)]~~ (1)(b); or

332 ~~[(4)]~~ (d) insurance companies selling interests in an investment company or "separate
333 account" and subject to regulation by the Utah Insurance Department.

334 (2) (a) An institution, organization, or person is not exempt from this title if, within
335 this state, it holds itself out to the public as receiving and holding deposits from residents of
336 this state, whether evidenced by a certificate, promissory note, or otherwise.

337 (b) An investment company is not exempt from this title unless ~~[it]~~ the investment

338 company is registered with the United States Securities and Exchange Commission under the
339 Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1 et seq., and is advised by an
340 investment advisor; ~~(a)~~

341 (i) which is registered with the United States Securities and Exchange Commission
342 under the Investment Advisors Act of 1940, 15 U.S.C. Sec. 80b-1 et seq.; and ~~(b)~~

343 (ii) which advises investment companies and other accounts with a combined value of
344 at least \$50,000,000.

345 Section 5. Section **7-7-12** is amended to read:

346 **7-7-12. Inspection of books and records -- Confidentiality -- Communication**
347 **between members or stockholders.**

348 (1) Every member, stockholder, or borrower of an association shall have the right to
349 inspect, upon paying any costs of retrieval or reproduction and upon reasonable notice and
350 during regular business hours:

351 (a) the books and records of the association which do not contain any confidential
352 information relating to a loan, savings account, or voting rights of another member,
353 stockholder, or borrower; and

354 (b) such books and records of the association as pertain to ~~his~~ the member's,
355 stockholder's, or borrower's own loan, savings account, or the determination of ~~his~~ the
356 member's, stockholder's, or borrower's voting rights. ~~Otherwise,~~

357 (2) Except as provided in Subsection (1), the right of inspection and examination of the
358 books, accounts, and records shall be limited to:

359 ~~(i)~~ (a) the commissioner and supervisor, or their duly authorized representatives;

360 ~~(ii)~~ (b) persons authorized to act for the association;

361 ~~(iii)~~ (c) any federal or state instrumentality or agency authorized to inspect or
362 examine the books and records of an insured association;

363 ~~(iv)~~ (d) the Office of Thrift Supervision, the Federal Deposit Insurance Corporation,
364 or their successor agencies; and

365 ~~(v)~~ (e) any person acting under authority of a court of competent jurisdiction.

366 ~~[(2)]~~ (3) Except as otherwise stated in this section, the books and records pertaining to
367 the accounts, loans, and voting rights of savers, borrowers, members, and stockholders shall be
368 kept confidential by the association, its directors, officers, and employees, and by the
369 commissioner, the supervisor, and their examiners and representatives, unless disclosure is
370 expressly or impliedly authorized by the saver, borrower, member, or stockholder.

371 ~~[(3)]~~ (4) Each member or stockholder of an association has the right to communicate
372 with other members or stockholders of the same association with reference to any question
373 pending or to be presented for consideration at a meeting of the members or stockholders. A
374 member or stockholder, in order to communicate with other members or stockholders, shall
375 submit to the association a request, subscribed by ~~[him]~~ the member or stockholder, which
376 includes:

377 (a) ~~[his]~~ the member's or stockholder's full name and address;

378 (b) the nature and extent of ~~[his]~~ the member's or stockholder's interest in the
379 association at the time ~~[his]~~ the member's or stockholder's application for communication is
380 made;

381 (c) a statement of the reasons for and purposes of the communication and that the
382 communication is not for any reason other than the business welfare of the association;

383 (d) a copy of the communication; and

384 (e) if the communication concerns a question to be raised at a meeting of the members
385 or stockholders of the association, the date of the meeting at which the matter will be
386 presented.

387 ~~[(4)]~~ (5) Within ten days after receipt of the request referred to in Subsection ~~[(3)]~~ (4)
388 the association shall notify the requesting member or stockholder of:

389 (a) the approximate number of the members or stockholders and the estimated amount
390 of the reasonable costs and expenses of mailing the communication; or

391 (b) its determination to refuse the request and the specific reasons for its refusal,
392 including its determination whether or not the request has been made for a proper purpose.

393 (6) Unless the association has refused the request referred to in Subsection (5), ~~[it]~~ the

394 association shall, within seven days after receipt of the sum specified by it under this
 395 [~~subsection~~] Subsection (6) and sufficient copies of the communication, mail the
 396 communication to all its members or stockholders.

397 [~~(5)~~] (7) If a request referred to in Subsection [~~(3)~~] (4) is refused by an association, the
 398 requesting member or stockholder may submit [~~his~~] the member's or stockholder's request and
 399 the refusal [~~thereof~~] of the request to the supervisor for review. The supervisor may issue an
 400 order denying the request or, if [~~he~~] the supervisor finds the request is not for any reason other
 401 than the business welfare of the association and is in all other respects proper, granting the
 402 request and directing the association to mail the communication to all its members or
 403 stockholders in accordance with the provisions of [~~Subsection (4)~~] Subsections (5) and (6).

404 [~~(6)~~] (8) Insofar as the provisions of this section are not inconsistent with federal law,
 405 [~~such provisions~~] this section shall apply to a federal [~~associations~~] association whose home
 406 offices are located in this state, and to the members or stockholders [~~thereof~~] of that federal
 407 association except that any review of a refusal by an association under Subsection [~~(4)~~] (5)
 408 shall be tendered to the Office of Thrift Supervision or successor federal agency in the case of a
 409 federal association.

410 Section 6. Section **10-8-2** is amended to read:

411 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**
 412 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**

413 (1) (a) A municipal legislative body may:

414 (i) appropriate money for corporate purposes only;

415 (ii) provide for payment of debts and expenses of the corporation;

416 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
 417 dispose of real and personal property for the benefit of the municipality, whether the property is
 418 within or without the municipality's corporate boundaries;

419 (iv) improve, protect, and do any other thing in relation to this property that an
 420 individual could do; and

421 (v) subject to Subsection (2) and after first holding a public hearing, authorize

422 municipal services or other nonmonetary assistance to be provided to or waive fees required to
423 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

424 (b) A municipality may:

425 (i) furnish all necessary local public services within the municipality;

426 (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities
427 located and operating within and operated by the municipality; and

428 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property
429 located inside or outside the corporate limits of the municipality and necessary for any of the
430 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78,
431 Chapter 34, Eminent Domain, and general law for the protection of other communities.

432 (c) Each municipality that intends to acquire property by eminent domain under
433 Subsection (1)(b) shall, upon the first contact with the owner of the property sought to be
434 acquired, deliver to the owner a copy of a booklet or other materials provided by the property
435 rights ombudsman, created under Section [~~63-34-13~~] 13-43-201, dealing with the property
436 owner's rights in an eminent domain proceeding.

437 (d) Subsection (1)(b) may not be construed to diminish any other authority a
438 municipality may claim to have under the law to acquire by eminent domain property located
439 inside or outside the municipality.

440 (2) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the
441 provisions of Subsection (3). The total amount of services or other nonmonetary assistance
442 provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1%
443 of the municipality's budget for that fiscal year.

444 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
445 the judgment of the municipal legislative body, provides for the safety, health, prosperity,
446 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
447 subject to the following:

448 (a) The net value received for any money appropriated shall be measured on a
449 project-by-project basis over the life of the project.

450 (b) The criteria for a determination under this Subsection (3) shall be established by the
451 municipality's legislative body. A determination of value received, made by the municipality's
452 legislative body, shall be presumed valid unless it can be shown that the determination was
453 arbitrary, capricious, or illegal.

454 (c) The municipality may consider intangible benefits received by the municipality in
455 determining net value received.

456 (d) Prior to the municipal legislative body making any decision to appropriate any
457 funds for a corporate purpose under this section, a public hearing shall be held. Notice of the
458 hearing shall be published in a newspaper of general circulation at least 14 days prior to the
459 date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at
460 least three conspicuous places within the municipality for the same time period.

461 (e) A study shall be performed before notice of the public hearing is given and shall be
462 made available at the municipality for review by interested parties at least 14 days immediately
463 prior to the public hearing, setting forth an analysis and demonstrating the purpose for the
464 appropriation. In making the study, the following factors shall be considered:

465 (i) what identified benefit the municipality will receive in return for any money or
466 resources appropriated;

467 (ii) the municipality's purpose for the appropriation, including an analysis of the way
468 the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
469 peace, order, comfort, or convenience of the inhabitants of the municipality; and

470 (iii) whether the appropriation is necessary and appropriate to accomplish the
471 reasonable goals and objectives of the municipality in the area of economic development, job
472 creation, affordable housing, blight elimination, job preservation, the preservation of historic
473 structures and property, and any other public purpose.

474 (f) An appeal may be taken from a final decision of the municipal legislative body, to
475 make an appropriation. The appeal shall be filed within 30 days after the date of that decision,
476 to the district court. Any appeal shall be based on the record of the proceedings before the
477 legislative body. A decision of the municipal legislative body shall be presumed to be valid

478 unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

479 (g) The provisions of this Subsection (3) apply only to those appropriations made after
480 May 6, 2002.

481 (h) This section shall only apply to appropriations not otherwise approved pursuant to
482 Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6,
483 Uniform Fiscal Procedures Act for Utah Cities.

484 (4) (a) Before a municipality may dispose of a significant parcel of real property, the
485 municipality shall:

486 (i) provide reasonable notice of the proposed disposition at least 14 days before the
487 opportunity for public comment under Subsection (4)(a)(ii); and

488 (ii) allow an opportunity for public comment on the proposed disposition.

489 (b) Each municipality shall, by ordinance, define what constitutes:

490 (i) a significant parcel of real property for purposes of Subsection (4)(a); and

491 (ii) reasonable notice for purposes of Subsection (4)(a)(i).

492 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
493 real property for the purpose of expanding the municipality's infrastructure or other facilities
494 used for providing services that the municipality offers or intends to offer shall provide written
495 notice, as provided in this Subsection (5), of its intent to acquire the property if:

496 (i) the property is located:

497 (A) outside the boundaries of the municipality; and

498 (B) in a county of the first or second class; and

499 (ii) the intended use of the property is contrary to:

500 (A) the anticipated use of the property under the general plan of the county in whose
501 unincorporated area or the municipality in whose boundaries the property is located; or

502 (B) the property's current zoning designation.

503 (b) Each notice under Subsection (5)(a) shall:

504 (i) indicate that the municipality intends to acquire real property;

505 (ii) identify the real property; and

506 (iii) be sent to:

507 (A) each county in whose unincorporated area and each municipality in whose
508 boundaries the property is located; and

509 (B) each affected entity.

510 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
511 63-2-304(7).

512 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
513 previously provided notice under Section 10-9a-203 identifying the general location within the
514 municipality or unincorporated part of the county where the property to be acquired is located.

515 (ii) If a municipality is not required to comply with the notice requirement of
516 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide
517 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
518 property.

519 Section 7. Section **10-9a-801** is amended to read:

520 **10-9a-801. No district court review until administrative remedies exhausted --**
521 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**
522 **-- Staying of decision.**

523 (1) No person may challenge in district court a municipality's land use decision made
524 under this chapter, or under a regulation made under authority of this chapter, until that person
525 has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and
526 Variances, if applicable.

527 (2) (a) Any person adversely affected by a final decision made in the exercise of or in
528 violation of the provisions of this chapter may file a petition for review of the decision with the
529 district court within 30 days after the local land use decision is final.

530 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
531 property owner files a request for arbitration of a constitutional taking issue with the property
532 rights ombudsman under Section [~~63-34-13~~] 13-43-204 until 30 days after:

533 (A) the arbitrator issues a final award; or

534 (B) the property rights ombudsman issues a written statement under Subsection
535 [~~63-34-13(4)~~] 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

536 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
537 taking issue that is the subject of the request for arbitration filed with the property rights
538 ombudsman by a property owner.

539 (iii) A request for arbitration filed with the property rights ombudsman after the time
540 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

541 (3) (a) The courts shall:

542 (i) presume that a decision, ordinance, or regulation made under the authority of this
543 chapter is valid; and

544 (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary,
545 capricious, or illegal.

546 (b) A decision, ordinance, or regulation involving the exercise of legislative discretion
547 is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

548 (c) A final decision of a land use authority or an appeal authority is valid if the decision
549 is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

550 (d) A determination of illegality requires a determination that the decision, ordinance,
551 or regulation violates a law, statute, or ordinance in effect at the time the decision was made or
552 the ordinance or regulation adopted.

553 (4) The provisions of Subsection (2)(a) apply from the date on which the municipality
554 takes final action on a land use application for any adversely affected third party, if the
555 municipality conformed with the notice provisions of Part 2, Notice, or for any person who had
556 actual notice of the pending decision.

557 (5) If the municipality has complied with Section 10-9a-205, a challenge to the
558 enactment of a land use ordinance or general plan may not be filed with the district court more
559 than 30 days after the enactment.

560 (6) The petition is barred unless it is filed within 30 days after the appeal authority's
561 decision is final.

562 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to
563 the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if
564 available, a true and correct transcript of its proceedings.

565 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
566 correct transcript for purposes of this Subsection (7).

567 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
568 by the land use authority or appeal authority, as the case may be.

569 (ii) The court may not accept or consider any evidence outside the record of the land
570 use authority or appeal authority, as the case may be, unless that evidence was offered to the
571 land use authority or appeal authority, respectively, and the court determines that it was
572 improperly excluded.

573 (b) If there is no record, the court may call witnesses and take evidence.

574 (9) (a) The filing of a petition does not stay the decision of the land use authority or
575 authority appeal authority, as the case may be.

576 (b) (i) Before filing a petition under this section or a request for mediation or
577 arbitration of a constitutional taking issue under Section [~~63-34-13~~] 13-43-204, the aggrieved
578 party may petition the appeal authority to stay its decision.

579 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
580 pending district court review if the appeal authority finds it to be in the best interest of the
581 municipality.

582 (iii) After a petition is filed under this section or a request for mediation or arbitration
583 of a constitutional taking issue is filed under Section [~~63-34-13~~] 13-43-204, the petitioner may
584 seek an injunction staying the appeal authority's decision.

585 Section 8. Section **11-13-314** is amended to read:

586 **11-13-314. Eminent domain authority of certain commercial project entities.**

587 (1) (a) Subject to Subsection (2), a commercial project entity that existed as a project
588 entity before January 1, 1980 may, with respect to a project or facilities providing additional
589 project capacity in which the commercial project entity has an interest, acquire property within

590 the state through eminent domain, subject to restrictions imposed by Title 78, Chapter 34,
591 Eminent Domain, and general law for the protection of other communities.

592 (b) Subsection (1)(a) may not be construed to:

593 (i) give a project entity the authority to acquire water rights by eminent domain; or

594 (ii) diminish any other authority a project entity may claim to have under the law to
595 acquire property by eminent domain.

596 (2) Each project entity that intends to acquire property by eminent domain under
597 Subsection (1)(a) shall, upon the first contact with the owner of the property sought to be
598 acquired, deliver to the owner a copy of a booklet or other materials provided by the property
599 rights ombudsman, created under Section [~~63-34-13~~] 13-43-201, dealing with the property
600 owner's rights in an eminent domain proceeding.

601 Section 9. **13-5-9** is amended to read:

602 **13-5-9. Transactions involving more than one item -- Limitation on quantity of**
603 **article or product sold or offered for sale to any one customer.**

604 (1) For the purpose of preventing evasion of this [~~act~~] chapter in all sales involving
605 more than one item or commodity the vendor's or distributor's selling price shall not be below
606 the cost of all articles, products, and commodities included in such transactions. Each article,
607 product, or commodity individually advertised or offered for sale, shall be individually subject
608 to the requirements of Section 13-5-7, when sold with other articles, products, or commodities.

609 (2) Under this section, proof of limitation of the quantity of any article or product sold
610 or offered for sale to any one customer of a quantity less than the entire supply thereof owned
611 or possessed by the seller or which he is otherwise authorized to sell at the place of such sale or
612 offering for sale, together with proof that the price at which the article or product is so sold or
613 offered for sale is in fact below its cost, raises a presumption of the purpose or the intent of the
614 sale being to injure competitors or destroy competition, and is unlawful. This section applies
615 only to sales by persons conducting a retail business, the principal part of which involves the
616 resale to consumers of commodities purchased or acquired for that purpose, as distinguished
617 from persons principally engaged in the sale to consumers of commodities of their own

618 production or manufacture.

619 (3) There shall be no circumvention of the provisions of this [act] chapter relating to
620 the quantity of articles or products any one customer may purchase by requiring presentation of
621 coupons, certificates, special purchase authorizations, or any other procedures designed in any
622 way to limit quantity of purchases as provided herein.

623 Section 10. **13-11a-3** is amended to read:

624 **13-11a-3. Deceptive trade practices enumerated -- Records to be kept -- Defenses.**

625 (1) Deceptive trade practices occur when, in the course of his business, vocation, or
626 occupation:

627 (a) A person passes off goods or services as those of another.

628 (b) A person causes likelihood of confusion or of misunderstanding as to the source,
629 sponsorship, approval, or certification of goods or services.

630 (c) A person causes likelihood of confusion or of misunderstanding as to affiliation,
631 connection, association with, or certification by another.

632 (d) A person uses deceptive representations or designations of geographic origin in
633 connection with goods or services.

634 (e) A person represents that goods or services have sponsorship, approval,
635 characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has
636 a sponsorship, approval, status, affiliation, or connection that he does not have.

637 (f) A person represents that goods are original or new if they are deteriorated, altered,
638 reconditioned, reclaimed, used, or second-hand.

639 (g) A person represents that goods or services are of a particular standard, quality, or
640 grade, or that goods are of a particular style or model, if they are of another.

641 (h) A person disparages the goods, services, or business of another by false or
642 misleading representation of fact.

643 (i) A person advertises goods or services or the price of goods and services with intent
644 not to sell them as advertised. If specific advertised prices will be in effect for less than one
645 week from the advertisement date, the advertisement must clearly and conspicuously disclose

646 the specific time period during which the prices will be in effect.

647 (j) A person advertises goods or services with intent not to supply a reasonable
648 expectable public demand, unless:

649 (i) the advertisement clearly and conspicuously discloses a limitation of quantity; or

650 (ii) the person issues rainchecks for the advertised goods or services.

651 (k) A person makes false or misleading statements of fact concerning the reasons for,
652 existence of, or amounts of price reductions.

653 (l) A person makes a comparison between his own sale or discount price and a
654 competitor's nondiscounted price without clearly and conspicuously disclosing that fact.

655 (m) A person, without clearly and conspicuously disclosing the date of the price
656 assessment makes a price comparison with the goods of another based upon a price assessment
657 performed more than seven days prior to the date of the advertisement or uses in an
658 advertisement the results of a price assessment performed more than seven days prior to the
659 date of the advertisement without disclosing, in a print ad, the date of the price assessment, or
660 in a radio or television ad, the time frame of the price assessment.

661 (n) A person advertises or uses in a price assessment or comparison a price that is not
662 his own unless this fact is:

663 (i) clearly and conspicuously disclosed; and

664 (ii) the representation of the price is accurate. With respect to the price of a
665 competitor, the price must be one at which the competitor offered the goods or services for sale
666 in the product area at the time of the price assessment, and must not be an isolated price.

667 (o) A person represents as independent an audit, accounting, price assessment, or
668 comparison of prices of goods or services, when such audit, accounting, price assessment, or
669 comparison is not independent. Such audit, accounting, price assessment, or comparison shall
670 be independent if the price assessor randomly selects the goods to be compared, and the time
671 and place of such comparison, and no agreement or understanding exists between the supplier
672 and the price assessor that could cause the results of the assessment to be fraudulent or
673 deceptive. The independence of such audit, accounting, or price comparison is not invalidated

674 merely because the advertiser pays a fee therefor, but is invalidated if the audit, accounting, or
675 price comparison is done by a full or part time employee of the advertiser.

676 (p) A person represents, in an advertisement of a reduction from the supplier's own
677 prices, that the reduction is from a regular price, when the former price is not a regular price as
678 defined in Subsection 13-11a-2(12).

679 (q) A person advertises a price comparison or the result of a price assessment or
680 comparison that uses, in any way, an identified competitor's price without clearly and
681 conspicuously disclosing the identity of the price assessor and any relationship between the
682 price assessor and the supplier. Examples of disclosure complying with this section are: "Price
683 assessment performed by Store Z"; "Price assessment performed by a certified public
684 accounting firm"; "Price assessment performed by employee of Store Y."

685 (r) A person makes a price comparison between a category of the supplier's goods and
686 the same category of the goods of another, without randomly selecting the individual goods or
687 services upon whose prices the comparison is based. For the purposes of this subsection,
688 goods or services are randomly selected when the supplier has no advance knowledge of what
689 goods and services will be surveyed by the price assessor, and when the supplier certifies its
690 lack of advance knowledge by an affidavit to be retained in the supplier's records for one year.

691 (s) A person makes a comparison between similar but nonidentical goods or services
692 unless the nonidentical goods or services are of essentially similar quality to the advertised
693 goods or services or the dissimilar aspects are clearly and conspicuously disclosed in the
694 advertisements.

695 (i) It is prima facie evidence of compliance with [~~this~~] Subsection (1)(s) if:

696 [~~(i)~~] (A) the goods compared are substantially the same size; and

697 [~~(ii)~~] (B) the goods compared are of substantially the same quality, which may include
698 similar models of competing brands of goods, or goods made of substantially the same
699 materials and made with substantially the same workmanship.

700 (ii) It is prima facie evidence of a deceptive comparison under [~~this section~~] Subsection
701 (1)(s) when the prices of brand name goods and generic goods are compared.

702 (t) A person engages in any other conduct which similarly creates a likelihood of
703 confusion or of misunderstanding.

704 (2) Any supplier who makes a comparison with a competitor's price in advertising shall
705 maintain for a period of one year records that disclose the factual basis for such price
706 comparisons and from which the validity of such claim can be established.

707 (3) It ~~shall be~~ is a defense to any claim of false or deceptive price representations
708 under this chapter that a person:

709 (a) has no knowledge that the represented price is not genuine; and

710 (b) has made reasonable efforts to determine whether the represented price is genuine.

711 (4) Subsections (1)(m) and (q) do not apply to price comparisons made in catalogs in
712 which a supplier compares the price of a single item of its goods or services with those of
713 another.

714 (5) In order to prevail in an action under this chapter, a complainant need not prove
715 competition between the parties or actual confusion or misunderstanding.

716 (6) This chapter does not affect unfair trade practices otherwise actionable at common
717 law or under other statutes of this state.

718 Section 11. **13-21-7** is amended to read:

719 **13-21-7. Written contracts required -- Contents -- Notice of cancellation of**
720 **contract.**

721 (1) Each contract between the buyer and a credit services organization for the purchase
722 of the services of the credit services organization shall be in writing, dated, signed by the buyer,
723 and include all of the following:

724 (a) a conspicuous statement in bold type, in immediate proximity to the space reserved
725 for the signature of the buyer, as follows: "You, the buyer, may cancel this contract at any time
726 prior to midnight of the fifth day after the date of the transaction. See the attached notice of
727 cancellation form for an explanation of this right.";

728 (b) the terms and conditions of payment, including the total of all payments to be made
729 by the buyer, whether to the credit services organization or to some other person;

730 (c) a full and detailed description of the services to be performed by the credit services
731 organization for the buyer, including all guarantees and all promises of full or partial refunds,
732 and the estimated date by which the services are to be performed, or estimated length of time
733 for performing the services; and

734 (d) the credit services organization's principal business address and the name and
735 address of its agent, in Utah, authorized to receive service of process.

736 (2) The contract shall be accompanied by a completed form in duplicate, captioned
737 "Notice of Cancellation," which shall be attached to the contract and easily detachable, and
738 which shall contain in bold type the following statement written in the same language as used
739 in the contract:

740 "Notice of Cancellation

741 You may cancel this contract, without any penalty or obligation, within five days from
742 the date the contract is signed.

743 If you cancel, any payment made by you under this contract will be returned within 10
744 days following receipt by the seller of your cancellation notice.

745 To cancel this contract, mail or deliver a signed dated copy of this cancellation notice,
746 or any other written notice, to _____(name of seller)_____at _____(address of seller)_____
747 (place of business)_____ not later than midnight _____(date)_____.

748 I hereby cancel this transaction.

749 _____(date)

750 _____
751 (purchaser's signature)"

752 (3) The credit services organization shall give to the buyer a copy of the completed
753 contract and all other documents the credit services organization requires the buyer to sign at
754 the time they are signed.

755 Section 12. Section **16-6a-822** is amended to read:

756 **16-6a-822. General standards of conduct for directors and officers.**

757 (1) (a) A director shall discharge the director's duties as a director, including the

758 director's duties as a member of a committee of the board, in accordance with Subsection (2).

759 (b) An officer with discretionary authority shall discharge the officer's duties under that
760 authority in accordance with Subsection (2).

761 (2) A director or an officer described in Subsection (1) shall discharge the director or
762 officer's duties:

763 (a) in good faith;

764 (b) with the care an ordinarily prudent person in a like position would exercise under
765 similar circumstances; and

766 (c) in a manner the director or officer reasonably believes to be in the best interests of
767 the nonprofit corporation.

768 (3) In discharging duties, a director or officer is entitled to rely on information,
769 opinions, reports, or statements, including financial statements and other financial data, if
770 prepared or presented by:

771 (a) one or more officers or employees of the nonprofit corporation whom the director
772 or officer reasonably believes to be reliable and competent in the matters presented;

773 (b) legal counsel, a public accountant, or another person as to matters the director or
774 officer reasonably believes are within the person's professional or expert competence;

775 (c) religious authorities or ministers, priests, rabbis, or other persons:

776 (i) whose position or duties in the nonprofit corporation, or in a religious organization
777 with which the nonprofit corporation is affiliated, the director or officer believes justify
778 reliance and confidence; and

779 (ii) who the director or officer believes to be reliable and competent in the matters
780 presented; or

781 (d) in the case of a director, a committee of the board of directors of which the director
782 is not a member if the director reasonably believes the committee merits confidence.

783 (4) A director or officer is not acting in good faith if the director or officer has
784 knowledge concerning the matter in question that makes reliance otherwise permitted by
785 Subsection (3) unwarranted.

786 (5) A director, regardless of title, may not be considered to be a trustee with respect to
787 any property held or administered by the nonprofit corporation including property that may be
788 subject to restrictions imposed by the donor or transferor of the property.

789 (6) A director or officer is not liable to the nonprofit corporation, its members, or any
790 conservator or receiver, or any assignee or successor-in-interest of the nonprofit corporation or
791 member, for any action taken, or any failure to take any action, as an officer or director, as the
792 case may be, unless:

793 (a) the director or officer has breached or failed to perform the duties of the office as
794 set forth in this section; and

795 (b) the breach or failure to perform constitutes:

796 (i) willful misconduct; or

797 (ii) intentional infliction of harm on:

798 (A) the nonprofit corporation; or

799 (B) the members of the nonprofit corporation; or

800 (iii) ~~[the breach or failure to perform constitutes]~~ gross negligence.

801 Section 13. Section **17-27a-801** is amended to read:

802 **17-27a-801. No district court review until administrative remedies exhausted --**

803 **Time for filing -- Tolling of time -- Standards governing court review -- Record on review**

804 **-- Staying of decision.**

805 (1) No person may challenge in district court a county's land use decision made under
806 this chapter, or under a regulation made under authority of this chapter, until that person has
807 exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and
808 Variances, if applicable.

809 (2) (a) Any person adversely affected by a final decision made in the exercise of or in
810 violation of the provisions of this chapter may file a petition for review of the decision with the
811 district court within 30 days after the local land use decision is final.

812 (b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a
813 property owner files a request for arbitration of a constitutional taking issue with the property

814 rights ombudsman under Section [~~63-34-13~~] 13-43-204 until 30 days after:

815 (A) the arbitrator issues a final award; or

816 (B) the property rights ombudsman issues a written statement under Subsection

817 [~~63-34-13(4)~~] 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

818 (ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional
819 taking issue that is the subject of the request for arbitration filed with the property rights
820 ombudsman by a property owner.

821 (iii) A request for arbitration filed with the property rights ombudsman after the time
822 under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

823 (3) (a) The courts shall:

824 (i) presume that a decision, ordinance, or regulation made under the authority of this
825 chapter is valid; and

826 (ii) determine only whether or not the decision, ordinance, or regulation is arbitrary,
827 capricious, or illegal.

828 (b) A decision, ordinance, or regulation involving the exercise of legislative discretion
829 is valid if the decision, ordinance, or regulation is reasonably debatable and not illegal.

830 (c) A final decision of a land use authority or an appeal authority is valid if the decision
831 is supported by substantial evidence in the record and is not arbitrary, capricious, or illegal.

832 (d) A determination of illegality requires a determination that the decision, ordinance,
833 or regulation violates a law, statute, or ordinance in effect at the time the decision was made or
834 the ordinance or regulation adopted.

835 (4) The provisions of Subsection (2)(a) apply from the date on which the county takes
836 final action on a land use application for any adversely affected third party, if the county
837 conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice
838 of the pending decision.

839 (5) If the county has complied with Section 17-27a-205, a challenge to the enactment
840 of a land use ordinance or general plan may not be filed with the district court more than 30
841 days after the enactment.

842 (6) The petition is barred unless it is filed within 30 days after land use authority or the
843 appeal authority's decision is final.

844 (7) (a) The land use authority or appeal authority, as the case may be, shall transmit to
845 the reviewing court the record of its proceedings, including its minutes, findings, orders and, if
846 available, a true and correct transcript of its proceedings.

847 (b) If the proceeding was tape recorded, a transcript of that tape recording is a true and
848 correct transcript for purposes of this Subsection (7).

849 (8) (a) (i) If there is a record, the district court's review is limited to the record provided
850 by the land use authority or appeal authority, as the case may be.

851 (ii) The court may not accept or consider any evidence outside the record of the land
852 use authority or appeal authority, as the case may be, unless that evidence was offered to the
853 land use authority or appeal authority, respectively, and the court determines that it was
854 improperly excluded.

855 (b) If there is no record, the court may call witnesses and take evidence.

856 (9) (a) The filing of a petition does not stay the decision of the land use authority or
857 appeal authority, as the case may be.

858 (b) (i) Before filing a petition under this section or a request for mediation or
859 arbitration of a constitutional taking issue under Section [~~63-34-13~~] 13-43-204, the aggrieved
860 party may petition the appeal authority to stay its decision.

861 (ii) Upon receipt of a petition to stay, the appeal authority may order its decision stayed
862 pending district court review if the appeal authority finds it to be in the best interest of the
863 county.

864 (iii) After a petition is filed under this section or a request for mediation or arbitration
865 of a constitutional taking issue is filed under Section [~~63-34-13~~] 13-43-204, the petitioner may
866 seek an injunction staying the appeal authority's decision.

867 Section 14. Section **17A-2-412** is amended to read:

868 **17A-2-412. Service area considered body corporate -- Powers.**

869 (1) Upon its creation, a county service area is a body corporate and politic and a

870 quasi-municipal public corporation.

871 (2) A county service area may:

872 (a) exercise all powers of eminent domain possessed by counties in Utah in the manner
873 provided by law for the exercise of eminent domain power by counties;

874 (b) sue and be sued;

875 (c) enter into contracts considered desirable by the board of trustees of the service area
876 to carry out the functions of the service area including contracts with municipal corporations,
877 counties or other public corporations, county service areas or districts;

878 (d) impose and collect charges or fees for any commodities, services, or facilities
879 afforded by the service area to its consumers and pledge all or any part of the revenues so
880 derived to the payment of any bonds of the service area, whether the bonds are issued as
881 revenue bonds or as general obligations of the service area;

882 (e) sell, lease, mortgage, encumber or otherwise dispose of any properties, including
883 water and water rights, owned by the service area upon such terms and conditions as the board
884 of trustees may determine;

885 (f) own any and all property or interests in property, including water and water rights,
886 that the board of trustees considers necessary or appropriate to carry out the purposes of the
887 service area and acquire property or interests in property by purchase, lease, gift, devise, or
888 bequest;

889 (g) request the county executive to utilize any existing county offices, officers, or
890 employees for purposes of the service area when in the opinion of the board of trustees it is
891 advisable to do so;

892 (h) employ officers, employees, and agents including attorneys, accountants, engineers,
893 and fiscal agents, and fix their compensation;

894 (i) [~~(A)~~] (i) require officers and employees charged with the handling of funds to
895 furnish good and sufficient surety bonds; or

896 [~~(B)~~] (ii) purchase a blanket surety bond for all officers and employees;

897 (j) fix the times for holding regular meetings;

898 (k) adopt an official seal; and

899 (l) adopt bylaws and regulations for the conduct of its business and affairs.

900 (3) (a) If the county service area issues revenue bonds payable solely from the revenue
901 of commodities, services, and facilities, the fees and charges imposed shall always be sufficient
902 to carry out the provisions of the resolution authorizing the bonds.

903 (b) The board of trustees may take necessary action and adopt regulations to assure the
904 collection and enforcement of all fees and charges imposed.

905 (c) If the county service area furnishes more than one commodity, service, or facility,
906 the board of trustees may bill for the fees and charges for all commodities, services, and
907 facilities in a single bill.

908 (d) The board of trustees may suspend furnishing commodities, services, or facilities to
909 a consumer if the consumer fails to pay all fees and charges when due.

910 (4) Except for services rendered by the county executive, a county may charge the
911 county service area a reasonable amount for services rendered pursuant to a request under
912 Subsection (2)(g).

913 Section 15. Section **23-13-1** is amended to read:

914 **23-13-1. Title.**

915 This [~~act shall be~~] title is known [~~and may be cited~~] as the "Wildlife Resources Code of
916 Utah."

917 Section 16. Section **26-18-503** is amended to read:

918 **26-18-503. Authorization to renew, transfer, or increase Medicaid certified**
919 **programs.**

920 (1) The division may renew Medicaid certification of a certified program if the
921 program, without lapse in service to Medicaid recipients, has its nursing care facility program
922 certified by the division at the same physical facility.

923 (2) (a) The division may issue a Medicaid certification for a new nursing care facility
924 program if a current owner of the Medicaid certified program transfers its ownership of the
925 Medicaid certification to the new nursing care facility program and the new nursing care

926 facility program meets all of the following conditions:

927 (i) the new nursing care facility program operates at the same physical facility as the
928 previous Medicaid certified program;

929 (ii) the new nursing care facility program gives a written assurance to the director in
930 accordance with Subsection (4); and

931 (iii) the new nursing care facility program receives the Medicaid certification within
932 one year of the date the previously certified program ceased to provide medical assistance to a
933 Medicaid recipient.

934 (b) A nursing care facility program that receives Medicaid certification under the
935 provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing
936 care facility program if the new nursing care facility program:

937 (i) is not owned in whole or in part by the previous nursing care facility program; or

938 (ii) is not a successor in interest of the previous nursing care facility program.

939 (3) The division may issue a Medicaid certification to a nursing care facility program
940 that was previously a certified program but now resides in a new or renovated physical facility
941 if the nursing care facility program meets all of the following:

942 (a) the nursing care facility program met all applicable requirements for Medicaid
943 certification at the time of closure;

944 (b) the new or renovated physical facility is in the same county or within a five-mile
945 radius of the original physical facility;

946 (c) the time between which the certified program ceased to operate in the original
947 facility and will begin to operate in the new physical facility is not more than three years;

948 (d) if Subsection (3)(c) applies, the certified program notifies the department within 90
949 days after ceasing operations in its original facility, of its intent to retain its Medicaid
950 certification;

951 (e) the provider gives written assurance to the director in accordance with Subsection
952 (4) that no third party has a legitimate claim to operate a certified program at the previous
953 physical facility; and

954 (f) the bed capacity in the physical facility that will be used for additional Medicaid
955 certification has not been expanded by more than 30% over the previously certified program's
956 bed capacity, unless the director has approved additional beds in accordance with Subsection
957 (5).

958 (4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) must
959 give written assurances satisfactory to the director or his designee that:

960 (i) no third party has a legitimate claim to operate the certified program;

961 (ii) the requesting entity agrees to defend and indemnify the department against any
962 claims by a third party who may assert a right to operate the certified program; and

963 (iii) if a third party is found, by final agency action of the department after exhaustion
964 of all administrative and judicial appeal rights, to be entitled to operate a certified program at
965 the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

966 (b) If a finding is made under the provisions of Subsection (4)(a)(iii):

967 (i) the certified program shall immediately surrender its Medicaid certification and
968 comply with division rules regarding billing for Medicaid and the provision of services to
969 Medicaid patients; and

970 (ii) the department shall transfer the surrendered Medicaid certification to the third
971 party who prevailed under Subsection (4)(a)(iii).

972 (5) (a) As provided in Subsection [~~26-21-502~~] 26-18-502(2)(b), the director shall issue
973 additional Medicaid certification when requested by a nursing care facility or other interested
974 party if there is insufficient bed capacity with current certified programs in a service area. A
975 determination of insufficient bed capacity shall be based on the nursing care facility or other
976 interested party providing reasonable evidence of an inadequate number of beds in the county
977 or group of counties impacted by the requested Medicaid certification based on:

978 (i) current demographics which demonstrate nursing care facility occupancy levels of at
979 least 90% for all existing and proposed facilities within a prospective three-year period;

980 (ii) current nursing care facility occupancy levels of 90%; or

981 (iii) no other nursing care facility within a 35-mile radius of the nursing care facility

982 requesting the additional certification.

983 (b) In addition to the requirements of Subsection (5)(a), a nursing care facility program
984 must demonstrate by an independent analysis that the nursing care facility can financially
985 support itself at an after tax break-even net income level based on projected occupancy levels.

986 (c) When making a determination to certify additional beds or an additional nursing
987 care facility program under Subsection (5)(a):

988 (i) the director shall consider whether the nursing care facility will offer specialized or
989 unique services that are underserved in a service area;

990 (ii) the director shall consider whether any Medicaid certified beds are subject to a
991 claim by a previous certified program that may reopen under the provisions of Subsections (2)
992 and (3); and

993 (iii) the director may consider how to add additional capacity to the long-term care
994 delivery system to best meet the needs of Medicaid recipients.

995 Section 17. Section **26-34-2** is amended to read:

996 **26-34-2. Definition of death -- Determination of death.**

997 (1) An individual [~~who~~] is dead if the individual has sustained either:

998 (a) irreversible cessation of circulatory and respiratory functions; or

999 (b) irreversible cessation of all functions of the entire brain, including the brain stem[;].

1000 [~~is dead.~~]

1001 (2) A determination of death must be made in accordance with accepted medical
1002 standards.

1003 Section 18. Section **26-39-104** is amended to read:

1004 **26-39-104. Duties of the department.**

1005 (1) With regard to child care programs licensed under this chapter, the department
1006 may:

1007 (a) make and enforce rules to implement this chapter and, as necessary to protect
1008 children's common needs for a safe and healthy environment, to provide for:

1009 (i) adequate facilities and equipment; and

1010 (ii) competent caregivers considering the age of the children and the type of program
1011 offered by the licensee;

1012 (b) make and enforce rules necessary to carry out the purposes of this chapter, in the
1013 following areas:

1014 (i) requirements for applications, the application process, and compliance with other
1015 applicable statutes and rules;

1016 (ii) documentation and policies and procedures that providers shall have in place in
1017 order to be licensed, in accordance with Subsection (1)(a);

1018 (iii) categories, classifications, and duration of initial and ongoing licenses;

1019 (iv) changes of ownership or name, changes in licensure status, and changes in
1020 operational status;

1021 (v) license expiration and renewal, contents, and posting requirements;

1022 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
1023 procedural measures to encourage and assure compliance with statute and rule; and

1024 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
1025 and discipline of licensees; and

1026 (c) set and collect licensing and other fees in accordance with Section 26-1-6.

1027 (2) (a) The department may not regulate educational curricula, academic methods, or
1028 the educational philosophy or approach of the provider.

1029 (b) The department shall allow for a broad range of educational training and academic
1030 background in certification or qualification of child day care directors.

1031 (3) In licensing and regulating child care programs, the department shall reasonably
1032 balance the benefits and burdens of each regulation and, by rule, provide for a range of
1033 licensure, depending upon the needs and different levels and types of child care provided.

1034 (4) Notwithstanding the definition of "child" in Subsection 26-39-102(1), the
1035 department shall count children through age 12 and children with disabilities through age 18
1036 toward the minimum square footage requirement for indoor and outdoor areas, including the
1037 child of:

1038 (a) a licensed residential child care provider; or
1039 (b) an owner or employee of a licensed child care center.
1040 (5) Notwithstanding Subsection (1)(a)(i), the department may not exclude floor space
1041 used for furniture, fixtures, or equipment from the minimum square footage requirement for
1042 indoor and outdoor areas if the furniture, fixture, or equipment is used:

- 1043 (a) by children;
- 1044 (b) for the care of children; or
- 1045 (c) to store classroom materials.

1046 (6) (a) A child care center constructed prior to January 1, 2004, and licensed and
1047 operated as a child care center continuously since January 1, 2004, is exempt from the
1048 [~~department for~~] department's group size restrictions, if the child to caregiver ratios are
1049 maintained, and adequate square footage is maintained for specific classrooms.

1050 (b) An exemption granted under Subsection (6)(a) is transferrable to subsequent
1051 licensed operators at the center if a licensed child care center is continuously maintained at the
1052 center.

1053 (7) The department shall develop, by rule, a five-year phased-in compliance schedule
1054 for playground equipment safety standards.

1055 Section 19. Section **31A-16-105** is amended to read:

1056 **31A-16-105. Registration of insurers.**

1057 (1) (a) Every insurer which is authorized to do business in this state and which is a
1058 member of an insurance holding company system shall register with the commissioner, except
1059 a foreign insurer subject to registration requirements and standards adopted by statute or
1060 regulation in the jurisdiction of its domicile, if the requirements and standards are substantially
1061 similar to those contained in this section, Subsections 31A-16-106(1)(a) and (2) and either
1062 Subsection 31A-16-106(1)(b) or a statutory provision similar to the following: "Each registered
1063 insurer shall keep current the information required to be disclosed in its registration statement
1064 by reporting all material changes or additions within 15 days after the end of the month in
1065 which it learns of each change or addition."

1066 (b) Any insurer which is subject to registration under this section shall register within
1067 15 days after it becomes subject to registration, and annually thereafter by May 1 of each year
1068 for the previous calendar year, unless the commissioner for good cause extends the time for
1069 registration and then at the end of the extended time period. The commissioner may require
1070 any insurer authorized to do business in the state, which is a member of a holding company
1071 system, and which is not subject to registration under this section, to furnish a copy of the
1072 registration statement, the summary specified in Subsection (3), or any other information filed
1073 by the insurer with the insurance regulatory authority of domiciliary jurisdiction.

1074 (2) Every insurer subject to registration shall file the registration statement on a form
1075 prescribed by the National Association of Insurance Commissioners, which shall contain the
1076 following current information:

1077 (a) the capital structure, general financial condition, and ownership and management of
1078 the insurer and any person controlling the insurer;

1079 (b) the identity and relationship of every member of the insurance holding company
1080 system;

1081 (c) any of the following agreements in force, and transactions currently outstanding or
1082 which have occurred during the last calendar year between the insurer and its affiliates:

1083 (i) loans, other investments, or purchases, sales or exchanges of securities of the
1084 affiliates by the insurer or of securities of the insurer by its affiliates;

1085 (ii) purchases, sales, or exchanges of assets;

1086 (iii) transactions not in the ordinary course of business;

1087 (iv) guarantees or undertakings for the benefit of an affiliate which result in an actual
1088 contingent exposure of the insurer's assets to liability, other than insurance contracts entered
1089 into in the ordinary course of the insurer's business;

1090 (v) all management agreements, service contracts, and all cost-sharing arrangements;

1091 (vi) reinsurance agreements;

1092 (vii) dividends and other distributions to shareholders; and

1093 [~~ix~~] (viii) consolidated tax allocation agreements;

1094 (d) any pledge of the insurer's stock, including stock of any subsidiary or controlling
1095 affiliate, for a loan made to any member of the insurance holding company system; and

1096 (e) any other matters concerning transactions between registered insurers and any
1097 affiliates as may be included in any subsequent registration forms adopted or approved by the
1098 commissioner.

1099 (3) All registration statements shall contain a summary outlining all items in the
1100 current registration statement representing changes from the prior registration statement.

1101 (4) No information need be disclosed on the registration statement filed pursuant to
1102 Subsection (2) if the information is not material for the purposes of this section. Unless the
1103 commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or
1104 extensions of credit, investments, or guarantees involving one-half of 1%, or less, of an
1105 insurer's admitted assets as of the next preceding December 31 may not be considered material
1106 for purposes of this section.

1107 (5) Any person within an insurance holding company system subject to registration
1108 shall provide complete and accurate information to an insurer if the information is reasonably
1109 necessary to enable the insurer to comply with the provisions of this chapter.

1110 (6) The commissioner shall terminate the registration of any insurer which
1111 demonstrates that it no longer is a member of an insurance holding company system.

1112 (7) The commissioner may require or allow two or more affiliated insurers subject to
1113 registration under this section to file a consolidated registration statement.

1114 (8) The commissioner may allow an insurer which is authorized to do business in this
1115 state, and which is part of an insurance holding company system, to register on behalf of any
1116 affiliated insurer which is required to register under Subsection (1) and to file all information
1117 and material required to be filed under this section.

1118 (9) The provisions of this section do not apply to any insurer, information, or
1119 transaction if, and to the extent that, the commissioner by rule or order exempts the insurer
1120 from the provisions of this section.

1121 (10) Any person may file with the commissioner a disclaimer of affiliation with any

1122 authorized insurer, or a disclaimer of affiliation may be filed by any insurer or any member of
1123 an insurance holding company system. The disclaimer shall fully disclose all material
1124 relationships and bases for affiliation between the person and the insurer as well as the basis for
1125 disclaiming the affiliation. After a disclaimer has been filed, the insurer shall be relieved of
1126 any duty to register or report under this section which may arise out of the insurer's relationship
1127 with the person unless and until the commissioner disallows the disclaimer. The commissioner
1128 shall disallow a disclaimer only after furnishing all parties in interest with notice and
1129 opportunity to be heard, and after making specific findings of fact to support the disallowance.

1130 (11) The failure to file a registration statement or any summary of the registration
1131 statement required by this section within the time specified for the filing is a violation of this
1132 section.

1133 Section 20. Section **31A-17-402** is amended to read:

1134 **31A-17-402. Valuation of liabilities.**

1135 (1) Subject to this section, the commissioner shall make rules:

1136 (a) specifying the liabilities required to be reported by an insurer in a financial
1137 statement submitted under Section 31A-2-202; and

1138 (b) the methods of valuing the liabilities described in Subsection (1)(a).

1139 (2) For life insurance, the methods of valuing specified pursuant to Subsection (1)(b)
1140 shall be consistent with Part 5, Standard Valuation Law.

1141 (3) Title insurance reserves are provided for under Section 31A-17-408.

1142 (4) In determining the financial condition of an insurer, liabilities include:

1143 (a) the estimated amount necessary to pay:

1144 (i) all the insurer's unpaid losses and claims incurred on or before the date of statement,
1145 whether reported or unreported; and

1146 (ii) the expense of adjustment or settlement of a loss or claim described in this
1147 Subsection (4)(a);

1148 (b) for life, accident and health insurance, and annuity contracts:

1149 (i) the reserves on life insurance policies and annuity contracts in force, valued

1150 according to appropriate tables of mortality and the applicable rates of interest;

1151 (ii) the reserves for accident and health benefits, for both active and disabled lives;

1152 (iii) the reserves for accidental death benefits; and

1153 (iv) any additional reserves:

1154 (A) that may be required by the commissioner by rule; or

1155 (B) if no rule is applicable under Subsection (4)(b)(iv)(A), in a manner consistent with

1156 the practice formulated or approved by the National Association of Insurance Commissioners

1157 with respect to those types of insurance;

1158 (c) subject to Subsection (6), for insurance other than life, accident and health, and

1159 title insurance, the amount of reserves equal to the unearned portions of the gross premiums

1160 charged on policies in force, computed:

1161 (i) on a daily or monthly pro rata basis; or

1162 (ii) other basis approved by the commissioner;

1163 (d) for ocean marine and other transportation insurance, reserves:

1164 (i) equal to 50% of the amount of premiums upon risks covering not more than one trip

1165 or passage not terminated; and

1166 (ii) computed:

1167 (A) upon a pro rata basis; or

1168 (B) with the commissioner's consent, in accordance with a method provided under

1169 Subsection (4)(c); and

1170 (e) the insurer's other liabilities due or accrued at the date of statement including:

1171 (i) taxes;

1172 (ii) expenses; and

1173 (iii) other obligations.

1174 (5) (a) Except to the extent provided in Subsection (5)(b), in determining the financial

1175 condition of an insurer of workers' compensation insurance, the insurer's liabilities do not

1176 include any liability based on the liability of the Employer's Reinsurance Fund under Section

1177 34A-2-702 for industrial accidents or occupational diseases occurring on or before June 30,

1178 1994.

1179 (b) Notwithstanding Subsection (5)(a), the liability of an insurer of workers'
1180 compensation insurance includes any premium assessment:

1181 (i) imposed under Section 59-9-101 [~~or 59-9-101.3~~]; and

1182 (ii) due at the date of statement.

1183 (6) After adopting a method for computing the reserves described in Subsection (4)(c),
1184 an insurer may not change the method without the commissioner's written consent.

1185 Section 21. Section **31A-26-210** is amended to read:

1186 **31A-26-210. Reports from organizations licensed as adjusters.**

1187 (1) Organizations licensed as adjusters under Section 31A-26-203 shall report to the
1188 commissioner, at the times and in the detail and form as prescribed by rule, every change in the
1189 list of natural person adjusters authorized to act in that position for the organization.

1190 (2) Each organization licensed as an adjuster shall, at the time of paying its license
1191 continuation fee under [~~Subsection~~] Section 31A-3-103, report to the commissioner, in the
1192 form established by the commissioner by rule, all natural person adjusters acting in that
1193 position for the organization.

1194 (3) Organizations licensed under this chapter shall designate and report promptly to the
1195 commissioner the name of at least one natural person who has authority to act on behalf of the
1196 organization in all matters pertaining to compliance with this title and orders of the
1197 commissioner.

1198 (4) Where a license is held by an organization, both the organization itself and any
1199 persons named on the license shall, for purposes of this section, be considered to be the holders
1200 of the license. If a person named on the organization license commits any act or fails to
1201 perform any duty which is a ground for suspending, revoking, or limiting the organization
1202 license, the commissioner may suspend, revoke, or limit the license of that person or the
1203 organization, or both.

1204 Section 22. Section **32A-13-103** is amended to read:

1205 **32A-13-103. Searches, seizures, and forfeitures.**

1206 (1) The following are subject to forfeiture pursuant to the procedures and substantive
1207 protections established in Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act:

1208 (a) all alcoholic products possessed, used, offered for sale, sold, given, furnished,
1209 supplied, received, purchased, stored, warehoused, manufactured, adulterated, shipped, carried,
1210 transported, or distributed in violation of this title or commission rules;

1211 (b) all packages or property used or intended for use as a container for an alcoholic
1212 product in violation of this title or commission rules;

1213 (c) all raw materials, products, and equipment used, or intended for use, in
1214 manufacturing, processing, adulterating, delivering, importing, or exporting any alcoholic
1215 product in violation of this title or commission rules;

1216 (d) all implements, furniture, fixtures, or other personal property used or kept for any
1217 violation of this title or commission rules;

1218 (e) all conveyances including aircraft, vehicles, or vessels used or intended for use, to
1219 transport or in any manner facilitate the transportation, sale, receipt, possession, or
1220 concealment of property described in Subsection (1)(a), (b), (c), or (d); and

1221 (f) all books, records, receipts, ledgers, or other documents used or intended for use in
1222 violation of this title or commission rules.

1223 (2) Any of the property subject to forfeiture under this title may be seized by any peace
1224 officer of this state or any other person authorized by law upon process issued by any court
1225 having jurisdiction over the property in accordance with the procedures provided in Title 77,
1226 Chapter 23, Part 2, Search Warrants. However, seizure without process may be made when:

1227 (a) the seizure is incident to an arrest or search under a search warrant or an inspection
1228 under an administrative inspection warrant;

1229 (b) the property subject to seizure has been the subject of a prior judgment in favor of
1230 the state in a criminal injunction or forfeiture proceeding under this title;

1231 (c) the peace officer or other person authorized by law has probable cause to believe
1232 that the property is directly or indirectly dangerous to health or safety; or

1233 (d) the peace officer or other person authorized by law has probable cause to believe

1234 that the property is being or has been used, intended to be used, held, or kept in violation of this
1235 title or commission rules.

1236 (3) If the property is seized pursuant to a search or administrative warrant, the peace
1237 officer or other person authorized by law shall make a proper receipt, return, and inventory and
1238 ensure the safekeeping of the property as required by Sections 77-23-206 through 77-23-208.
1239 If the magistrate who issued the warrant is a justice court judge, upon the filing of the return
1240 the jurisdiction of the justice court shall cease and the magistrate shall certify the record and all
1241 files without delay to the district court of the county in which the property was located. From
1242 the time of this filing, the district court has jurisdiction of the case.

1243 (4) In the event of seizure of property without process, the peace officer or other person
1244 authorized by law shall make a return of his acts without delay directly to the district court of
1245 the county in which the property was located, and the district court shall have jurisdiction of
1246 the case. The return shall describe all property seized, the place where it was seized, and any
1247 persons in apparent possession of the property. The officer or other person shall also promptly
1248 deliver a written inventory of anything seized to any person in apparent authority at the
1249 premises where the seizure was made, or post it in a conspicuous place at the premises. The
1250 inventory shall state the place where the property is being held.

1251 (5) Property taken or detained under this section is not repleviable but is considered in
1252 custody of the law enforcement agency making the seizure subject only to the orders of the
1253 court or the official having jurisdiction. When property is seized under this title, the
1254 appropriate person or agency may:

1255 (a) place the property under seal;

1256 (b) remove the property to a place designated by it or the warrant under which it was
1257 seized; or

1258 (c) take custody of the property and remove it to an appropriate location for disposition
1259 in accordance with law.

1260 (6) When any property is subject to forfeiture under this section, proceedings shall be
1261 instituted in accordance with the procedures and substantive protections of Title 24, Chapter 1,

1262 Utah Uniform Forfeiture Procedures Act.

1263 (7) When any property is ordered forfeited under Title 24, Chapter 1, Utah Uniform
1264 Forfeiture Procedures Act, by a finding of the court that no person is entitled to recover the
1265 property, the property, if an alcoholic product or a package used as a container for an alcoholic
1266 product, shall be disposed of as follows:

1267 (a) If the alcoholic product is unadulterated, pure, and free from crude, unrectified, or
1268 impure form of ethylic alcohol, or any other deleterious substance or liquid, and is otherwise in
1269 saleable condition, it shall be sold in accordance with Section [~~24-1-16~~] 24-1-17.

1270 (b) If the alcoholic product is impure, adulterated, or otherwise unfit for sale, it and its
1271 package or container shall be destroyed by the department under competent supervision.

1272 Section 23. Section ~~34-19-5~~ is amended to read:

1273 **34-19-5. Injunctive relief -- When available -- Necessary findings -- Procedure.**

1274 (1) No court, nor any judge or judges of [~~it~~] a court, shall have jurisdiction to issue a
1275 temporary or permanent injunction in any case involving or growing out of a labor dispute, as
1276 [~~herein~~] defined in Section 34-19-11, except after hearing the testimony of witnesses in open
1277 court, [~~(f)with opportunity for cross-examination(f)~~], in support of the allegations of a complaint
1278 made under oath and testimony in opposition to it, if offered, and except after findings of all of
1279 the [~~following~~] facts described in Subsection (2) by the court, or a judge or judges [~~of it~~].

1280 (2) The findings required by Subsection (1) are all of the following:

1281 [~~(1)~~] (a) that unlawful acts have been threatened or committed and will be executed or
1282 continued unless restrained;

1283 [~~(2)~~] (b) that substantial and irreparable injury to property or property rights of the
1284 complainant will follow unless the relief requested is granted;

1285 [~~(3)~~] (c) that as to each item of relief granted greater injury will be inflicted upon
1286 complainant by the denial of it than will be inflicted upon defendants by the granting of it;

1287 [~~(4)~~] (d) that no item of relief granted is relief that a court or judge of it has no
1288 jurisdiction to restrain or enjoin under Section 34-19-2;

1289 [~~(5)~~] (e) that the complainant has no adequate remedy at law; and

1290 ~~[(6)]~~ (f) that the public officers charged with the duty to protect complainant's property
1291 have failed or are unable to furnish adequate protection.

1292 ~~[Such]~~ (3) Subject to Subsection (4), the hearing required by Subsection (1) shall be
1293 held after due and personal notice of it has been given, in such manner as the court shall direct,
1294 to all known persons against whom relief is sought, and also to those public officers charged
1295 with the duty to protect complainant's property~~[- provided, however, that if].~~

1296 (4) (a) If a complainant shall also allege that unless a temporary restraining order shall
1297 be issued before ~~[such]~~ a hearing may be had, a substantial and irreparable injury to
1298 complainant's property will be unavoidable, ~~[such]~~ a temporary restraining order may be
1299 granted upon the expiration of such reasonable notice of application ~~[therefor]~~ for the
1300 restraining order as the court may direct by order to show cause, but in no less than 48 hours.
1301 This order to show cause shall be served upon such party or parties as are sought to be
1302 restrained and as shall be specified in the order, and the restraining order shall issue only upon
1303 testimony, or in the discretion of the court, upon affidavits, sufficient, if sustained to justify the
1304 court in issuing a temporary injunction upon a hearing as ~~[herein]~~ provided for in this section.

1305 (b) Such a temporary restraining order shall be effective for no longer than five days,
1306 and at the expiration of said five days shall become void and not subject to renewal or
1307 extension~~[- but],~~ except that if the hearing for a temporary injunction shall have been begun
1308 before the expiration of the ~~[said]~~ five days, the restraining order may in the court's discretion
1309 be continued until a decision is reached upon the issuance of the temporary injunction.

1310 (5) No temporary restraining order or temporary injunction shall be issued except on
1311 condition that the complainant shall first file an undertaking with adequate security sufficient to
1312 recompense those enjoined for any loss, expense, or damage caused by the improvident or
1313 erroneous issuance of such order or injunction, including all reasonable costs, ~~[(f)]~~ together with
1314 ~~[a]~~ reasonable ~~[attorney's fee)]~~ attorney fees, and expense against the order or against the
1315 granting of any injunctive relief sought in the same proceeding and subsequently denied by the
1316 court. This undertaking shall be understood to signify an agreement entered into by the
1317 complainant and the surety upon which a decree may be rendered in the same suit or

1318 proceeding against such complainant and surety, the complainant and the surety submitting
1319 themselves to the jurisdiction of the court for that purpose[~~; but nothing herein contained~~],
1320 except that nothing in this Subsection (5) shall deprive any party having a claim or cause of
1321 action under or upon such undertaking from electing to pursue [his] the party's ordinary remedy
1322 by suit at law or in equity.

1323 Section 24. Section **35A-3-313** is amended to read:

1324 **35A-3-313. Performance goals.**

1325 (1) As used in this section:

1326 (a) "Performance goals" means a target level of performance or an expected level of
1327 performance against which actual performance is compared.

1328 (b) "Performance indicators" means actual performance information regarding a
1329 program or activity.

1330 (c) "Performance monitoring system" means a process to regularly collect and analyze
1331 performance information including performance indicators and performance goals.

1332 (2) (a) The department shall establish a performance monitoring system for cash
1333 assistance provided under this part.

1334 (b) The department shall establish the performance indicators and performance goals
1335 that will be used in the performance monitoring system for cash assistance under this part.

1336 (c) (i) On or before December 31 of each year, the department shall submit to the
1337 legislative fiscal analyst and the director of the Office of Legislative Research and General
1338 Counsel, a written report describing the difference between actual performance and
1339 performance goals for the second, third, and fourth quarters of the prior fiscal year and the first
1340 quarter of the current fiscal year.

1341 (ii) (A) The legislative fiscal analyst or the analyst's designee shall convey the
1342 information contained in the report to the appropriation subcommittee that has oversight
1343 responsibilities for the Department of Workforce Services during the General Session that
1344 follows the submission of the report.

1345 (B) The subcommittee may consider the information in its deliberations regarding the

1346 budget for services and supports under this chapter.

1347 (iii) The director of the Office of Legislative Research and General Counsel or the
1348 director's designee shall convey the information in the report to~~[(A)]~~ the legislative interim
1349 committee that has oversight responsibilities for the Department of Workforce Services~~[, and]~~.
1350 ~~[(B) the Utah Tomorrow Strategic Planning Committee.]~~

1351 Section 25. Section **36-26-102** is amended to read:

1352 **36-26-102. Utah International Trade Commission -- Creation -- Membership --**
1353 **Chairs -- Per diem and expenses.**

1354 (1) There is created the Utah International Trade Commission.

1355 (2) The commission membership consists of 11 members ~~[of which]~~:

1356 (a) eight members to be appointed as follows:

1357 (i) five members from the House of Representatives, appointed by the speaker of the
1358 House of Representatives, no more than three from the same political party; and

1359 (ii) three members from the Senate, appointed by the president of the Senate, no more
1360 than two members from the same political party;

1361 (b) two nonvoting members to be appointed by the governor; and

1362 (c) the Utah Attorney General or designee, who is a nonvoting member.

1363 (3) (a) The members appointed or reappointed by the governor shall serve two-year
1364 terms.

1365 (b) Notwithstanding the requirement of Subsection (3)(a), the governor shall, at the
1366 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1367 these members are staggered so that approximately half of the members are appointed or
1368 reappointed under Subsection (3)(c) every two years.

1369 (c) When a vacancy occurs among members appointed by the governor, the
1370 replacement shall be appointed for the unexpired term.

1371 (d) One of the two members appointed by the governor shall be from a Utah industry
1372 involved in international trade.

1373 (4) Four members of the commission constitute a quorum.

1374 (5) (a) The speaker of the House of Representatives shall designate a member of the
1375 House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

1376 (b) The president of the Senate shall designate a member of the Senate appointed under
1377 Subsection (2)(a) as a cochair of the commission.

1378 (6) (a) State government officer and employee members who do not receive salary, per
1379 diem, or expenses from their agency for their commission service may receive per diem and
1380 expenses at the rates incurred in the performance of their official commission duties at the rates
1381 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1382 (b) Legislators on the commission receive compensation and expenses as provided by
1383 law and legislative rule.

1384 Section 26. Section **38-1-27** is amended to read:

1385 **38-1-27. State Construction Registry -- Form and contents of notice of**
1386 **commencement, preliminary notice, and notice of completion.**

1387 (1) As used in this section and Sections 38-1-30 through 38-1-37:

1388 (a) "Alternate filing" means a legible and complete filing made in a manner established
1389 by the division under Subsection (2)(e) other than an electronic filing.

1390 (b) "Cancel" means to indicate that a filing is no longer given effect.

1391 (c) "Construction project," "project," or "improvement" means all labor, equipment,
1392 and materials provided:

1393 (i) under an original contract; or

1394 (ii) by, or under contracts with, an owner-builder.

1395 (d) "Database" means the State Construction Registry created in this section.

1396 (e) (i) "Designated agent" means the third party the Division of Occupational and
1397 Professional Licensing contracts with to create and maintain the State Construction Registry.

1398 (ii) The designated agent is not an agency, instrumentality, or a political subdivision of
1399 the state.

1400 (f) "Division" means the Division of Occupational and Professional Licensing.

1401 (g) "Interested person" means a person who may be affected by a construction project.

1402 (h) "Program" means the State Construction Registry Program created in this section.
1403 (2) Subject to receiving adequate funding through a legislative appropriation and
1404 contracting with an approved third party vendor who meets the requirements of Sections
1405 38-1-30 through 38-1-37, there is created the State Construction Registry Program that shall:
1406 (a) (i) assist in protecting public health, safety, and welfare; and
1407 (ii) promote a fair working environment;
1408 (b) be overseen by the division with the assistance of the designated agent;
1409 (c) provide a central repository for notices of commencement, preliminary notices, and
1410 notices of completion filed in connection with all privately owned construction projects as well
1411 as all state and local government owned construction projects throughout Utah;
1412 (d) be accessible for filing and review by way of the program Internet website of:
1413 (i) notices of commencement;
1414 (ii) preliminary notices; and
1415 (iii) notices of completion;
1416 (e) accommodate:
1417 (i) electronic filing of the notices described in Subsection (2)(d); and
1418 (ii) alternate filing of the notices described in Subsection (2)(d) by U.S. mail, telefax,
1419 or any other alternate method as provided by rule made by the division in accordance with Title
1420 63, Chapter 46a, Utah Administrative Rulemaking Act;
1421 (f) (i) provide electronic notification for up to three e-mail addresses for each interested
1422 person or company who requests notice from the construction notice registry; and
1423 (ii) provide alternate means of notification for a person who makes an alternate filing,
1424 including U.S. mail, telefax, or any other method as prescribed by rule made by the division in
1425 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act; and
1426 (g) provide hard-copy printing of electronic receipts for an individual filing evidencing
1427 the date and time of the individual filing and the content of the individual filing.
1428 (3) (a) The designated agent shall provide notice of all other filings for a project to any
1429 person who files a notice of commencement, preliminary notice, or notice of completion for

1430 that project, unless the person:

1431 (i) requests that the person not receive notice of other filings; or

1432 (ii) does not provide the designated agent with the person's contact information in a
1433 manner that adequately informs the designated agent.

1434 (b) An interested person may request notice of filings related to a project.

1435 (c) The database shall be indexed by:

1436 (i) owner name;

1437 (ii) original contractor name;

1438 (iii) subdivision, development, or other project name, if any;

1439 (iv) project address;

1440 (v) lot or parcel number;

1441 (vi) unique project number assigned by the designated agent; and

1442 (vii) any other identifier that the division considers reasonably appropriate in
1443 collaboration with the designated agent.

1444 (4) (a) In accordance with the process required by Section 63-38-3.2, the division shall
1445 establish the fees for:

1446 (i) a notice of commencement;

1447 (ii) a preliminary notice;

1448 (iii) a notice of completion;

1449 (iv) a request for notice;

1450 (v) providing a required notice by an alternate method of delivery;

1451 (vi) a duplicate receipt of a filing; and

1452 (vii) account setup for a person who wishes to be billed periodically for filings with the
1453 database.

1454 (b) The fees allowed under Subsection (4)(a) may not exceed the amount reasonably
1455 necessary to create and maintain the database.

1456 (c) The fees established by the division may vary by method of filing if one form of
1457 filing is more costly to process than another form of filing.

1458 ~~[(d) Notwithstanding Subsection 63-38-3.2(2)(c), the division need not submit the fee~~
1459 ~~schedule for fees allowed by Subsections (4)(a)(i) through (vii) to the Legislature until the 2006~~
1460 ~~General Session.]~~

1461 ~~[(e)]~~ (d) The division may provide by contract that the designated agent may retain all
1462 fees collected by the designated agent except that the designated agent shall remit to the
1463 division the cost of the division's oversight under Subsection (2)(b).

1464 (5) (a) The database is classified as a public record under Title 63, Chapter 2,
1465 Government Records Access and Management Act, unless otherwise classified by the division.

1466 (b) A request for information submitted to the designated agent is not subject to Title
1467 63, Chapter 2, Government Records Access and Management Act.

1468 (c) Information contained in a public record contained in the database shall be
1469 requested from the designated agent.

1470 (d) The designated agent may charge a commercially reasonable fee allowed by the
1471 designated agent's contract with the division for providing information under Subsection (5)(c).

1472 (e) Notwithstanding Title 63, Chapter 2, Government Records Access and
1473 Management Act, if information is available in a public record contained in the database, a
1474 person may not request the information from the division.

1475 (f) (i) A person may request information that is not a public record contained in the
1476 database from the division in accordance with Title 63, Chapter 2, Government Records
1477 Access and Management Act.

1478 (ii) The division shall inform the designated agent of how to direct inquiries made to
1479 the designated agent for information that is not a public record contained in the database.

1480 (6) The following are not an adjudicative proceeding under Title 63, Chapter 46b,
1481 Administrative Procedures Act:

1482 (a) the filing of a notice permitted by this chapter;

1483 (b) the rejection of a filing permitted by this chapter; or

1484 (c) other action by the designated agent in connection with a filing of any notice
1485 permitted by this chapter.

1486 (7) The division and the designated agent need not determine the timeliness of any
1487 notice before filing the notice in the database.

1488 (8) (a) A person who is delinquent on the payment of a fee established under
1489 Subsection (4) may not file a notice with the database.

1490 (b) A determination that a person is delinquent on the payment of a fee for filing
1491 established under Subsection (4) shall be made in accordance with Title 63, Chapter 46b,
1492 Administrative Procedures Act.

1493 (c) Any order issued in a proceeding described in Subsection (8)(b) may prescribe the
1494 method of that person's payment of fees for filing notices with the database after issuance of the
1495 order.

1496 (9) If a notice is filed by a third party on behalf of another, the notice is considered to
1497 be filed by the person on whose behalf the notice is filed.

1498 (10) A person filing a notice of commencement, preliminary notice, or notice of
1499 completion is responsible for verifying the accuracy of information entered into the database,
1500 whether the person files electronically or by alternate or third party filing.

1501 Section 27. Section **38-2-3.2** is amended to read:

1502 **38-2-3.2. Sale of unclaimed personal property.**

1503 ~~[(A)]~~ (1) Any garments, clothing, shoes, wearing apparel or household goods,
1504 remaining in the possession of a person, on which cleaning, pressing, glazing, laundry or
1505 washing or repair work has been done or upon which alterations or repairs have been made or
1506 on which materials or supplies have been used or furnished by said person holding possession
1507 thereof, for a period of 90 days or more after the completion of such services or labors, may be
1508 sold by said person holding possession, to pay the unpaid reasonable or agreed charges therefor
1509 and the costs of notifying the owner or owners as hereinafter provided~~[- provided, however,~~
1510 ~~that].~~ However, the person to whom such charges are payable and owing shall first notify the
1511 owner or owners of such property of the time and place of such sale; and provided further, that
1512 property that is to be placed in storage after any of the services or labors mentioned herein shall
1513 not be affected by the provisions of this Subsection (1).

1514 ~~[(B)]~~ (2) All garments, clothing, shoes, wearing apparel on which any of these services
1515 or labors mentioned in ~~[the preceding]~~ Subsection (1) have been performed and then placed in
1516 storage by agreement, and remaining in the possession of a person without the reasonable or
1517 agreed charges having been paid for a period of 12 months may be sold to pay such charges and
1518 costs of notifying the owner or owners as hereinafter provided~~[, provided, however, that]~~.
1519 However, the person to whom the charges are payable and owing shall first notify the owner or
1520 owners of such property of the time and the place of sale, and provided, further, that persons
1521 operating as warehouses or warehousemen shall not be affected by this Subsection (2).

1522 ~~[(C) 1.]~~ (3) (a) (i) The mailing of a properly stamped and registered letter, with a return
1523 address marked thereon, addressed to the owner or owners of the property~~[as aforesaid]~~, at
1524 their address given at the time of delivery of the property to such person to render any of the
1525 services or labors set out in this article, or if no address was so given, at their address if
1526 otherwise known, stating the time and place of sale, shall constitute notice as required in this
1527 ~~[article. Said]~~ section.

1528 (ii) The notice required in Subsection (3)(a)(i) shall be mailed at least 20 days before
1529 the date of sale.

1530 (iii) The cost of mailing ~~[said]~~ the letter required under Subsection (3)(a)(i) shall be
1531 added to the charges.

1532 ~~[2.]~~ (b) (i) If no address was given at the time of delivery of the property ~~[as aforesaid]~~,
1533 or if the address of the owner or owners is not otherwise known, such person who has
1534 performed the services or labors as aforesaid shall cause to be published at least once in a daily
1535 or weekly newspaper in the city, town, ~~[city]~~ and county, wherein such property was delivered
1536 to such person, a notice of the time and place of sale and such notice shall be published at least
1537 ~~[twenty]~~ 20 days before the date of sale.

1538 (ii) Such notice constitutes notice as required in this ~~[article]~~ section if notice cannot be
1539 mailed as ~~[aforesaid]~~ provided in Subsection (3)(b)(i).

1540 (iii) The costs of one such publication shall be added to the charges.

1541 ~~[(D)]~~ (4) (a) The person to whom the charges are payable and owing shall from the

1542 proceeds of the sale, deduct the charges due plus the costs of notifying the owner or owners and
 1543 shall immediately thereafter mail to the owner or owners thereof at their address, if known, a
 1544 notice of the holding of such sale and the amount of the overplus, if any, due the owner or
 1545 owners~~[, and at]~~. At any time within 12 months after such notice, such person shall, upon
 1546 demand by the owner or owners, pay to the owner or owners such overplus in his hands.

1547 (b) If no such demand is made within such 12-month period, or, if the address of the
 1548 owner or owners is unknown and no demand is made by the owner or owners within 12 months
 1549 after the date of sale, then such overplus shall become the property of ~~[persons]~~ a person who
 1550 ~~[have]~~ has performed the services or labors as ~~[aforesaid]~~ provided in Subsection (1).

1551 ~~[(E)]~~ (5) Each person taking advantage of this ~~[article]~~ section must keep posted in a
 1552 prominent place in his receiving office or offices at all times two notices which shall read as
 1553 follows:

1554 "All articles, cleaned, pressed, glazed, laundered, washed, altered, or repaired, and not
 1555 called for in 90 days will be sold to pay charges."

1556 "All articles stored by agreement and charges not having been paid for 12 months will
 1557 be sold to pay charges."

1558 (6) The rights and benefits provided for in this section shall be and are in addition to
 1559 the rights and benefits provided for in Section 38-2-4.

1560 Section 28. **40-10-9** is amended to read:

1561 **40-10-9. Permit required for surface coal mining operations -- Exemptions --**
 1562 **Expiration of permit -- Maximum time for commencement of mining operations --**
 1563 **Renewal of permit.**

1564 (1) No person shall engage in or carry out surface coal mining operations within the
 1565 state unless that person has first obtained a permit issued by the division pursuant to an
 1566 approved mining and reclamation program, but the permit will not be required if the operations
 1567 are exempt as provided in Section 40-10-5.

1568 (2) (a) All permits issued pursuant to the requirements of this chapter shall be issued
 1569 for a term not to exceed five years; but if the applicant demonstrates that a specified longer

1570 term is reasonably needed to allow the applicant to obtain necessary financing for equipment
1571 and the opening of the operation, and if the application is full and complete for the specified
1572 longer term, the division may grant a permit for the longer term.

1573 **(b)** A successor in interest to a permittee who applies for a new permit within 30 days
1574 after succeeding to the interest and who is able to obtain the bond coverage of the original
1575 permittee may continue surface coal mining and reclamation operations according to the
1576 approved mining and reclamation plan of the original permittee until the successor's application
1577 is granted or denied.

1578 **(3) (a)** A permit shall terminate if the permittee has not commenced the surface coal
1579 mining operations covered by the permit within three years after the issuance of the permit; but
1580 the division may grant reasonable extensions of time upon a showing that the extensions are
1581 necessary by reason of litigation precluding this commencement or threatening substantial
1582 economic loss to the permittee, or by reason of conditions beyond the control and without the
1583 fault or negligence of the permittee.

1584 **(b)** With respect to coal to be mined for use in a synthetic fuel facility or specific major
1585 electric generating facility, the permittee shall be deemed to have commenced surface mining
1586 operations at such time as the construction of the synthetic fuel or generating facility is
1587 initiated.

1588 **(4) (a) (i)** Any valid permit issued pursuant to this chapter shall carry with it the right
1589 of successive renewal upon expiration with respect to areas within the boundaries of the
1590 existing permit.

1591 **(ii)** The holders of the permit may apply for renewal, and the renewal shall be issued
1592 (but on application for renewal the burden shall be upon the opponents of renewal), subsequent
1593 to fulfillment of the public notice requirements of Sections 40-10-13 and 40-10-14 unless it is
1594 established that and written findings by the division are made that:

1595 **[(†)] (A)** the terms and conditions of the existing permit are not being satisfactorily
1596 met;

1597 **[(†)] (B)** the present surface coal mining and reclamation operation is not in

1598 compliance with the approved plan;

1599 ~~[(iii)]~~ (C) the renewal requested substantially jeopardizes the operator's continuing
1600 responsibility on existing permit areas;

1601 ~~[(iv)]~~ (D) the operator has not provided evidence that the performance bond in effect
1602 for the operation will continue in full force and effect for any renewal requested in the
1603 application as well as any additional bond the division might require pursuant to Section
1604 40-10-15; or

1605 ~~[(v)]~~ (E) any additional revised or updated information required by the division has not
1606 been provided.

1607 (iii) Prior to the approval of any renewal of any permit, the division shall provide
1608 notice to the appropriate public authorities.

1609 (b) If an application for renewal of a valid permit includes a proposal to extend the
1610 mining operation beyond the boundaries authorized in the existing permit, the portion of the
1611 application for renewal of a valid permit which addresses any new land areas shall be subject to
1612 the full standards applicable to new applications under this chapter; but if the surface coal
1613 mining operations authorized by a permit issued pursuant to this chapter were not subject to the
1614 standards contained in Subsections 40-10-11(2)(e)(i) and 40-10-11(2)(e)(ii) by reason of
1615 complying with the provisions of Subsection 40-10-11(2)(e), then the portion of the application
1616 for renewal of the permit which addresses any new land areas previously identified in the
1617 reclamation plan submitted pursuant to Section 40-10-10 shall not be subject to the standards
1618 contained in Subsections 40-10-11(2)(e)(i) and 40-10-11(2)(e)(ii).

1619 (c) (i) Any permit renewal shall be for a term not to exceed the period of the original
1620 permit established by this chapter.

1621 (ii) Application for permit renewal shall be made at least 120 days prior to the
1622 expiration of the valid permit.

1623 Section 29. Section **41-3-408** is amended to read:

1624 **41-3-408. Resale of buyback or nonconforming vehicles -- Disclosure statements.**

1625 (1) (a) A motor vehicle may not be offered, auctioned, sold, leased, transferred, or

1626 exchanged by a manufacturer or dealer with the knowledge that it is a buyback vehicle or a
1627 nonconforming vehicle without prior written disclosure in a clear and conspicuous manner, in
1628 accordance with this section.

1629 (b) This section also applies to buyback vehicles or nonconforming vehicles originally
1630 returned to a manufacturer or its agent in another state and subsequently resold, leased, or
1631 offered or displayed for resale or lease in this state.

1632 (c) An owner of a motor vehicle who is not a manufacturer or dealer, but who has been
1633 given information as required by Subsection (1)(a) or (b) shall give the information, in writing,
1634 to any prospective purchaser of the vehicle.

1635 (2) (a) The following disclosure language shall be contained in each contract for the
1636 sale or lease of a buyback vehicle or a nonconforming vehicle to a consumer or shall be
1637 contained in a form affixed to a contract, lease, bill of sale, or any other document that transfers
1638 title:

"DISCLOSURE STATEMENT

Vehicle Identification Number (VIN):

Year: Make: Model:

Prior Title Number: State of Title:

Odometer Reading:

1644 This is a used motor vehicle. It was previously returned to the manufacturer or its agent
1645 in exchange for a replacement motor vehicle or a refund because it was alleged or found to
1646 have the following nonconformities:

- 1647 1.
- 1648 2.
- 1649 3.
- 1650 4.
- 1651 5.

1652 THIS DISCLOSURE MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY
1653 TIME THIS VEHICLE IS RESOLD

1654 _____
1655 (Buyer's Signature) _____ Date"

1656 (b) The text of the disclosure shall be printed in 12 point boldface type except the
1657 heading, which shall be in 16 point extra boldface type.

1658 (c) The entire notice shall be boxed.

1659 (d) Each nonconformity shall be listed separately on a numbered line.

1660 (e) A seller must obtain the consumer's acknowledgment of this written disclosure
1661 prior to completing a sale, lease, or other transfer of title as evidenced by the consumer's
1662 signature within the box containing the disclosure.

1663 (f) Within 30 days after the sale, lease, or other transfer of title of a nonconforming
1664 vehicle, the seller shall deliver to the Motor Vehicle Division a copy of the signed written
1665 disclosure required for the sale, lease, or other transfer of title of the nonconforming vehicle.
1666 The Motor Vehicle Division shall include the disclosure in the nonconforming vehicle's
1667 records.

1668 (3) (a) There shall be affixed to the lower corner of the windshield furthest removed
1669 from the driver's side of a nonconforming vehicle, a disclosure statement form which shall be
1670 readily visible from the exterior of the vehicle. The form shall be in the following configuration
1671 and shall state:

1672 "DISCLOSURE STATEMENT

1673 Vehicle Identification Number (VIN): _____

1674 Year: _____ Make: _____ Model: _____

1675 Prior Title Number: _____ State of Title: _____

1676 Odometer Reading: _____

1677 Warning: This motor vehicle was previously sold as new. It was subsequently alleged or found
1678 to have the following defect(s), malfunction(s), or conditions:

- 1679 1.
- 1680 2.
- 1681 3.

1682 4.

1683 5.

"

1684 THIS DISCLOSURE MUST BE GIVEN BY THE SELLER TO THE BUYER EVERY
1685 TIME THIS VEHICLE IS RESOLD

1686 (b) The disclosure statement shall be at least 4-1/2 inches wide and 5 inches long.

1687 (c) The heading shall be boldface type in capital letters not smaller than 18 point in size
1688 and the body copy shall be regular or medium face type not smaller than 12 point in size.

1689 (d) Each nonconformity shall be listed separately on a numbered line.

1690 (e) The motor vehicle and title identification information must be inserted in the spaces
1691 provided.

1692 Section 30. Section **41-12a-305** is amended to read:

1693 **41-12a-305. Assigned risk plan.**

1694 Section 31A-22-310 applies to an assigned risk plan. This continues the assigned risk
1695 plan established under [~~former Section 41-12-35~~] Chapter 242, Laws of Utah 1985, with any
1696 modifications from Title 31A, Insurance Code.

1697 Section 31. Section **41-22-29** is amended to read:

1698 **41-22-29. Operation by persons under eight years of age prohibited -- Definitions**
1699 **-- Exception -- Penalty.**

1700 (1) As used in this section:

1701 (a) "Organized practice" means a scheduled motorcycle practice held in an off-road
1702 vehicle facility designated by the division and conducted by an organization carrying liability
1703 insurance in at least the amounts specified by the division under Subsection (5) covering all
1704 activities associated with the practice.

1705 (b) "Sanctioned race" means a motorcycle race conducted on a closed course and
1706 sponsored and sanctioned by an organization carrying liability insurance in at least the amounts
1707 specified by the division under Subsection (5) covering all activities associated with the race.

1708 (2) Except as provided under Subsection (3), a person under eight years of age may not
1709 operate and an owner may not give another person who is under eight years of age permission

1710 to operate an off-highway vehicle on any public land, trail, street, or highway of this state.

1711 (3) A child under eight years of age may participate in a sanctioned race or organized
1712 practice if:

1713 (a) the child is under the immediate supervision of an adult;

1714 (b) ~~[advanced life support]~~ emergency medical service personnel, as defined in Section
1715 ~~[26-8-2]~~ 26-8a-102, are on the premises and immediately available to provide assistance at all
1716 times during the sanctioned race or organized practice; and

1717 (c) an ambulance ~~[service]~~ provider, as defined in Section ~~[26-8-2]~~ 26-8a-102, is on the
1718 premises and immediately available to provide assistance for a sanctioned race.

1719 (4) Any person convicted of a violation of this section is guilty of an infraction and
1720 shall be fined not more than \$50 per offense.

1721 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1722 division shall make rules specifying the minimum amounts of liability coverage for an
1723 organized practice or sanctioned race.

1724 Section 32. Section **49-12-203** is amended to read:

1725 **49-12-203. Exclusions from membership in system.**

1726 (1) The following employees are not eligible for service credit in this system:

1727 (a) An employee whose employment status is temporary in nature due to the nature or
1728 the type of work to be performed, provided that:

1729 (i) if the term of employment exceeds six months and the employee otherwise qualifies
1730 for service credit in this system, the participating employer shall report and certify to the office
1731 that the employee is a regular full-time employee effective the beginning of the seventh month
1732 of employment; or

1733 (ii) if an employee, previously terminated prior to being eligible for service credit in
1734 this system is reemployed within three months of termination by the same participating
1735 employer, the participating employer shall report and certify that the member is a regular
1736 full-time employee when the total of the periods of employment equals six months and the
1737 employee otherwise qualifies for service credit in this system.

1738 (b) (i) A current or future employee of a two-year or four-year college or university
1739 who holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract with
1740 the Teachers' Insurance and Annuity Association of America or with any other public or private
1741 system, organization, or company during any period in which required contributions based on
1742 compensation have been paid on behalf of the employee by the employer.

1743 (ii) The employee, upon cessation of the participating employer contributions, shall
1744 immediately become eligible for service credit in this system.

1745 (c) An employee serving as an exchange employee from outside the state.

1746 (d) An executive department head of the state, a member of the State Tax Commission,
1747 the Public Service Commission, and a member of a full-time or part-time board or commission
1748 who files a formal request for exemption.

1749 (e) An employee of the Department of Workforce Services who is covered under
1750 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

1751 (2) Upon filing a written request for exemption with the office, the following
1752 employees shall be exempt from coverage under this system:

1753 (a) a full-time student or the spouse of a full-time student and individuals employed in
1754 a trainee relationship;

1755 (b) an elected official;

1756 (c) an executive department head of the state or a legislative director, senior executive
1757 employed by the governor's office, a member of the State Tax Commission, a member of the
1758 Public Service Commission, and a member of a full-time or part-time board or commission;

1759 (d) an at-will employee who:

1760 (i) is a person appointed by the speaker of the House of Representatives, the House of
1761 Representatives minority leader, the president of the Senate, or the Senate minority leader; or

1762 (ii) is an employee of the Governor's Office of Economic Development who has been
1763 hired directly from a position not covered by a system; and

1764 (e) a person appointed as a city manager or chief city administrator or another person
1765 employed by a municipality, county, or other political subdivision, who is not entitled to merit

1766 or civil service protection.

1767 (3) (a) Each participating employer shall prepare a list designating those positions
1768 eligible for exemption under Subsection (2).

1769 (b) An employee may not be exempted unless ~~[they are]~~ the employee is employed in a
1770 position designated by the participating employer.

1771 (4) (a) In accordance with this section, a municipality, county, or political subdivision
1772 may not exempt more than 50 positions or a number equal to 10% of the employees of the
1773 municipality, county, or political subdivision whichever is lesser.

1774 (b) A municipality, county, or political subdivision may exempt at least one regular
1775 full-time employee.

1776 (5) Each participating employer shall:

1777 (a) file employee exemptions annually with the office; and

1778 (b) update the employee exemptions in the event of any change.

1779 (6) The office may make rules to implement this section.

1780 Section 33. Section **49-12-402** is amended to read:

1781 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**

1782 **Social Security limitations.**

1783 (1) (a) Except as provided under Section 49-12-701, retirees of this system may choose
1784 from the six retirement options described in this section.

1785 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
1786 calculation.

1787 (2) The Option One benefit is an annual allowance calculated as follows:

1788 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
1789 credit, the allowance is:

1790 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by
1791 the number of years of service credit accrued prior to July 1, 1975; plus

1792 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by
1793 the number of years of service credit accrued on and after July 1, 1975.

1794 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
1795 each year of retirement from age 60 to age 65, unless the member has 30 or more years of
1796 accrued credit in which event no reduction is made to the allowance.

1797 (c) (i) Years of service includes any fractions of years of service to which the retiree
1798 may be entitled.

1799 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
1800 service credit is within 1/10 of one year of the total years of service credit required for
1801 retirement, the retiree shall be considered to have the total years of service credit required for
1802 retirement.

1803 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
1804 by reducing an Option One benefit based on actuarial computations to provide the following:

1805 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
1806 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
1807 member contributions, the remaining balance of the retiree's member contributions shall be
1808 paid in accordance with Sections 49-11-609 and 49-11-610.

1809 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
1810 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
1811 the lifetime of the retiree's lawful spouse at the time of retirement.

1812 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
1813 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid
1814 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1815 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
1816 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
1817 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
1818 retiree's life, beginning on the last day of the month following the month in which the lawful
1819 spouse dies.

1820 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
1821 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time

1822 of initial retirement under Option One shall be paid to the retiree for the remainder of the
1823 retiree's life, beginning on the last day of the month following the month in which the lawful
1824 spouse dies.

1825 (4) (a) (i) The final average salary is limited in the computation of that part of an
1826 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
1827 received employer contributions on a portion of compensation from an educational institution
1828 toward the payment of the premium required on a retirement annuity contract with the
1829 Teachers' Insurance and Annuity Association of America or with any other public or private
1830 system, organization, or company to \$4,800.

1831 (ii) This limitation is not applicable to retirees who elected to continue in [~~the~~] this
1832 system by July 1, 1967.

1833 (b) Periods of employment which are exempt from this system under Subsection
1834 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
1835 benefits from the Teachers' Insurance and Annuity Association of America or any other public
1836 or private system or organization based on this period of employment are forfeited.

1837 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
1838 date, the retirement is canceled and the death shall be considered as that of a member before
1839 retirement.

1840 (b) Any payments made to the retiree shall be deducted from the amounts due to the
1841 beneficiary.

1842 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the
1843 retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is
1844 no court order filed in the matter.

1845 Section 34. Section **49-13-203** is amended to read:

1846 **49-13-203. Exclusions from membership in system.**

1847 (1) The following employees are not eligible for service credit in this system:

1848 (a) An employee whose employment status is temporary in nature due to the nature or
1849 the type of work to be performed, provided that:

1850 (i) if the term of employment exceeds six months and the employee otherwise qualifies
1851 for service credit in this system, the participating employer shall report and certify to the office
1852 that the employee is a regular full-time employee effective the beginning of the seventh month
1853 of employment; and

1854 (ii) if an employee, previously terminated prior to becoming eligible for service credit
1855 in this system, is reemployed within three months of termination by the same participating
1856 employer, the participating employer shall report and certify to the office that the member is a
1857 regular full-time employee when the total of the periods of employment equals six months and
1858 the employee otherwise qualifies for service credit in this system.

1859 (b) (i) A current or future employee of a two-year or four-year college or university
1860 who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with
1861 the Teachers' Insurance and Annuity Association of America or with any other public or private
1862 system, organization, or company during any period in which required contributions based on
1863 compensation have been paid on behalf of the employee by the employer.

1864 (ii) The employee, upon cessation of the participating employer contributions, shall
1865 immediately become eligible for service credit in this system.

1866 (c) An employee serving as an exchange employee from outside the state.

1867 (d) An executive department head of the state or a legislative director, senior executive
1868 employed by the governor's office, a member of the State Tax Commission, a member of the
1869 Public Service Commission, and a member of a full-time or part-time board or commission
1870 who files a formal request for exemption.

1871 (e) An employee of the Department of Workforce Services who is covered under
1872 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

1873 (2) Upon filing a written request for exemption with the office, the following
1874 employees shall be exempt from coverage under this system:

1875 (a) a full-time student or the spouse of a full-time student and individuals employed in
1876 a trainee relationship;

1877 (b) an elected official;

1878 (c) an executive department head of the state or a legislative director, senior executive
1879 employed by the governor's office, a member of the State Tax Commission, a member of the
1880 Public Service Commission, and a member of a full-time or part-time board or commission;

1881 (d) an at-will employee who:

1882 (i) is a person appointed by the speaker of the House of Representatives, the House of
1883 Representatives minority leader, the president of the Senate, or the Senate minority leader; or

1884 (ii) is an employee of the Governor's Office of Economic Development who has been
1885 hired directly from a position not covered by a system; and

1886 (e) a person appointed as a city manager or chief city administrator or another person
1887 employed by a municipality, county, or other political subdivision, who is not entitled to merit
1888 or civil service protection.

1889 (3) (a) Each participating employer shall prepare a list designating those positions
1890 eligible for exemption under Subsection (2).

1891 (b) An employee may not be exempted unless [~~they are~~] the employee is employed in a
1892 position designated by the participating employer.

1893 (4) (a) In accordance with this section, a municipality, county, or political subdivision
1894 may not exempt more than 50 positions or a number equal to 10% of the employees of the
1895 municipality, county, or political subdivision, whichever is lesser.

1896 (b) A municipality, county, or political subdivision may exempt at least one regular
1897 full-time employee.

1898 (5) Each participating employer shall:

1899 (a) file employee exemptions annually with the office; and

1900 (b) update the employee exemptions in the event of any change.

1901 (6) The office may make rules to implement this section.

1902 Section 35. Section **53A-1-706** is amended to read:

1903 **53A-1-706. Purchases of educational technology.**

1904 (1) (a) A school district or college of education shall comply with Title 63, Chapter 56,
1905 Utah Procurement Code, in purchasing technology, except as otherwise provided in Subsection

1906 (1)(b).

1907 (b) A school district may purchase computers from, and contract for the repair or
1908 refurbishing of computers with, the Utah Correctional Industries without going through the
1909 bidding or competition procedures outlined in Title 63, Chapter 56, Part [D] 4, Source
1910 [~~Selection~~] Selections and Contract Formation.

1911 (2) A school district or college of education may purchase technology through
1912 cooperative purchasing contracts administered by the state Division of Purchasing or through
1913 its own established purchasing program.

1914 Section 36. Section **53A-2-120** is amended to read:

1915 **53A-2-120. Transfer of school property to new school district.**

1916 (1) (a) On the July 1 following the school board elections for the new and existing
1917 districts as provided in Section [~~53A-1-119~~] 53A-2-119, the board of the existing district shall
1918 convey and deliver to the board of the new district all school property which the new district is
1919 entitled to receive.

1920 (b) Any disagreements as to the disposition of school property shall be resolved by the
1921 county legislative body.

1922 (2) Title vests in the new school board, including all rights, claims, and causes of
1923 action to or for the property, for the use or the income from the property, for conversion,
1924 disposition, or withholding of the property, or for any damage or injury to the property.

1925 (3) The new school board may bring and maintain actions to recover, protect, and
1926 preserve the property and rights of the district's schools and to enforce contracts.

1927 (4) The intangible property of the existing school district shall be prorated between it
1928 and the new district on the same basis used to determine the new district's proportionate share
1929 of the existing district's indebtedness under Section 53A-2-121.

1930 Section 37. Section **53A-2-213** is amended to read:

1931 **53A-2-213. Intradistrict options.**

1932 (1) (a) A local school board shall allow students who reside within the district to attend
1933 any school within the district, subject to the same requirements established in Sections

1934 53A-2-207 through [209] 53A-2-209, except that a district may adopt a later date for accepting
1935 intradistrict transfer applications.

1936 (b) If a board extends the date for acceptance of applications, then the notification
1937 dates shall be adjusted accordingly.

1938 (c) (i) In adjusting school boundaries, a local school board shall strive to avoid
1939 requiring current students to change schools and shall, to the extent reasonably feasible,
1940 accommodate parents who wish to avoid having their children attend different schools of the
1941 same level because of boundary changes which occur after one or more children in the family
1942 begin attending one of the affected schools.

1943 (ii) In granting interdistrict and intradistrict transfers to a particular school, the local
1944 school board shall take into consideration the fact that an applicant's brother or sister is
1945 attending the school or another school within the district.

1946 (2) (a) A district shall receive transportation monies under Sections 53A-17a-126 and
1947 53A-17a-127 for resident students who enroll in schools other than the regularly assigned
1948 school on the basis of the distance from the student's residence to the school the student would
1949 have attended had the intradistrict attendance option not been used.

1950 (b) The parent or guardian of the student shall arrange for the student's transportation to
1951 and from school, except that the district shall provide transportation on the basis of available
1952 space on an approved route within the district to the school of the student's attendance if the
1953 student would be otherwise eligible for transportation to the same school from that point on the
1954 bus route and the student's presence does not increase the cost of the bus route.

1955 Section 38. Section **53A-8-105** is amended to read:

1956 **53A-8-105. Hearings before district board or hearing officers -- Rights of the**
1957 **board and the employee -- Subpoenas -- Appeals.**

1958 (1) (a) Hearings are held under this chapter before the board or before hearing officers
1959 selected by the board to conduct the hearings and make recommendations concerning findings.

1960 (b) The board shall establish procedures to appoint hearing officers.

1961 (c) The board may delegate its authority to a hearing officer to make decisions relating

1962 to the employment of an employee which are binding upon both the employee and the board.

1963 (d) This Subsection (1) does not limit the right of the board or the employee to appeal
 1964 to an appropriate court of law.

1965 (2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear
 1966 testimony against the employee, to cross-examine witnesses, and to examine documentary
 1967 evidence.

1968 (3) Subpoenas may be issued and oaths administered as provided under Section
 1969 [~~53A-7-204~~] 53A-6-603.

1970 Section 39. Section **53A-17a-107** is amended to read:

1971 **53A-17a-107. Professional staff weighted pupil units.**

1972 (1) Professional staff weighted pupil units are computed and distributed in accordance
 1973 with the following schedule:

1974 (a) Professional Staff Cost Formula

1975					Master's	
1976	Years of	Bachelor's	Bachelor's	Master's	Degree	
1977	Experience	Degree	+30 Qt. Hr.	Degree	+45 Qt. Hr.	Doctorate
1978	1	1.00	1.05	1.10	1.15	1.20
1979	2	1.05	1.10	1.15	1.20	1.25
1980	3	1.10	1.15	1.20	1.25	1.30
1981	4	1.15	1.20	1.25	1.30	1.35
1982	5	1.20	1.25	1.30	1.35	1.40
1983	6	1.25	1.30	1.35	1.40	1.45
1984	7	1.30	1.35	1.40	1.45	1.50
1985	8	1.35	1.40	1.45	1.50	1.55
1986	9			1.50	1.55	1.60
1987	10				1.60	1.65
1988	11					1.70

1989 (b) Multiply the number of full-time or equivalent professional personnel in each

1990 applicable experience category in Subsection (1)(a) by the applicable weighting factor.

1991 (c) Divide the total of Subsection (1)(b) by the number of professional personnel
1992 included in Subsection (1)(b) and reduce the quotient by 1.00.

1993 (d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed
1994 in accordance with Sections 53A-17a-106 and 53A-17a-109.

1995 (2) The State Board of Education shall enact rules in accordance with Title 63, Chapter
1996 46a, Utah Administrative Rulemaking Act, which require a certain percentage of a district's
1997 professional staff to be certified in the area in which they teach in order for the district to
1998 receive full funding under the schedule.

1999 (3) If an individual's teaching experience is a factor in negotiating a contract of
2000 employment to teach in the state's public schools, then the local school board is encouraged to
2001 accept as credited experience all of the years the individual has taught in the state's public
2002 schools.

2003 Section 40. Section **53A-28-401** is amended to read:

2004 **53A-28-401. Backup liquidity arrangements -- Issuance of notes.**

2005 (1) (a) If, at the time the state is required to make a debt service payment under its
2006 guaranty on behalf of a board, sufficient monies of the state are not on hand and available for
2007 that purpose, the state treasurer may:

2008 (i) seek a loan from the Permanent School Fund sufficient to make the required
2009 payment; or

2010 (ii) issue state debt as provided in Subsection (2).

2011 (b) Nothing in this Subsection (1) requires the Permanent School Fund to lend monies
2012 to the state treasurer.

2013 (2) (a) The state treasurer may issue state debt in the form of general obligation notes
2014 to meet its obligations under this chapter.

2015 (b) The amount of notes issued may not exceed the amount necessary to make payment
2016 on all bonds with respect to which the notes are issued plus all costs of issuance, sale, and
2017 delivery of the notes, rounded up to the nearest natural multiple of \$5,000.

2018 (c) Each series of notes issued may not mature later than 18 months from the date the
2019 notes are issued.

2020 (d) Notes issued may be refunded using the procedures set forth in this chapter for the
2021 issuance of notes, in an amount not more than the amount necessary to pay principal of and
2022 accrued but unpaid interest on any refunded notes plus all costs of issuance, sale, and delivery
2023 of the refunding notes, rounded up to the nearest natural multiple of \$5,000.

2024 (e) Each series of refunding notes may not mature later than 18 months from the date
2025 the refunding notes are issued.

2026 (3) (a) Before issuing or selling any general obligation note to other than a state fund or
2027 account, the state treasurer shall:

2028 (i) prepare a written plan of financing; and

2029 (ii) file it with the governor.

2030 (b) The plan of financing shall provide for:

2031 (i) the terms and conditions under which the notes will be issued, sold, and delivered;

2032 (ii) the taxes or revenues to be anticipated;

2033 (iii) the maximum amount of notes that may be outstanding at any one time under the
2034 plan of financing;

2035 (iv) the sources of payment of the notes;

2036 (v) the rate or rates of interest, if any, on the notes or a method, formula, or index under
2037 which the interest rate or rates on the notes may be determined during the time the notes are
2038 outstanding; and

2039 (vi) all other details relating to the issuance, sale, and delivery of the notes.

2040 [~~(d)~~] (c) In identifying the taxes or revenues to be anticipated and the sources of
2041 payment of the notes in the financing plan, the state treasurer may include:

2042 (i) the taxes authorized by Section 53A-28-402;

2043 (ii) the intercepted revenues authorized by Section 53A-28-302;

2044 (iii) the proceeds of refunding notes; or

2045 (iv) any combination of Subsections (3)(c)(i), (ii), and (iii).

2046 ~~[(e)]~~ (d) The state treasurer may include in the plan of financing the terms and
 2047 conditions of arrangements entered into by the state treasurer on behalf of the state with
 2048 financial and other institutions for letters of credit, standby letters of credit, reimbursement
 2049 agreements, and remarketing, indexing, and tender agent agreements to secure the notes,
 2050 including payment from any legally available source of fees, charges, or other amounts coming
 2051 due under the agreements entered into by the state treasurer.

2052 ~~[(f)]~~ (e) When issuing the notes, the state treasurer shall issue an order setting forth the
 2053 interest, form, manner of execution, payment, manner of sale, prices at, above, or below face
 2054 value, and all details of issuance of the notes.

2055 ~~[(g)]~~ (f) The order and the details set forth in the order shall conform with any
 2056 applicable plan of financing and with this chapter.

2057 ~~[(h)]~~ (g) (i) Each note shall recite that it is a valid obligation of the state and that the
 2058 full faith, credit, and resources of the state are pledged for the payment of the principal of and
 2059 interest on the note from the taxes or revenues identified in accordance with its terms and the
 2060 constitution and laws of Utah.

2061 (ii) These general obligation notes do not constitute debt of the state for the purposes of
 2062 the 1.5% debt limitation of the Utah Constitution, Article XIV, Section 1.

2063 ~~[(i)]~~ (h) Immediately upon the completion of any sale of notes, the state treasurer shall:

2064 (i) make a verified return of the sale to the state auditor, specifying the amount of notes
 2065 sold, the persons to whom the notes were sold, and the price, terms, and conditions of the sale;
 2066 and

2067 (ii) credit the proceeds of sale, other than accrued interest and amounts required to pay
 2068 costs of issuance of the notes, to the General Fund to be applied to the purpose for which the
 2069 notes were issued.

2070 Section 41. Section **53B-8a-108** is amended to read:

2071 **53B-8a-108. Cancellation of agreements.**

2072 (1) Any account owner may cancel an account agreement at will.

2073 (2) If an account agreement is cancelled by the account owner, the current account

2074 balance shall be disbursed to the account owner less:

2075 (a) an administrative refund fee, which may be charged by the trust, except as provided
2076 in Subsection (3); and

2077 (b) any penalty or tax required to be withheld by the Internal Revenue Code.

2078 (3) An administration refund fee may not be levied by the trust if the account
2079 agreement is cancelled due to:

2080 (a) the death of the beneficiary; or

2081 (b) the permanent disability or mental incapacity of the beneficiary.

2082 (4) The board shall make rules for the disposition of monies transferred to an account
2083 pursuant to Subsection [~~53A-8a-107~~] 53B-8a-107(2)(c)(ii) and the earnings on those monies
2084 when an account agreement is cancelled.

2085 Section 42. Section **53C-1-201** is amended to read:

2086 **53C-1-201. Creation of administration -- Purpose -- Director.**

2087 (1) (a) There is established within state government the School and Institutional Trust
2088 Lands Administration.

2089 (b) The administration shall manage all school and institutional trust lands and assets
2090 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation
2091 of Revenue from Trust Lands, and [~~Section 51-7-12~~] Sections 51-7a-201 and 51-7a-202.

2092 (2) The administration is an independent state agency and not a division of any other
2093 department.

2094 (3) (a) It is subject to the usual legislative and executive department controls except as
2095 provided in this Subsection (3).

2096 (b) (i) The director may make rules as approved by the board that allow the
2097 administration to classify a business proposal submitted to the administration as protected
2098 under Section 63-2-304, for as long as is necessary to evaluate the proposal.

2099 (ii) The administration shall return the proposal to the party who submitted the
2100 proposal, and incur no further duties under Title 63, Chapter 2, Government Records Access
2101 and Management Act, if the administration determines not to proceed with the proposal.

2102 (iii) The administration shall classify the proposal pursuant to law if it decides to
2103 proceed with the proposal.

2104 (iv) Section 63-2-403 does not apply during the review period.

2105 (c) The director shall make rules in compliance with Title 63, Chapter 46a, Utah
2106 Administrative Rulemaking Act, except that the director, with the board's approval, may
2107 establish a procedure for the expedited approval of rules, based on written findings by the
2108 director showing:

2109 (i) the changes in business opportunities affecting the assets of the trust;

2110 (ii) the specific business opportunity arising out of those changes which may be lost
2111 without the rule or changes to the rule;

2112 (iii) the reasons the normal procedures under Section 63-46a-4 cannot be met without
2113 causing the loss of the specific opportunity;

2114 (iv) approval by at least five board members; and

2115 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific
2116 reasons and justifications for its findings, with the Division of Administrative Rules and
2117 notified interested parties as provided in Subsection 63-46a-4(8).

2118 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel
2119 Management Act, except as provided in this Subsection (3)(d).

2120 (ii) The board may approve, upon recommendation of the director, that exemption for
2121 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
2122 the administration to efficiently fulfill its responsibilities under the law. The director shall
2123 consult with the executive director of the Department of Human Resource Management prior
2124 to making such a recommendation.

2125 (iii) The positions of director, deputy director, associate director, assistant director,
2126 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs
2127 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

2128 (iv) Salaries for exempted positions, except for the director, shall be set by the director,
2129 after consultation with the executive director of the Department of Human Resource

2130 Management, within ranges approved by the board. The board and director shall consider
2131 salaries for similar positions in private enterprise and other public employment when setting
2132 salary ranges.

2133 (v) The board may create an annual incentive and bonus plan for the director and other
2134 administration employees designated by the board, based upon the attainment of financial
2135 performance goals and other measurable criteria defined and budgeted in advance by the board.

2136 (e) The administration shall comply with Title 63, Chapter 56, Utah Procurement
2137 Code, except where the board approves, upon recommendation of the director, exemption from
2138 the Utah Procurement Code, and simultaneous adoption of rules under Title 63, Chapter 46a,
2139 Utah Administrative Rulemaking Act, for procurement, which enable the administration to
2140 efficiently fulfill its responsibilities under the law.

2141 (f) (i) The board and director shall review the exceptions under this Subsection (3) and
2142 make recommendations for any modification, if required, which the Legislature would be asked
2143 to consider during its annual general session.

2144 (ii) The board and director may include in their recommendations any other proposed
2145 exceptions from the usual executive and legislative controls the board and director consider
2146 necessary to accomplish the purpose of this title.

2147 (4) The administration is managed by a director of school and institutional trust lands
2148 appointed by a majority vote of the board of trustees with the consent of the governor.

2149 (5) (a) The board of trustees shall provide policies for the management of the
2150 administration and for the management of trust lands and assets.

2151 (b) The board shall provide policies for the ownership and control of Native American
2152 remains that are discovered or excavated on school and institutional trust lands in consultation
2153 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
2154 Native American Grave Protection and Repatriation Act. The director may make rules in
2155 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to implement
2156 policies provided by the board regarding Native American remains.

2157 (6) In connection with joint ventures for the development of trust lands and minerals

2158 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may
2159 become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised
2160 Limited Liability Company Act, and is considered a person under Section 48-2c-102.

2161 Section 43. **54-1-3** is amended to read:

2162 **54-1-3. Transaction of business by commissioners -- Quorum -- Proceedings by**
2163 **less than majority or administrative law judge -- Effect of actions.**

2164 (1) A majority of the commissioners shall constitute a quorum for the transaction of
2165 any business, for the performance of any duty or for the exercise of any power of the
2166 commission. Any action taken by a majority of the commission shall be ~~[deemed]~~ considered
2167 the action of the commission. Any vacancy in the commission shall not impair the right of the
2168 remaining commissioners to exercise all the powers of the commission so long as a majority of
2169 the commission remains. The commission may hold hearings at any time or place within or
2170 without the state.

2171 (2) (a) The following proceedings shall be heard by at least a majority of the
2172 commissioners:

2173 ~~[(a)]~~ (i) general rate proceedings to establish rates for public utilities which have
2174 annual revenues generated from Utah utility service in excess of \$200,000,000; or

2175 ~~[(b)]~~ (ii) any proceeding which the commission determines involves an issue of
2176 significant public interest.

2177 (b) If a commission proceeding requiring a majority has commenced and the
2178 unavoidable absence of one or more commissioners results in less than a majority being
2179 available to continue the proceeding, the proceeding may continue before a single
2180 commissioner or specified administrative law judge only upon agreement of the involved
2181 public utility and, if it is a party, the Division of Public Utilities.

2182 (3) Any other investigation, inquiry, hearing or proceeding which the commission has
2183 power to undertake may be conducted before less than a majority of the commission or before
2184 an administrative law judge appointed by the commission.

2185 (4) All proceedings conducted before less than a majority of the commission or before

2186 an administrative law judge shall be [~~deemed~~] considered proceedings of the commission and
2187 the findings, orders, and decisions made by less than a majority of the commission or by an
2188 administrative law judge, when approved and confirmed by the commission and filed in its
2189 office, shall be [~~deemed~~] considered findings, orders, and decisions of the commission and
2190 shall have the same effect as if originally made by the commission.

2191 Section 44. Section ~~54-4-8~~ is amended to read:

2192 **54-4-8. Additions, improvements, extensions, repairs or changes -- Apportioning**
2193 **costs.**

2194 [~~(1) Except as provided under Section 54-3-8.1:~~]

2195 (1) (a) [~~whenever~~] Whenever the commission shall find that additions, extensions,
2196 repairs, or improvements to or changes in the existing plant, equipment, apparatus, facilities, or
2197 other physical property of any public utility or of any two or more public utilities ought
2198 reasonably to be made, or that a new structure or structures ought to be erected to promote the
2199 security or convenience of its employees or the public or in any way to secure adequate service
2200 or facilities, the commission shall make and serve an order directing that such additions,
2201 extensions, repairs, improvements, or changes be made or such structure or structures be
2202 erected in the manner and within the time specified in the order[~~; and~~].

2203 (b) [~~if~~] If any additions, extensions, repairs, improvements, or changes, or any new
2204 structure or structures which the commission has ordered to be erected, require joint action by
2205 two or more public utilities, the commission shall notify the public utilities that the additions,
2206 extensions, repairs, improvements, or changes, or new structure or structures have been ordered
2207 and shall be made at their joint cost; whereupon the public utilities shall have reasonable time
2208 as the commission may grant within which to agree upon the portion or division of cost of the
2209 additions, extensions, repairs, improvements, or changes or any new structure or structures
2210 which each shall bear.

2211 (2) If at the expiration of the time in Subsection (1)(b) the public utilities shall fail to
2212 file with the commission a statement that an agreement has been made for division or
2213 apportionment of the cost or expense of the additions, extensions, repairs, improvements, or

2214 changes, or of the new structure or structures, the commission shall have authority, after further
2215 hearing, to make an order fixing the proportion of the cost or expense to be borne by each
2216 public utility and the manner in which the cost or expense shall be paid or secured.

2217 Section 45. **54-8-24** is amended to read:

2218 **54-8-24. Payment to utilities -- Allowable costs.**

2219 (1) In determining the conversion costs included in the costs and feasibility report
2220 required by Section 54-8-7, the public utility corporations shall be entitled to amounts
2221 sufficient to repay them for the following, as computed and reflected by the uniform system of
2222 accounts approved by the Public Service Commission, Federal Communications Commission,
2223 or Federal Power Commission:

2224 [(1)] (a) the original costs less depreciation taken of the existing overhead electric and
2225 communication facilities to be removed[-];

2226 [(2)] (b) the estimated costs of removing such overhead electric and communication
2227 facilities, less the salvage value of the facilities removed[-];

2228 [(3)] (c) if the estimated cost of constructing underground facilities exceeds the
2229 original cost of existing overhead electric and communication facilities, then the cost difference
2230 between the two[-]; and

2231 [(4)] (d) the cost of obtaining new easements when technical considerations make it
2232 reasonably necessary to utilize easements for the underground facilities different from those
2233 used for aboveground facilities, or where the pre-existing easements are insufficient for the
2234 underground facilities.

2235 (2) [~~However, in the event the~~] Notwithstanding Subsection (1), if conversion costs are
2236 included in tariffs, rules, or regulations filed with or promulgated by the Public Service
2237 Commission such conversion costs shall be the costs included in the costs and feasibility
2238 report.

2239 Section 46. Section **54-9-103** is amended to read:

2240 **54-9-103. Public power entity authority regarding common facilities --**
2241 **Determination of needs -- Agreement requirements -- Ownership interest.**

2242 (1) (a) Notwithstanding Title 11, Chapter 13, Interlocal Cooperation Act, and
2243 Subsection 11-14-103~~[(2)(k)]~~(1)(b)(xi), and in addition to all other powers conferred on public
2244 power entities, a public power entity may:

2245 (i) plan, finance, construct, acquire, operate, own, and maintain an undivided interest in
2246 common facilities;

2247 (ii) participate in and enter into agreements with one or more public power entities or
2248 power utilities; and

2249 (iii) enter into contracts and agreements as may be necessary or appropriate for the
2250 joint planning, financing, construction, operation, ownership, or maintenance of common
2251 facilities.

2252 (b) (i) Before entering into an agreement providing for common facilities, the
2253 governing body of each public power entity shall determine the needs of the public power
2254 entity for electric power and energy based on engineering studies and reports.

2255 (ii) In determining the future electric power and energy requirements of a public power
2256 entity, the governing body shall consider:

2257 (A) the economies and efficiencies of scale to be achieved in constructing or acquiring
2258 common facilities for the generation and transmission of electric power and energy;

2259 (B) the public power entity's need for reserve and peaking capacity, and to meet
2260 obligations under pooling and reserve sharing agreements reasonably related to the needs of the
2261 public power entity for power and energy;

2262 (C) the estimated useful life of the common facilities;

2263 (D) the estimated time necessary for the planning, financing, construction, and
2264 acquisition of the common facilities and the estimated timing of the need for an additional
2265 power supply; and

2266 (E) the reliability and availability of existing or alternate power supply sources and the
2267 cost of those existing or alternate power supply sources.

2268 (2) (a) Each agreement providing for common facilities shall:

2269 (i) contain provisions not inconsistent with this chapter that the governing body of the

2270 public power entity determines to be in the interests of the public power entity, including:
2271 (A) the purposes of the agreement;
2272 (B) the duration of the agreement;
2273 (C) the method of appointing or employing the personnel necessary in connection with
2274 the common facilities;
2275 (D) the method of financing the common facilities, including the apportionment of
2276 costs of construction and operation;
2277 (E) the ownership interests of the owners in the common facilities and other property
2278 used or useful in connection with the common facilities and the procedures for disposition of
2279 the common facilities and other property when the agreement expires or is terminated or when
2280 the common facilities are abandoned, decommissioned, or dismantled;
2281 (F) any agreement of the parties prohibiting or restricting the alienation or partition of
2282 the undivided interests of an owner in the common facilities;
2283 (G) the construction and repair of the common facilities, including, if the parties agree,
2284 a determination that a power utility or public power entity may construct or repair the common
2285 facilities as agent for all parties to the agreement;
2286 (H) the administration, operation, and maintenance of the common facilities, including,
2287 if the parties agree, a determination that a power utility or public power entity may administer,
2288 operate, and maintain the common facilities as agent for all parties to the agreement;
2289 (I) the creation of a committee of representatives of the parties to the agreement;
2290 (J) if the parties agree, a provision that if any party defaults in the performance or
2291 discharge of its obligations with respect to the common facilities, the other parties may perform
2292 or assume, pro rata or otherwise, the obligations of the defaulting party and may, if the
2293 defaulting party fails to remedy the default, succeed to or require the disposition of the rights
2294 and interests of the defaulting party in the common facilities;
2295 (K) provisions for indemnification of construction, operation, and administration
2296 agents, for completion of construction, for handling emergencies, and for allocation of output
2297 of the common facilities among the parties to the agreement according to the ownership

2298 interests of the parties;

2299 (L) methods for amending and terminating the agreement; and

2300 (M) any other matter, not inconsistent with this chapter, determined by the parties to
2301 the agreement to be necessary and proper;

2302 (ii) clearly disclose the ownership interest of each party;

2303 (iii) provide for an equitable method of allocating operation, repair, and maintenance
2304 costs of the common facilities; and

2305 (iv) be approved or ratified by resolution of the governing body of the public power
2306 entity.

2307 (b) A provision under Subsection (2)(a)(i)(F) in an agreement providing for common
2308 facilities under this Subsection (2) is not subject to any law restricting covenants against
2309 alienation or partition.

2310 (c) Each committee created under Subsection (2)(a)(i)(I) in an agreement providing for
2311 common facilities under this Subsection (2) shall have the powers, not inconsistent with this
2312 chapter, regarding the construction and operation of the common facilities that the agreement
2313 provides.

2314 (d) (i) The ownership interest of a public power entity in the common facilities may not
2315 be less than the proportion of the funds or the value of property supplied by it for the
2316 acquisition, construction, and operation of the common facilities.

2317 (ii) Each public power entity shall own and control the same proportion of the
2318 electrical output from the common facilities as its ownership interest in them.

2319 (3) Notwithstanding any other provision of this chapter, an interlocal entity may not act
2320 in a manner inconsistent with any provision of the agreement under which it was created.

2321 Section 47. Section **57-1-31.5** is amended to read:

2322 **57-1-31.5. Accounting of costs and fees paid -- Disclosure.**

2323 (1) For purposes of this section, "compensation" means anything of economic value
2324 that is paid, loaned, granted, given, donated, or transferred to a trustee for or in consideration
2325 of:

- 2326 (a) services;
- 2327 (b) personal or real property; or
- 2328 (c) other thing of value.
- 2329 (2) If a trustee receives a request from the trustor for a statement as to the amount
- 2330 required to be paid to reinstate or payoff a loan, the trustee shall include with that statement:
- 2331 (a) a detailed listing of any of the following that the trustor would be required to pay to
- 2332 reinstate or payoff the loan:
- 2333 (i) attorney's fees;
- 2334 (ii) trustee fees; or
- 2335 (iii) any costs including:
- 2336 (A) title fees;
- 2337 (B) publication fees; or
- 2338 (C) posting fees; and
- 2339 (b) subject to Subsection (3), a disclosure of:
- 2340 (i) any relationship that the trustee has with a third party that provides services related
- 2341 to the foreclosure of the loan; and
- 2342 (ii) whether the relationship described in Subsection (2)(b)(i) is created by:
- 2343 (A) an ownership interest in the third party; or
- 2344 (B) contract or other agreement.
- 2345 (3) Subsection (2)(b) does not require a trustee to provide a trustor:
- 2346 [(†)] (a) a copy of any contract or agreement described in Subsection (2)(b);
- 2347 [(††)] (b) specific detail as to the nature of the ownership interest described in
- 2348 Subsection (2)(b); or
- 2349 [(†††)] (c) the amount of compensation the trustee receives related to the foreclosure of
- 2350 the loan under a relationship described in Subsection (2)(b).
- 2351 Section 48. Section **57-2a-4** is amended to read:
- 2352 **57-2a-4. Proof of authority -- Prima facie evidence.**
- 2353 (1) Except as provided in Subsections (2) and (3), the signature, title or rank, branch of

2354 service, and serial number, if any, of any person described in ~~[Subsections]~~ Subsection
2355 57-2a-3~~[(1) through (5)]~~ (2) are sufficient proof of his authority to perform a notarial act.
2356 Further proof of his authority is not required.

2357 (2) Proof of the authority of a person to perform a notarial act under the laws or
2358 regulations of a foreign country is sufficient if:

2359 (a) a foreign service officer of the United States resident in the country in which the act
2360 is performed or a diplomatic or consular officer of the foreign country resident in the United
2361 States certifies that a person holding that office is authorized to perform the act;

2362 (b) the official seal of the person performing the notarial act is affixed to the document;
2363 or

2364 (c) the title and indication of authority to perform notarial acts of the person appears
2365 either in a digest of foreign law or in a list customarily used as a source of such information.

2366 (3) The signature and title or rank of the person performing the notarial act are prima
2367 facie evidence that he is a person with the designated title and that his signature is genuine.

2368 Section 49. Section **57-2a-7** is amended to read:

2369 **57-2a-7. Form of acknowledgment.**

2370 (1) The form of acknowledgment set forth in this section, if properly completed, is
2371 sufficient under any law of this state. It is known as "Statutory Short Form of
2372 Acknowledgment." This section does not preclude the use of other forms.

2373 State of _____)

2374 _____) ss.

2375 County of _____)

2376 The foregoing instrument was acknowledged before me this (date) by (person
2377 acknowledging, title or representative capacity, if any).

2378 _____
2379 (Signature of Person Taking Acknowledgment)

2380 (Seal) (Title)

2381 My commission expires: Residing at:

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(2) The phrases "My commission expires" and "Residing at" may be omitted if this information is included in the notarial seal.

Section 50. **57-12-2** is amended to read:

57-12-2. Declaration of policy.

(1) It is hereby declared to be the policy of this ~~[act]~~ chapter and of the state ~~[of Utah]~~, and the Legislature recognizes:

~~[(1)]~~ (a) that it is often necessary for the various agencies of state and local government to acquire land by condemnation;

~~[(2)]~~ (b) that persons, businesses, and farms are often uprooted and displaced by such action while being recompensed only for the value of land taken;

~~[(3)]~~ (c) that such displacement often works economic hardship on those least able to suffer the added and uncompensated costs of moving, locating new homes, business sites, farms, and other costs of being relocated;

~~[(4)]~~ (d) that such added expenses should reasonably be included as a part of the project cost and paid to those displaced;

~~[(5)]~~ (e) that the Congress of the United States has established matching grants for relocation assistance, and has also established uniform policies for land acquisition under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq. to assist the states in meeting these expenses and assuring that land is fairly acquired; and

~~[(6)]~~ (f) that it is in the public interest for the state ~~[of Utah]~~ to provide for such payments and to establish such land acquisition policies.

(2) Therefore, the purpose of this ~~[act]~~ chapter is to establish a uniform policy for the fair and equitable treatment of persons displaced by the acquisition of real property by state and local land acquisition programs, by building code enforcement activities, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision.

(3) All of the provisions of ~~[the act]~~ this chapter shall be liberally construed to put into

2410 effect the foregoing policies and purposes.

2411 Section 51. Section **57-12-14** is amended to read:

2412 **57-12-14. Dispute resolution -- Additional appraisal.**

2413 (1) If the agency and the private property owner or displaced person disagree on any
2414 issue arising out of this chapter, the private property owner may submit the dispute for
2415 mediation or arbitration according to the procedures and requirements of Section [~~63-34-13~~]
2416 13-43-204.

2417 (2) (a) The private property owner or displaced person may request that the mediator or
2418 arbitrator authorize an additional appraisal.

2419 (b) If the mediator or arbitrator determines that an additional appraisal is reasonably
2420 necessary to reach a resolution of the case, the mediator or arbitrator may:

2421 (i) have an additional appraisal of the property prepared by an independent appraiser;
2422 and

2423 (ii) require the agency to pay the costs of the first additional appraisal.

2424 Section 52. Section **58-13-2** is amended to read:

2425 **58-13-2. Emergency care rendered by licensee.**

2426 (1) A person licensed under Title 58, Occupations and Professions, to practice as any
2427 of the following health care professionals, who is under no legal duty to respond, and who in
2428 good faith renders emergency care at the scene of an emergency gratuitously and in good faith,
2429 is not liable for any civil damages as a result of any acts or omissions by the person in
2430 rendering the emergency care:

2431 (a) osteopathic physician;

2432 (b) physician and surgeon;

2433 (c) naturopathic physician;

2434 (d) dentist or dental hygienist;

2435 (e) chiropractic physician;

2436 (f) physician assistant;

2437 (g) optometrist;

- 2438 (h) nurse licensed under Section 58-31b-301 or 58-31c-102;
- 2439 (i) podiatrist;
- 2440 (j) certified nurse midwife;
- 2441 (k) respiratory ~~therapist~~ care practitioner;
- 2442 (l) pharmacist, pharmacy technician, and pharmacy intern; or
- 2443 (m) Direct-entry midwife licensed under Section 58-77-301.
- 2444 (2) This Subsection (2) applies to health care professionals:
- 2445 (a) (i) described in Subsection (1); and
- 2446 (ii) who are under no legal duty to respond to the circumstances described in
- 2447 Subsection (3); or
- 2448 (b) who are activated as a member of a medical reserve corps as described in Section
- 2449 26A-1-126 during the time of an emergency as provided in Section 26A-1-126; and
- 2450 (c) (i) who are acting within the scope of the health care professional's license, or
- 2451 within the scope of practice as modified under Subsection 58-1-307(4) or Section 26A-1-126;
- 2452 and
- 2453 (ii) who are acting in good faith without compensation or remuneration as defined in
- 2454 Subsection 58-13-3(2).
- 2455 (3) A health care professional described in Subsection (2) is not liable for any civil
- 2456 damages as a result of any acts or omissions by the health care professional in rendering care as
- 2457 a result of:
- 2458 (a) implementation of measures to control the causes of epidemic and communicable
- 2459 diseases and other conditions significantly affecting the public health or necessary to protect
- 2460 the public health as set out in Title 26A, Chapter 1, Local Health Departments;
- 2461 (b) investigating and controlling suspected bioterrorism and disease as set out in Title
- 2462 26, Chapter 23b, Detection of Public Health Emergencies Act; and
- 2463 (c) responding to a national, state, or local emergency, a public health emergency as
- 2464 defined in Section 26-23b-102, or a declaration by the President of the United States or other
- 2465 federal official requesting public health-related activities.

2466 (4) The immunity in Subsection (3) is in addition to any immunity or protection in state
2467 or federal law that may apply.

2468 (5) For purposes of Subsection (2)(c)(ii) remuneration does not include:

2469 (a) food supplied to the volunteer;

2470 (b) clothing supplied to the volunteer to help identify the volunteer during the time of
2471 the emergency; or

2472 (c) other similar support for the volunteer.

2473 Section 53. Section **58-17b-504** is amended to read:

2474 **58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.**

2475 (1) Any person who violates the unlawful conduct provision defined in Subsection
2476 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

2477 (2) Any person who violates the unlawful conduct provisions defined in Subsection
2478 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except
2479 Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

2480 (3) (a) Subject to Subsection (5), the division may assess administrative penalties in
2481 accordance with the provisions of Section 58-17b-401 for acts of unprofessional or unlawful
2482 conduct or any other appropriate administrative action in accordance with the provisions of
2483 Section 58-17b-401.

2484 (b) An administrative penalty imposed pursuant to this section shall be deposited in the
2485 General Fund as a dedicated credit to be used by the division for pharmacy licensee education
2486 and enforcement as provided in Section ~~58-12b-505~~ 58-17b-505.

2487 (4) If a licensee has been convicted of violating Section 58-17b-501 prior to an
2488 administrative finding of a violation of the same section, the licensee may not be assessed an
2489 administrative fine under this chapter for the same offense for which the conviction was
2490 obtained.

2491 (5) (a) If upon inspection or investigation, the division concludes that a person has
2492 violated the provisions of Section 58-17b-501, 58-17b-502, or Chapter 37, Utah Controlled
2493 Substances Act, or any rule or order issued with respect to these provisions, and that

2494 disciplinary action is appropriate, the director or the director's designee from within the
2495 division shall promptly issue a citation to the person according to this chapter and any pertinent
2496 rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an
2497 adjudicative proceeding conducted under Title 63, Chapter 46b, Administrative Procedures
2498 Act.

2499 (b) Any person who is in violation of the provisions of Section 58-17b-501,
2500 58-17b-502, or Chapter 37, Utah Controlled Substances Act, or any rule or order issued with
2501 respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or
2502 by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this
2503 Subsection (5) of up to \$10,000 per single violation or up to \$2,000 per day of ongoing
2504 violation, whichever is greater, in accordance with a fine schedule established by rule, and
2505 may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of
2506 Section 58-17b-501, 58-17b-502, or Chapter 37, Utah Controlled Substances Act, or any rule
2507 or order issued with respect to these provisions.

2508 (c) Except for an administrative fine and a cease and desist order, the licensure
2509 sanctions cited in Section 58-17b-401 may not be assessed through a citation.

2510 (d) Each citation shall be in writing and specifically describe with particularity the
2511 nature of the violation, including a reference to the provision of the chapter, rule, or order
2512 alleged to have been violated. The citation shall clearly state that the recipient must notify the
2513 division in writing within 20 calendar days of service of the citation if the recipient wishes to
2514 contest the citation at a hearing conducted under Title 63, Chapter 46b, Administrative
2515 Procedures Act. The citation shall clearly explain the consequences of failure to timely contest
2516 the citation or to make payment of any fines assessed by the citation within the time specified
2517 in the citation.

2518 (e) Each citation issued under this section, or a copy of each citation, may be served
2519 upon any person whom a summons may be served:

2520 (i) in accordance with the Utah Rules of Civil Procedure;

2521 (ii) personally or upon the person's agent by a division investigator or by any person

2522 specially designated by the director; or

2523 (iii) by mail.

2524 (f) If within 20 calendar days from the service of a citation, the person to whom the
2525 citation was issued fails to request a hearing to contest the citation, the citation becomes the
2526 final order of the division and is not subject to further agency review. The period to contest the
2527 citation may be extended by the division for cause.

2528 (g) The division may refuse to issue or renew, suspend, revoke, or place on probation
2529 the license of a licensee who fails to comply with the citation after it becomes final.

2530 (h) The failure of an applicant for licensure to comply with a citation after it becomes
2531 final is a ground for denial of license.

2532 (i) No citation may be issued under this section after the expiration of six months
2533 following the occurrence of any violation.

2534 Section 54. Section **58-61-307** is amended to read:

2535 **58-61-307. Exemptions from licensure.**

2536 (1) Except as modified in Section 58-61-301, the exemptions from licensure in Section
2537 58-1-307 apply to this chapter.

2538 (2) In addition to the exemptions from licensure in Section 58-1-307, the following
2539 when practicing within the scope of the license held, may engage in acts included within the
2540 definition of practice as a psychologist, subject to the stated circumstances and limitations,
2541 without being licensed under this chapter:

2542 (a) a physician and surgeon or osteopathic physician licensed under Chapter 67, Utah
2543 Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; ~~[and]~~

2544 (b) a registered psychiatric mental health nurse specialist licensed under Chapter 31b,
2545 Nurse Practice Act;

2546 ~~[(3)]~~ (c) a recognized member of the clergy while functioning in his ministerial
2547 capacity as long as he does not represent himself as or use the title of psychologist;

2548 ~~[(4)]~~ (d) an individual who is offering expert testimony in any proceeding before a
2549 court, administrative hearing, deposition upon the order of any court or other body having

2550 power to order the deposition, or proceedings before any master, referee, or alternative dispute
2551 resolution provider;

2552 ~~[(5)]~~ (e) an individual engaged in performing hypnosis who is not licensed under this
2553 title in a profession which includes hypnosis in its scope of practice, and who:

2554 ~~[(a)]~~ (i) (A) induces a hypnotic state in a client for the purpose of increasing motivation
2555 or altering lifestyles or habits, such as eating or smoking, through hypnosis;

2556 ~~[(ii)]~~ (B) consults with a client to determine current motivation and behavior patterns;

2557 ~~[(iii)]~~ (C) prepares the client to enter hypnotic states by explaining how hypnosis works
2558 and what the client will experience;

2559 ~~[(iv)]~~ (D) tests clients to determine degrees of suggestibility;

2560 ~~[(v)]~~ (E) applies hypnotic techniques based on interpretation of consultation results and
2561 analysis of client's motivation and behavior patterns; and

2562 ~~[(vi)]~~ (F) trains clients in self-hypnosis conditioning;

2563 ~~[(b)]~~ (ii) may not:

2564 ~~[(i)]~~ (A) engage in the practice of mental health therapy;

2565 ~~[(ii)]~~ (B) represent himself using the title of a license classification in Subsection
2566 58-60-102(5); or

2567 ~~[(iii)]~~ (C) use hypnosis with or treat a medical, psychological, or dental condition
2568 defined in generally recognized diagnostic and statistical manuals of medical, psychological, or
2569 dental disorders;

2570 ~~[(6)]~~ (f) an individual's exemption from licensure under Subsection 58-1-307(1)(b)
2571 terminates when the student's training is no longer supervised by qualified faculty or staff and
2572 the activities are no longer a defined part of the degree program;

2573 ~~[(7)]~~ (g) an individual holding an earned doctoral degree in psychology who is
2574 employed by an accredited institution of higher education and who conducts research and
2575 teaches in that individual's professional field, but only if the individual does not engage in
2576 providing delivery or supervision of professional services regulated under this chapter to
2577 individuals or groups regardless of whether there is compensation for the services;

2578 [(8)] (h) any individual who was employed as a psychologist by a state, county, or
 2579 municipal agency or other political subdivision of the state prior to July 1, 1981, and who
 2580 subsequently has maintained employment as a psychologist in the same state, county, or
 2581 municipal agency or other political subdivision while engaged in the performance of his
 2582 official duties for that agency or political subdivision;

2583 [(9)] (i) an individual licensed as a school psychologist under Section 53A-6-104:

2584 [(a)] (i) may represent himself as and use the terms "school psychologist" or " licensed
 2585 school psychologist"; and

2586 [(b)] (ii) is restricted in his practice to employment within settings authorized by the
 2587 State Board of Education; and

2588 [(10)] (j) an individual providing advice or counsel to another individual in a setting of
 2589 their association as friends or relatives and in a nonprofessional and noncommercial
 2590 relationship, if there is no compensation paid for the advice or counsel.

2591 Section 55. Section **59-2-201** is amended to read:

2592 **59-2-201. Assessment by commission -- Determination of value of mining**
 2593 **property -- Notification of assessment -- Local assessment of property assessed by the**
 2594 **unitary method.**

2595 (1) By May 1 of each year the following property, unless otherwise exempt under the
 2596 Utah Constitution or under Part 11 [~~of this chapter~~], Exemptions, Deferrals, and Abatements,
 2597 shall be assessed by the commission at 100% of fair market value, as valued on January 1, in
 2598 accordance with this chapter:

2599 (a) except as provided in Subsection (2), all property which operates as a unit across
 2600 county lines, if the values must be apportioned among more than one county or state;

2601 (b) all property of public utilities;

2602 (c) all operating property of an airline, air charter service, and air contract service;

2603 (d) all geothermal fluids and geothermal resources;

2604 (e) all mines and mining claims except in cases, as determined by the commission,
 2605 where the mining claims are used for other than mining purposes, in which case the value of

2606 mining claims used for other than mining purposes shall be assessed by the assessor of the
2607 county in which the mining claims are located; and

2608 (f) all machinery used in mining, all property or surface improvements upon or
2609 appurtenant to mines or mining claims. For the purposes of assessment and taxation, all
2610 processing plants, mills, reduction works, and smelters which are primarily used by the owner
2611 of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or
2612 mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual
2613 location.

2614 (2) The commission shall assess and collect property tax on state-assessed commercial
2615 vehicles at the time of original registration or annual renewal.

2616 (a) The commission shall assess and collect property tax annually on state-assessed
2617 commercial vehicles which are registered pursuant to Section 41-1a-222 or 41-1a-228.

2618 (b) State-assessed commercial vehicles brought into the state which are required to be
2619 registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all
2620 property taxes or fees imposed by the state of origin have been paid for the current calendar
2621 year.

2622 (c) Real property, improvements, equipment, fixtures, or other personal property in this
2623 state owned by the company shall be assessed separately by the local county assessor.

2624 (d) The commission shall adjust the value of state-assessed commercial vehicles as
2625 necessary to comply with [~~Title 49, Section 11503a of the United States Code~~] 49 U.S.C. Sec.
2626 14502, and the commission shall direct the county assessor to apply the same adjustment to any
2627 personal property, real property, or improvements owned by the company and used directly and
2628 exclusively in their commercial vehicle activities.

2629 (3) The method for determining the fair market value of productive mining property is
2630 the capitalized net revenue method or any other valuation method the commission believes, or
2631 the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of
2632 the fair market value of the mining property. The rate of capitalization applicable to mines
2633 shall be determined by the commission, consistent with a fair rate of return expected by an

2634 investor in light of that industry's current market, financial, and economic conditions. In no
2635 event may the fair market value of the mining property be less than the fair market value of the
2636 land, improvements, and tangible personal property upon or appurtenant to the mining
2637 property.

2638 (4) Immediately following the assessment, the owner or operator of the assessed
2639 property shall be notified of the assessment. The assessor of the county in which the property
2640 is located shall also be immediately notified of the assessment.

2641 (5) Property assessed by the unitary method, which is not necessary to the conduct and
2642 does not contribute to the income of the business as determined by the commission, shall be
2643 assessed separately by the local county assessor.

2644 Section 56. Section **59-2-1108** is amended to read:

2645 **59-2-1108. Indigent persons -- Deferral of taxes -- Interest rate -- Treatment of**
2646 **deferred taxes.**

2647 (1) (a) The county may, after giving notice, defer any tax levied on residential property,
2648 subject to the conditions of Section 59-2-1109.

2649 (b) If the owner of the property described in Subsection (1)(a) is poor, the property may
2650 not be subjected to a tax sale during the period of deferment.

2651 (2) (a) Taxes deferred by the county accumulate with interest as a lien against the
2652 property until the property is sold or otherwise disposed of.

2653 (b) Deferred taxes under this section:

2654 (i) bear interest at an interest rate equal to the lesser of:

2655 (A) 6%; or

2656 (B) the ~~[targeted]~~ federal funds rate target:

2657 (I) ~~[as defined in 12 C.F.R. Sec. 201.2]~~ established by the Federal Open Markets
2658 Committee; and

2659 (II) that exists on the January 1 immediately preceding the day on which the taxes are
2660 deferred; and

2661 (ii) have the same status as a lien under Sections 59-2-1301 and 59-2-1325.

2662 (3) Deferral may be granted by the county at any time if:

2663 (a) the holder of any mortgage or trust deed outstanding on the property gives written
2664 approval of the application; and

2665 (b) the applicant is not the owner of income producing assets that could be liquidated
2666 to pay the tax.

2667 (4) Any assets transferred to relatives in the prior three-year period shall be considered
2668 by the county in making the county's determination.

2669 Section 57. Section **59-2-1302** is amended to read:

2670 **59-2-1302. Assessor or treasurer's duties -- Collection of uniform fees and taxes**
2671 **on personal property -- Unpaid tax or unpaid uniform fee is a lien -- Delinquency interest**
2672 **-- Rate.**

2673 (1) After the assessor assesses taxes or uniform fees on personal property, the assessor
2674 or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall:

2675 (a) list the personal property tax or uniform fee as provided in Subsection (3) with the
2676 real property of the owner in the manner required by law if the assessor or treasurer, as the case
2677 may be, determines that the real property is sufficient to secure the payment of the personal
2678 property taxes or uniform fees;

2679 (b) immediately collect the taxes or uniform fees due on the personal property; or

2680 (c) on or before the day on which the tax or uniform fee on personal property is due,
2681 obtain from the taxpayer a bond that is:

2682 (i) payable to the county in an amount equal to the amount of the tax or uniform fee
2683 due, plus 20% of the amount of the tax or uniform fee due; and

2684 (ii) conditioned for the payment of the tax or uniform fee on or before November 30.

2685 (2) (a) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon
2686 personal property listed with the real property is a lien upon the owner's real property as of 12
2687 o'clock noon of January 1 of each year.

2688 (b) An unpaid tax as defined in Section 59-1-705, or unpaid uniform fee upon personal
2689 property not listed with the real property is a lien upon the owner's personal property as of 12

2690 o'clock noon of January 1 of each year.

2691 (3) The assessor or treasurer, as the case may be, shall make the listing under this
2692 section:

2693 (a) on the record of assessment of the real property; or

2694 (b) by entering a reference showing the record of the assessment of the personal
2695 property on the record of assessment of the real property.

2696 (4) (a) The amount of tax or uniform fee assessed upon personal property is delinquent
2697 if the tax or uniform fee is not paid within 30 days after the day on which the tax notice or the
2698 combined signed statement and tax notice due under Section 59-2-306 is mailed.

2699 (b) Delinquent taxes or uniform fees under Subsection (4)(a) shall bear interest from
2700 the date of delinquency until the day on which the delinquent tax or uniform fee is paid at an
2701 interest rate equal to the sum of:

2702 (i) 6%; and

2703 (ii) the ~~[targeted]~~ federal funds rate target:

2704 (A) ~~[as defined in 12 C.F.R. Sec. 201.2]~~ established by the Federal Open Markets
2705 Committee; and

2706 (B) that exists on the January 1 immediately preceding the date of delinquency.

2707 Section 58. Section **59-2-1331** is amended to read:

2708 **59-2-1331. Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of**
2709 **prepayment.**

2710 (1) (a) Except as provided in Subsection (1)(b), all taxes, unless otherwise specifically
2711 provided for under Section 59-2-1332, or other law, unpaid or postmarked after November 30
2712 of each year following the date of levy, are delinquent, and the county treasurer shall close the
2713 treasurer's office for the posting of current year tax payments until a delinquent list has been
2714 prepared.

2715 (b) Notwithstanding Subsection (1)(a), if November 30 falls on a Saturday, Sunday, or
2716 holiday:

2717 (i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be

2718 substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and
2719 (ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall
2720 be substituted in Subsection 59-2-1332(1) for December 30.

2721 (2) (a) For each parcel, all delinquent taxes on each separately assessed parcel are
2722 subject to a penalty of 2% of the amount of the taxes or \$10, whichever is greater.

2723 (b) Unless the delinquent taxes, together with the penalty, are paid before January 16,
2724 the amount of taxes and penalty shall bear interest on a per annum basis from January 1
2725 following the delinquency date.

2726 (c) For purposes of Subsection (2)(b), the interest rate is equal to the sum of:

2727 (i) 6%; and

2728 (ii) the ~~[targeted]~~ federal funds rate target:

2729 (A) ~~[as defined in 12 C.F.R. Sec. 201.2]~~ established by the Federal Open Markets
2730 Committee; and

2731 (B) that exists on the January 1 immediately following the date of delinquency.

2732 (3) If the delinquency exceeds one year, the amount of taxes and penalties for that year
2733 and all succeeding years shall bear interest until settled in full through redemption or tax sale.
2734 The interest rate to be applied shall be calculated for each year as established under Subsection
2735 (2) and shall apply on each individual year's delinquency until paid.

2736 (4) The county treasurer may accept and credit on account against taxes becoming due
2737 during the current year, at any time before or after the tax rates are adopted, but not subsequent
2738 to the date of delinquency, either:

2739 (a) payments in amounts of not less than \$10; or

2740 (b) the full amount of the unpaid tax.

2741 (5) (a) At any time before the county treasurer mails the tax notice described in Section
2742 59-2-1317, the county treasurer may refund amounts accepted and credited on account against
2743 taxes becoming due during the current year.

2744 (b) Upon recommendation by the county treasurer, the county legislative body shall
2745 adopt rules or ordinances to implement the provisions of this Subsection (5).

2746 Section 59. Section **59-2-1347** is amended to read:

2747 **59-2-1347. Redemption -- Adjustment or deferral of taxes -- Interest.**

2748 (1) (a) If any interested person applies to the county legislative body for an adjustment
2749 or deferral of taxes levied against property assessed by the county assessor, a sum less than the
2750 full amount due may be accepted, or the full amount may be deferred, where, in the judgment
2751 of the county legislative body, the best human interests and the interests of the state and the
2752 county are served. Nothing in this section prohibits the county legislative body from granting
2753 retroactive adjustments or deferrals if the criteria established in this Subsection (1) are met.

2754 (b) If any interested person applies to the commission for an adjustment of taxes levied
2755 against property assessed by the commission, a sum less than the full amount due may be
2756 accepted, where, in the judgment of the commission, the best human interests and the interests
2757 of the state and the county are served.

2758 (2) If an application is made, the applicant shall submit a statement, setting forth the
2759 following:

- 2760 (a) a description of the property;
- 2761 (b) the value of the property for the current year;
- 2762 (c) the amount of delinquent taxes, interest, and penalties;
- 2763 (d) the amount proposed to be paid in settlement or to be deferred; and
- 2764 (e) any other information required by the county legislative body.

2765 (3) (a) Blank forms for the application shall be prepared by the commission.

2766 (b) A deferral may not be granted without the written consent of the holder of any
2767 mortgage or trust deed outstanding on the property.

2768 (c) The amount deferred shall be recorded as a lien on the property and shall bear
2769 interest at a rate equal to the lesser of:

- 2770 (i) 6%; or
- 2771 (ii) the ~~[targeted]~~ federal funds rate target:

2772 (A) ~~[as defined in 12 C.F.R. Sec. 201.2]~~ established by the Federal Open Markets
2773 Committee; and

2774 (B) that exists on the January 1 immediately preceding the day on which the taxes are
2775 deferred.

2776 (d) The amount deferred together with accrued interest shall be due and payable when
2777 the property is sold or otherwise conveyed.

2778 (4) Within ten days after the consummation of any adjustment or deferral, the county
2779 legislative body or the commission, as the case may be, shall cause the adjustment or deferral
2780 to be posted in the county where the property involved is located. The publication shall
2781 contain:

- 2782 (a) the name of the applicant;
- 2783 (b) the parcel, serial, or account number of the property;
- 2784 (c) the value of the property for the current year;
- 2785 (d) the sum of the delinquent taxes, interest, and penalty due; and
- 2786 (e) the adjusted amount paid or deferred.

2787 (5) A record of the action taken by the county legislative body shall be sent to the
2788 commission at the end of each month for all action taken during the preceding month. A
2789 record of the action taken by the commission shall be sent to the county legislative body of the
2790 counties affected by the action.

2791 Section 60. Section **59-7-605** is amended to read:

2792 **59-7-605. Definitions -- Tax credit -- Cleaner burning fuels.**

2793 (1) As used in this section:

2794 (a) "Board" means the Air Quality Board created under Title 19, Chapter 2, Air
2795 Conservation Act.

2796 (b) "Certified by the board" means that:

2797 (i) a motor vehicle on which conversion equipment has been installed meets the
2798 following criteria:

2799 (A) before the installation of conversion equipment, the vehicle does not exceed the
2800 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,
2801 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

- 2802 (B) the motor vehicle's emissions of regulated pollutants, when operating on a fuel
2803 listed in Subsection (2)(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the
2804 installation of conversion equipment; and
- 2805 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:
- 2806 (I) certification of the conversion equipment by the federal Environmental Protection
2807 Agency or by a state whose certification standards are recognized by the board;
- 2808 (II) testing the motor vehicle, before and after installation of the conversion equipment,
2809 in accordance with 40 C.F.R. Part 86, Control of Emissions from New and In-use Highway
2810 Vehicles and Engines, using all fuel the motor vehicle is capable of using; or
- 2811 (III) any other test or standard recognized by board rule; or
- 2812 (ii) special mobile equipment on which conversion equipment has been installed meets
2813 the following criteria:
- 2814 (A) the special mobile equipment's emissions of regulated pollutants, when operating
2815 on fuels listed in Subsection (2)(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were
2816 before the installation of conversion equipment; and
- 2817 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:
- 2818 (I) certification of the conversion equipment by the federal Environmental Protection
2819 Agency or by a state whose certification standards are recognized by the board; or
- 2820 (II) any other test or standard recognized by board rule.
- 2821 (c) "Clean fuel grant" means a grant awarded under Title 19, Chapter 1, Part 4, Clean
2822 Fuels [~~Conversion~~] and Vehicle Technology Program Act, for reimbursement of a portion of
2823 the incremental cost of an OEM vehicle or the cost of conversion equipment.
- 2824 (d) "Conversion equipment" means equipment referred to in Subsection (2)(a)(ii) or
2825 (2)(a)(iii).
- 2826 (e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.
- 2827 (f) "Incremental cost" has the same meaning as in Section 19-1-402.
- 2828 (g) "OEM vehicle" has the same meaning as in Section 19-1-402.
- 2829 (h) "Special mobile equipment":

2830 (i) means any mobile equipment or vehicle that is not designed or used primarily for
2831 the transportation of persons or property; and

2832 (ii) includes construction or maintenance equipment.

2833 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after
2834 January 1, 2001, but beginning on or before December 31, 2010, a taxpayer may claim a tax
2835 credit against tax otherwise due under this chapter or Chapter 8, Gross Receipts Tax on Certain
2836 Corporations Not Required to Pay Corporate Franchise or Income Tax Act, in an amount equal
2837 to:

2838 (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the
2839 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if
2840 the vehicle:

2841 (A) is fueled by propane, natural gas, or electricity;

2842 (B) is fueled by other fuel the board determines annually on or before July 1 to be at
2843 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

2844 (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of
2845 1990, 42 U.S.C. Sec. 7521 et seq.;

2846 (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor
2847 vehicle registered in Utah minus the amount of any clean fuel grant received, up to a maximum
2848 tax credit of \$2,500 per motor vehicle, if the motor vehicle is to:

2849 (A) be fueled by propane, natural gas, or electricity;

2850 (B) be fueled by other fuel the board determines annually on or before July 1 to be at
2851 least as effective in reducing air pollution as fuels under Subsection (2)(a)(ii)(A); or

2852 (C) meet the federal clean-fuel vehicle standards in the federal Clean Air Act
2853 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

2854 (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special
2855 mobile equipment engine minus the amount of any clean fuel grant received, up to a maximum
2856 tax credit of \$1,000 per special mobile equipment engine, if the special mobile equipment is to
2857 be fueled by:

2858 (A) propane, natural gas, or electricity; or
2859 (B) other fuel the board determines annually on or before July 1 to be:
2860 (I) at least as effective in reducing air pollution as the fuels under Subsection
2861 (2)(a)(iii)(A); or
2862 (II) substantially more effective in reducing air pollution than the fuel for which the
2863 engine was originally designed.
2864 (b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January
2865 1, 2006, a taxpayer may not claim a tax credit under this section with respect to an
2866 electric-hybrid vehicle.
2867 (3) A taxpayer shall provide proof of the purchase of an item for which a tax credit is
2868 allowed under this section by:
2869 (a) providing proof to the board in the form the board requires by rule;
2870 (b) receiving a written statement from the board acknowledging receipt of the proof;
2871 and
2872 (c) retaining the written statement described in Subsection (3)(b).
2873 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
2874 only:
2875 (a) against any Utah tax owed in the taxable year by the taxpayer;
2876 (b) in the taxable year in which the item is purchased for which the tax credit is
2877 claimed; and
2878 (c) once per vehicle.
2879 (5) If the amount of a tax credit claimed by a taxpayer under this section exceeds the
2880 taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit
2881 exceeding the tax liability may be carried forward for a period that does not exceed the next
2882 five taxable years.
2883 Section 61. Section **59-10-1009** is amended to read:
2884 **59-10-1009. Definitions -- Cleaner burning fuels tax credit.**
2885 (1) As used in this section:

2886 (a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air
2887 Conservation Act.

2888 (b) "Certified by the board" means that:

2889 (i) a motor vehicle on which conversion equipment has been installed meets the
2890 following criteria:

2891 (A) before the installation of conversion equipment, the vehicle does not exceed the
2892 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,
2893 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

2894 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels
2895 listed in Subsection (2)(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the
2896 installation of conversion equipment; and

2897 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

2898 (I) certification of the conversion equipment by the federal Environmental Protection
2899 Agency or by a state whose certification standards are recognized by the board;

2900 (II) testing the motor vehicle, before and after installation of the conversion equipment,
2901 in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway
2902 Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

2903 (III) any other test or standard recognized by board rule; or

2904 (ii) special mobile equipment on which conversion equipment has been installed meets
2905 the following criteria:

2906 (A) the special mobile equipment's emissions of regulated pollutants, when operating
2907 on fuels listed in Subsection (2)(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were
2908 before the installation of conversion equipment; and

2909 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

2910 (I) certification of the conversion equipment by the federal Environmental Protection
2911 Agency or by a state whose certification standards are recognized by the board; or

2912 (II) any other test or standard recognized by the board.

2913 (c) "Clean fuel grant" means a grant a claimant, estate, or trust receives under Title 19,

2914 Chapter 1, Part 4, Clean Fuels [~~Conversion~~] and Vehicle Technology Program Act, for
2915 reimbursement of a portion of the incremental cost of the OEM vehicle or the cost of
2916 conversion equipment.

2917 (d) "Conversion equipment" means equipment referred to in Subsection (2)(a)(ii) or
2918 (2)(a)(iii).

2919 (e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

2920 (f) "Incremental cost" has the same meaning as in Section 19-1-402.

2921 (g) "OEM vehicle" has the same meaning as in Section 19-1-402.

2922 (h) "Special mobile equipment":

2923 (i) means any mobile equipment or vehicle not designed or used primarily for the
2924 transportation of persons or property; and

2925 (ii) includes construction or maintenance equipment.

2926 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after
2927 January 1, 2001, but beginning on or before December 31, 2010, a claimant, estate, or trust
2928 may claim a nonrefundable tax credit against tax otherwise due under this chapter in an amount
2929 equal to:

2930 (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the
2931 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if
2932 the vehicle:

2933 (A) is fueled by propane, natural gas, or electricity;

2934 (B) is fueled by other fuel the board determines annually on or before July 1 to be at
2935 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or

2936 (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of
2937 1990, 42 U.S.C. Sec. 7521 et seq.;

2938 (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor
2939 vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to
2940 a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:

2941 (A) is to be fueled by propane, natural gas, or electricity;

2942 (B) is to be fueled by other fuel the board determines annually on or before July 1 to be
2943 at least as effective in reducing air pollution as fuels under Subsection (2)(a)(ii)(A); or

2944 (C) will meet the federal clean fuel vehicle standards in the federal Clean Air Act
2945 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and

2946 (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special
2947 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a
2948 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile
2949 equipment is to be fueled by:

2950 (A) propane, natural gas, or electricity; or

2951 (B) other fuel the board determines annually on or before July 1 to be:

2952 (I) at least as effective in reducing air pollution as the fuels under Subsection
2953 (2)(a)(iii)(A); or

2954 (II) substantially more effective in reducing air pollution than the fuel for which the
2955 engine was originally designed.

2956 (b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January
2957 1, 2006, a claimant, estate, or trust may not claim a tax credit under this section with respect to
2958 an electric-hybrid vehicle.

2959 (3) A claimant, estate, or trust shall provide proof of the purchase of an item for which
2960 a tax credit is allowed under this section by:

2961 (a) providing proof to the board in the form the board requires by rule;

2962 (b) receiving a written statement from the board acknowledging receipt of the proof;

2963 and

2964 (c) retaining the written statement described in Subsection (3)(b).

2965 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
2966 only:

2967 (a) against any Utah tax owed in the taxable year by the claimant, estate, or trust;

2968 (b) in the taxable year in which the item is purchased for which the tax credit is
2969 claimed; and

2970 (c) once per vehicle.

2971 (5) If the amount of a tax credit claimed by a claimant, estate, or trust under this
 2972 section exceeds the claimant's, estate's, or trust's tax liability under this chapter for a taxable
 2973 year, the amount of the tax credit exceeding the tax liability may be carried forward for a period
 2974 that does not exceed the next five taxable years.

2975 Section 62. Section **59-11-102** is amended to read:

2976 **59-11-102. Definitions.**

2977 As used in this chapter:

2978 (1) "Decedent" means a deceased natural person.

2979 (2) "Federal credit" means the maximum amount of the credit for estate death taxes
 2980 allowed by Section 2011 in respect to a decedent's taxable estate.

2981 (3) "Gross estate" means "gross estate" as defined in Section 2031, ~~[of the United~~
 2982 ~~States]~~ Internal Revenue Code ~~[of 1954, as amended or renumbered]~~.

2983 (4) "Nonresident" means a decedent who was domiciled outside of this state at the time
 2984 of death.

2985 (5) "Other state" means any state in the United States other than this state, the District
 2986 of Columbia, or any possession or territory of the United States.

2987 (6) "Person" includes any natural person, corporation, association, partnership, joint
 2988 venture, syndicate, estate, trust, or other entity under which business or other activities may be
 2989 conducted.

2990 (7) "Personal representative" means the executor, administrator, or trustee of a
 2991 decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and
 2992 acting within this state, then any person in actual or constructive possession of any property of
 2993 the decedent.

2994 (8) "Resident" means a decedent who was domiciled in this state at the time of death.

2995 (9) "Section 2011" means "Section 2011," ~~[of the United States]~~ Internal Revenue
 2996 Code ~~[of 1954, as amended or renumbered]~~.

2997 (10) "Taxable estate" means "taxable estate" as defined in Section 2051, ~~[of the United~~

2998 States] Internal Revenue Code [~~of 1954, as amended or renumbered~~].

2999 (11) "Transfer" means "transfer" as [~~defined~~] described in Section 2001, [~~of the United~~
3000 States] Internal Revenue Code [~~of 1954, as amended or renumbered~~].

3001 Section 63. Section **59-13-204** is amended to read:

3002 **59-13-204. Distributors liable for tax -- Computations -- Exceptions --**

3003 **Assumption of liability statements -- Motor fuel received -- Tax to be added to price of**
3004 **motor fuel.**

3005 (1) Distributors licensed under this part who receive motor fuel are liable for the tax as
3006 provided by this part, and shall report the receipt of the motor fuel to the commission and pay
3007 the tax as prescribed.

3008 (2) (a) Distributors shall compute the tax on the total taxable amount of motor fuel
3009 produced, purchased, received, imported, or refined in this state, and all distributors shipping
3010 motor fuels into this state shall compute the tax on the total taxable amount of motor fuels
3011 received for sale or use in this state.

3012 (b) All motor fuel distributed by any distributor to the distributor's branches within this
3013 state is considered to be sold at the time of this distribution and is subject to this part as if
3014 actually sold.

3015 (c) Distributors licensed under this part may sell motor fuel to other licensed
3016 distributors without the payment or collection of the tax, if the purchasing distributor furnishes
3017 the seller with an assumption of liability statement indicating the purchasing distributor is a
3018 licensed and bonded Utah motor fuel distributor and will assume the Utah motor fuel tax
3019 responsibility on all motor fuel purchased from the seller. The seller shall report each sale to
3020 the commission in a monthly report of sales as provided under Section 59-13-206.

3021 (3) If motor fuels have been purchased outside of this state and brought into this state
3022 in original packages from a distributor for the use of the consumer, then the tax shall be
3023 imposed when the motor fuel is received.

3024 (4) (a) Every distributor and retail dealer of motor fuels shall add the amount of the
3025 taxes levied and assessed by this part to the price of the motor fuels.

3026 (b) This Subsection (4) in no way affects the method of the collection of the taxes as
3027 specified in this part.

3028 (c) Notwithstanding Subsection (4)(a), if the Ute tribe may receive a refund under
3029 Section 59-13-201.5, the Ute tribe is not required to add the amount of the taxes levied and
3030 assessed by this part to the price of motor fuel that is purchased:

3031 (i) by a Ute tribal member; and

3032 (ii) at a retail station:

3033 (A) wholly owned by the Ute tribe; and

3034 (B) located on Ute trust land.

3035 (d) For purposes of Subsection (4)(a), the amount of taxes levied and assessed by this
3036 part do not include the amount of the reduction of tax under Subsection [~~59-3-201~~]
3037 59-13-201(9).

3038 Section 64. Section **59-14-208** is amended to read:

3039 **59-14-208. Rules for stamping and packaging procedures -- Penalty.**

3040 (1) The commission may by rule provide for the method of breaking packages, the
3041 forms and kinds of containers, and the method of affixing or cancelling stamps. These rules
3042 shall allow for the enforcement of payment by inspection.

3043 (2) [~~Any~~] A person is guilty of a class B misdemeanor who:

3044 (a) engages in or permits any practice which is prohibited by law or by rules of the
3045 commission and makes it difficult to enforce the provisions of this chapter by inspection;

3046 (b) refuses to allow full inspection of his premises by any peace officer or of any agent
3047 of the commission upon demand; or

3048 (c) hinders or in any way delays or prevents inspection when the demand is made[?].
3049 [~~is guilty of a class B misdemeanor.~~]

3050 Section 65. Section **59-22-304** is amended to read:

3051 **59-22-304. Released claims.**

3052 (1) "Released Claims," which is referenced in Subsection 59-22-202(7), is defined in
3053 the Master Settlement Agreement as follows:

3054 _ "Released Claims" means:

3055 (1) for past conduct, acts or omissions, including any damages incurred in the future
3056 arising from such past conduct, acts or omissions, those Claims directly or indirectly based on,
3057 arising out of or in any way related, in whole or in part, to (A) the use, sale, distribution,
3058 manufacture, development, advertising, marketing or health effects of, (B) the exposure to, or
3059 (C) research, statements, or warnings regarding, Tobacco Products, including, but not limited
3060 to, the Claims asserted in the actions identified in Exhibit D, or any comparable Claims that
3061 were, could be or could have been asserted now or in the future in those actions or in any
3062 comparable action in federal, state or local court brought by a Settling State or a Releasing
3063 Party, whether or not such Settling State or Releasing Party has brought such action, except for
3064 claims not asserted in the actions identified in Exhibit D for outstanding liability under existing
3065 licensing, or similar, fee laws or existing tax laws, but not excepting claims for any tax liability
3066 of the Tobacco-Related Organizations or of any Released Party with respect to such
3067 Tobacco-Related Organizations, which claims are covered by the release and covenants set
3068 forth in this Agreement;

3069 (2) for future conduct, acts or omissions, only those monetary Claims directly or
3070 indirectly based on, arising out of or in any way related to, in whole or in part, the use of or
3071 exposure to Tobacco Products manufactured in the ordinary course of business, including
3072 without limitation any future Claims for reimbursement of health care costs allegedly
3073 associated with the use of or exposure to Tobacco Products._

3074 (2) Exhibit D is a list of the titles and docket numbers of the lawsuits brought by states
3075 against tobacco manufacturers and the courts in which those lawsuits were filed as of the date
3076 that the Master Settlement Agreement was entered into.

3077 Section 66. Section **59-22-307** is amended to read:

3078 **59-22-307. Participating manufacturer.**

3079 (1) "Participating Manufacturer," which is referenced in Subsection 59-22-203(1), is
3080 defined in the Master Settlement Agreement as follows:

3081 _ "Participating Manufacturer" means a Tobacco Product Manufacturer that is or

3082 becomes a signatory to this Agreement, provided that (1) in the case of a Tobacco Product
3083 Manufacturer that is not an Original Participating Manufacturer, such Tobacco Product
3084 Manufacturer is bound by this Agreement and the Consent Decree, or, in any Settling State that
3085 does not permit amendment of the Consent Decree, a Consent Decree containing terms
3086 identical to those set forth in the Consent Decree, in all Settling States in which this Agreement
3087 and the Consent Decree binds Original Participating Manufacturers, provided, however, that
3088 such Tobacco Product Manufacturer need only become bound by the Consent Decree in those
3089 Settling State in which the Settling State has filed a Released Claim against it, and (2) in the
3090 case of a Tobacco Product Manufacturer that signs this Agreement after the MSA Execution
3091 Date, such Tobacco Product Manufacturer, within a reasonable period of time after signing this
3092 Agreement, makes any payments, including interest thereon at the Prime Rate, that it would
3093 have been obligated to make in the intervening period had it been a signatory as of the MSA
3094 Execution Date. "Participating Manufacturer" shall also include the successor of a
3095 Participating Manufacturer. Except as expressly provided in this Agreement, once an entity
3096 becomes a Participating Manufacturer such entity shall permanently retain the status of
3097 Participating Manufacturer. Each Participating Manufacturer shall regularly report its
3098 shipments of Cigarettes in or to the 50 United States, the District of Columbia and Puerto Rico
3099 to Management Science Associates, Inc., or a successor entity as set forth in Subsection (mm).
3100 Solely for purposes of calculations pursuant to Subsection IX(d), a Tobacco Product
3101 Manufacturer that is not a signatory to this Agreement shall be deemed to be a "Participating
3102 Manufacturer" if the Original Participating Manufacturers unanimously consent in writing."

3103 (2) Subsection IX(d) relates to Nonparticipating Manufacturer Adjustments.

3104 Section 67. Section **61-2b-25** is amended to read:

3105 **61-2b-25. Other law unaffected.**

3106 Nothing contained in this chapter shall be considered to prohibit any person registered,
3107 licensed, or certified under this chapter from engaging in the practice of real estate appraising
3108 as a professional corporation or a limited liability company in accordance with the provisions
3109 of Title 16, Chapter 11, Professional Corporation Act or Title 48, Chapter ~~2b~~ 2c, Utah

3110 Revised Limited Liability Company Act.

3111 Section 68. Section **62A-4a-107** is amended to read:

3112 **62A-4a-107. Mandatory education and training of caseworkers -- Development of**
3113 **curriculum.**

3114 (1) There is created within the division a full-time position of Child Welfare Training
3115 Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee
3116 in that position is not responsible for direct casework services or the supervision of those
3117 services, but is required to:

3118 (a) develop child welfare curriculum that:

3119 (i) is current and effective, consistent with the division's mission and purpose for child
3120 welfare; and

3121 (ii) utilizes curriculum and resources from a variety of sources including those from:

3122 (A) the public sector;

3123 (B) the private sector; and

3124 (C) inside and outside of the state;

3125 (b) recruit, select, and supervise child welfare trainers;

3126 (c) develop a statewide training program, including a budget and identification of
3127 sources of funding to support that training;

3128 (d) evaluate the efficacy of training in improving job performance;

3129 (e) assist child protective services and foster care workers in developing and fulfilling
3130 their individual training plans;

3131 (f) monitor staff compliance with division training requirements and individual training
3132 plans; and

3133 (g) expand the collaboration between the division and schools of social work within
3134 institutions of higher education in developing child welfare services curriculum, and in
3135 providing and evaluating training.

3136 (2) (a) The director shall, with the assistance of the child welfare training coordinator,
3137 establish a core curriculum for child welfare services that is substantially equivalent to the

3138 Child Welfare League of America's Core Training for Child Welfare Caseworkers Curriculum.

3139 (b) Any child welfare caseworker who is employed by the division for the first time
3140 after July 1, 1999, shall, before assuming significant independent casework responsibilities,
3141 successfully complete:

3142 (i) the core curriculum; and

3143 (ii) except as provided in Subsection (2)(c), on-the-job training that consists of
3144 observing and accompanying at least two capable and experienced child welfare caseworkers
3145 as they perform work-related functions:

3146 (A) for three months if the caseworker has less than six months of on-the-job
3147 experience as a child welfare caseworker; or

3148 (B) for two months if the caseworker has six months or more but less than 24 months
3149 of on-the-job experience as a child welfare caseworker.

3150 (c) A child welfare caseworker with at least 24 months of on-the-job experience is not
3151 required to receive on-the-job training under Subsection (2)(b)(ii).

3152 (3) Child welfare caseworkers shall complete training in:

3153 (a) the legal duties of a child welfare caseworker;

3154 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights
3155 of children, parents, and families at all stages of a case, including:

3156 (i) initial contact;

3157 (ii) investigation; and

3158 (iii) treatment;

3159 (c) recognizing situations involving:

3160 (i) substance abuse;

3161 (ii) domestic violence;

3162 (iii) abuse; and

3163 (iv) neglect; and

3164 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of
3165 the United States to the child welfare caseworker's job, including:

- 3166 (i) search and seizure of evidence;
- 3167 (ii) the warrant requirement;
- 3168 (iii) exceptions to the warrant requirement; and
- 3169 (iv) removing a child from the custody of the child's parent or guardian.

3170 (4) The division shall train its child welfare caseworkers to apply the risk assessment
 3171 tools and rules described in Subsection [~~62A-4a-116.1(4)(a)~~] 62A-4a-1002(2).

3172 (5) When a child welfare caseworker is hired, before assuming significant independent
 3173 casework responsibilities, the child welfare caseworker shall complete the training described in
 3174 Subsections (3) and (4).

3175 Section 69. Section **63-11-1** is amended to read:

3176 **63-11-1. Designation of old Utah state prison site as state park.**

3177 (1) The old Utah state prison site, as hereinafter particularly described, is set apart and
 3178 designated as a state park, [~~said~~] this designation to be effective from and after the time said
 3179 property is vacated for prison uses by transfer of the prisoners and prison facilities to the new
 3180 state prison at the Point of the Mountain prison site in Salt Lake County, [~~state of~~] Utah.

3181 (2) The property so designated and set apart as a state park is particularly described as
 3182 follows:

3183 Beginning at the northwest corner of Section 21, T. 1 S., R. 1 E., S. L. B. & M. thence
 3184 N. 89 degrees 58 minutes 44 1/2 seconds E., along the north line of said section 2643.38 feet,
 3185 to the north 1/4 corner of said section: thence S. 0 degrees 06 minutes 37 seconds W., 179.39
 3186 feet to the south side of east 21st South Street: thence S. 89 degrees 52 minutes 41 seconds E.,
 3187 along said south side of east 21st South Street, 409.91 feet to the northeast fence corner of the
 3188 prison property: thence S. 0 degrees 17 minutes 36 seconds W., along the east fence line of said
 3189 prison property, 1861.00 feet to the north bank of Parley's Canyon Creek Wash: thence N. 63
 3190 degrees 40 minutes W., along a fence line on the north bank of said wash, 63.59 feet; thence S.
 3191 10 degrees 08 minutes E., 87.97 feet along a fence and S. 12 degrees 39 minutes W., 29.00 feet
 3192 along a fence, to a fence corner on the south bank of said wash: thence S. 18 degrees 09
 3193 minutes W., along a fence line, 325.84 feet, to the center line of the D & RG RR tracks through

3194 the prison property: thence S. 18 degrees 36 minutes W., along a fence line 225.78 feet to the
3195 southeast corner of said prison property: thence N. 89 degrees 47 minutes 58 seconds W., along
3196 the north boundary line of the Highland Park Subdivision, said line being the east and west
3197 center line through said section, 2830.90 feet, to the west 1/4 corner of said section: thence N.
3198 0 degrees 14 minutes 46 seconds E., along the west line of said section 2639.78 feet, to the
3199 point of beginning. [~~Said~~]

3200 (3) This tract of land contains approximately 188.66 acres; less state highway and areas
3201 north of highway, 4.84 acres; yielding a net of 183.82 acres.

3202 Section 70. Section **63-30d-203** is amended to read:

3203 **63-30d-203. Exemptions for certain takings actions.**

3204 An action that involves takings law, as defined in Section [~~63-34-13~~] 63-90-2, is not
3205 subject to the requirements of Sections 63-30d-401, 63-30d-402, 63-30d-403, and 63-30d-601.

3206 Section 71. Section **63-38f-501** is amended to read:

3207 **63-38f-501. Definitions.**

3208 As used in this part:

3209 (1) "Allocated cap amount" means the total amount of the targeted business income tax
3210 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
3211 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
3212 63-38f-503(2).

3213 (2) "Business applicant" means a business that:

3214 (a) is a:

3215 (i) claimant;

3216 (ii) estate; or

3217 (iii) trust; and

3218 (b) meets the criteria established in Section 63-38f-502.

3219 (3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or
3220 nonresident person.

3221 (b) "Claimant" does not include an estate or trust.

3222 (4) "Community investment project" means a project that includes one or more of the
3223 following criteria in addition to the normal operations of the business applicant:

- 3224 (a) substantial new employment;
- 3225 (b) new capital development; or
- 3226 (c) a combination of both Subsections (4)(a) and (b).

3227 (5) "Community investment project period" means the total number of years that the
3228 office determines a business applicant is eligible for a targeted business income tax credit for
3229 each community investment project.

3230 (6) "Enterprise zone" means an area within a county or municipality that has been
3231 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

3232 (7) "Estate" means a nonresident estate or a resident estate.

3233 (8) "Local zone administrator" means a person:

- 3234 (a) designated by the governing authority of the county or municipal applicant as the
3235 local zone administrator in an enterprise zone application; and
- 3236 (b) approved by the office as the local zone administrator.

3237 (9) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
3238 trust may claim:

3239 ~~[(†)]~~ (a) as provided by statute; and

3240 ~~[(†)]~~ (b) regardless of whether, for the taxable year for which the claimant, estate, or
3241 trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

3242 ~~[(A)]~~ (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or

3243 ~~[(B)]~~ (ii) Title 59, Chapter 10, Individual Income Tax Act.

3244 (10) "Targeted business income tax credit" means a refundable tax credit available
3245 under Section 63-38f-503.

3246 (11) "Targeted business income tax credit eligibility form" means a document provided
3247 annually to the business applicant by the office that complies with the requirements of
3248 Subsection 63-38f-503(8).

3249 (12) "Trust" means a nonresident trust or a resident trust.

3250 Section 72. Section **63-46b-3** is amended to read:

3251 **63-46b-3. Commencement of adjudicative proceedings.**

3252 (1) Except as otherwise permitted by Section 63-46b-20, all adjudicative proceedings
3253 shall be commenced by either:

3254 (a) a notice of agency action, if proceedings are commenced by the agency; or

3255 (b) a request for agency action, if proceedings are commenced by persons other than
3256 the agency.

3257 (2) A notice of agency action shall be filed and served according to the following
3258 requirements:

3259 (a) The notice of agency action shall be in writing, signed by a presiding officer, and
3260 shall include:

3261 (i) the names and mailing addresses of all persons to whom notice is being given by the
3262 presiding officer, and the name, title, and mailing address of any attorney or employee who has
3263 been designated to appear for the agency;

3264 (ii) the agency's file number or other reference number;

3265 (iii) the name of the adjudicative proceeding;

3266 (iv) the date that the notice of agency action was mailed;

3267 (v) a statement of whether the adjudicative proceeding is to be conducted informally
3268 according to the provisions of rules adopted under Sections 63-46b-4 and 63-46b-5, or formally
3269 according to the provisions of Sections 63-46b-6 [to] through 63-46b-11;

3270 (vi) if the adjudicative proceeding is to be formal, a statement that each respondent
3271 must file a written response within 30 days of the mailing date of the notice of agency action;

3272 (vii) if the adjudicative proceeding is to be formal, or if a hearing is required by statute
3273 or rule, a statement of the time and place of any scheduled hearing, a statement of the purpose
3274 for which the hearing is to be held, and a statement that a party who fails to attend or
3275 participate in the hearing may be held in default;

3276 (viii) if the adjudicative proceeding is to be informal and a hearing is required by
3277 statute or rule, or if a hearing is permitted by rule and may be requested by a party within the

3278 time prescribed by rule, a statement that the parties may request a hearing within the time
3279 provided by the agency's rules;

3280 (ix) a statement of the legal authority and jurisdiction under which the adjudicative
3281 proceeding is to be maintained;

3282 (x) the name, title, mailing address, and telephone number of the presiding officer; and

3283 (xi) a statement of the purpose of the adjudicative proceeding and, to the extent known
3284 by the presiding officer, the questions to be decided.

3285 (b) When adjudicative proceedings are commenced by the agency, the agency shall:

3286 (i) mail the notice of agency action to each party;

3287 (ii) publish the notice of agency action, if required by statute; and

3288 (iii) mail the notice of agency action to any other person who has a right to notice
3289 under statute or rule.

3290 (3) (a) Where the law applicable to the agency permits persons other than the agency to
3291 initiate adjudicative proceedings, that person's request for agency action shall be in writing and
3292 signed by the person invoking the jurisdiction of the agency, or by that person's representative,
3293 and shall include:

3294 (i) the names and addresses of all persons to whom a copy of the request for agency
3295 action is being sent;

3296 (ii) the agency's file number or other reference number, if known;

3297 (iii) the date that the request for agency action was mailed;

3298 (iv) a statement of the legal authority and jurisdiction under which agency action is
3299 requested;

3300 (v) a statement of the relief or action sought from the agency; and

3301 (vi) a statement of the facts and reasons forming the basis for relief or agency action.

3302 (b) The person requesting agency action shall file the request with the agency and shall
3303 mail a copy to each person known to have a direct interest in the requested agency action.

3304 (c) An agency may, by rule, prescribe one or more forms eliciting the information
3305 required by Subsection (3)(a) to serve as the request for agency action when completed and

3306 filed by the person requesting agency action.

3307 (d) The presiding officer shall promptly review a request for agency action and shall:

3308 (i) notify the requesting party in writing that the request is granted and that the
3309 adjudicative proceeding is completed;

3310 (ii) notify the requesting party in writing that the request is denied and, if the
3311 proceeding is a formal adjudicative proceeding, that the party may request a hearing before the
3312 agency to challenge the denial; or

3313 (iii) notify the requesting party that further proceedings are required to determine the
3314 agency's response to the request.

3315 (e) (i) Any notice required by Subsection (3)(d)(ii) shall contain the information
3316 required by Subsection 63-46b-5(1)(i) in addition to disclosure required by Subsection
3317 (3)(d)(ii).

3318 (ii) The agency shall mail any notice required by Subsection (3)(d) to all parties, except
3319 that any notice required by Subsection (3)(d)(iii) may be published when publication is
3320 required by statute.

3321 (iii) The notice required by Subsection (3)(d)(iii) shall:

3322 (A) give the agency's file number or other reference number;

3323 (B) give the name of the proceeding;

3324 (C) designate whether the proceeding is one of a category to be conducted informally
3325 according to the provisions of rules enacted under Sections 63-46b-4 and 63-46b-5, with
3326 citation to the applicable rule authorizing that designation, or formally according to Sections
3327 63-46b-6 [to] through 63-46b-11;

3328 (D) in the case of a formal adjudicative proceeding, and where respondent parties are
3329 known, state that a written response must be filed within 30 days of the date of the agency's
3330 notice if mailed, or within 30 days of the last publication date of the agency's notice, if
3331 published;

3332 (E) if the adjudicative proceeding is to be formal, or if a hearing is to be held in an
3333 informal adjudicative proceeding, state the time and place of any scheduled hearing, the

3334 purpose for which the hearing is to be held, and that a party who fails to attend or participate in
3335 a scheduled and noticed hearing may be held in default;

3336 (F) if the adjudicative proceeding is to be informal, and a hearing is required by statute
3337 or rule, or if a hearing is permitted by rule and may be requested by a party within the time
3338 prescribed by rule, state the parties' right to request a hearing and the time within which a
3339 hearing may be requested under the agency's rules; and

3340 (G) give the name, title, mailing address, and telephone number of the presiding
3341 officer.

3342 (4) When initial agency determinations or actions are not governed by this chapter, but
3343 agency and judicial review of those initial determinations or actions are subject to the
3344 provisions of this chapter, the request for agency action seeking review must be filed with the
3345 agency within the time prescribed by the agency's rules.

3346 (5) For designated classes of adjudicative proceedings, an agency may, by rule, provide
3347 for a longer response time than allowed by this section, and may provide for a shorter response
3348 time if required or permitted by applicable federal law.

3349 (6) Unless the agency provides otherwise by rule or order, an application for a package
3350 agency, license, permit, or certificate of approval filed under authority of Title 32A, Alcoholic
3351 Beverage Control Act, is not considered to be a request for agency action under this chapter.

3352 (7) If the purpose of the adjudicative proceeding is to award a license or other privilege
3353 as to which there are multiple competing applicants, the agency may, by rule or order, conduct
3354 a single adjudicative proceeding to determine the award of that license or privilege.

3355 Section 73. Section **63-46b-8** is amended to read:

3356 **63-46b-8. Procedures for formal adjudicative proceedings -- Hearing procedure.**

3357 (1) Except as provided in Subsections 63-46b-3(3)(d)(i) and (ii), in all formal
3358 adjudicative proceedings, a hearing shall be conducted as follows:

3359 (a) The presiding officer shall regulate the course of the hearing to obtain full
3360 disclosure of relevant facts and to afford all the parties reasonable opportunity to present their
3361 positions.

- 3362 (b) On his own motion or upon objection by a party, the presiding officer:
3363 (i) may exclude evidence that is irrelevant, immaterial, or unduly repetitious;
3364 (ii) shall exclude evidence privileged in the courts of Utah;
3365 (iii) may receive documentary evidence in the form of a copy or excerpt if the copy or
3366 excerpt contains all pertinent portions of the original document; and
3367 (iv) may take official notice of any facts that could be judicially noticed under the Utah
3368 Rules of Evidence, of the record of other proceedings before the agency, and of technical or
3369 scientific facts within the agency's specialized knowledge.
- 3370 (c) The presiding officer may not exclude evidence solely because it is hearsay.
- 3371 (d) The presiding officer shall afford to all parties the opportunity to present evidence,
3372 argue, respond, conduct cross-examination, and submit rebuttal evidence.
- 3373 (e) The presiding officer may give persons not a party to the adjudicative proceeding
3374 the opportunity to present oral or written statements at the hearing.
- 3375 (f) All testimony presented at the hearing, if offered as evidence to be considered in
3376 reaching a decision on the merits, shall be given under oath.
- 3377 (g) The hearing shall be recorded at the agency's expense.
- 3378 (h) Any party, at his own expense, may have a person approved by the agency prepare a
3379 transcript of the hearing, subject to any restrictions that the agency is permitted by statute to
3380 impose to protect confidential information disclosed at the hearing.
- 3381 (i) All hearings shall be open to all parties.
- 3382 (2) This section does not preclude the presiding officer from taking appropriate
3383 measures necessary to preserve the integrity of the hearing.

3384 Section 74. Section **63-55-259** is amended to read:

3385 **63-55-259. Repeal dates, Title 59.**

3386 [~~(1)~~ Title 59, Chapter 1, Part 12, Legislative Intent, is repealed July 1, 2006.]

3387 [~~(2)~~ (1) Section 59-9-102.5 is repealed December 31, 2010.

3388 [~~(3)~~ (2) Section 59-10-530.5, Homeless Trust Account, is repealed July 1, 2007.

3389 Section 75. Section **63-55-263** is amended to read:

3390 **63-55-263. Repeal dates, Titles 63 to 63E.**

3391 (1) Title 63, Chapter 25a, Part 3, Sentencing Commission, is repealed January 1, 2012.

3392 (2) The Crime Victims' Reparations Board, created in Section 63-25a-404, is repealed
3393 July 1, 2007.

3394 (3) The Resource Development Coordinating Committee, created in Section
3395 63-38d-501, is repealed July 1, 2015.

3396 (4) Title 63, Chapter 38f, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3397 (5) (a) Title 63, Chapter 38f, Part 11, Recycling Market Development Zone Act, is
3398 repealed July 1, 2010.

3399 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in
3400 recycling market development zones, are repealed for taxable years beginning on or after
3401 January 1, 2011.

3402 (c) Notwithstanding Subsection (5)(b), a person may not claim a tax credit under
3403 Section 59-7-610 or 59-10-1007:

3404 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
3405 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

3406 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
3407 the expenditure is made on or after July 1, 2010.

3408 (d) Notwithstanding Subsections (5)(b) and (c), a person may carry forward a tax credit
3409 in accordance with Section 59-7-610 or 59-10-1007 if:

3410 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

3411 (ii) (A) for the purchase price of machinery or equipment described in Section
3412 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30, 2010;
3413 or

3414 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
3415 expenditure is made on or before June 30, 2010.

3416 (6) Title 63, Chapter 47, Utah Commission for Women and Families, is repealed July
3417 1, 2011.

3418 (7) Title 63, Chapter 75, Families, Agencies, and Communities Together for Children
 3419 and Youth At Risk Act, is repealed July 1, 2016.

3420 (8) Title 63, Chapter 88, Navajo Trust Fund, is repealed July 1, 2008.

3421 (9) Title 63, Chapter 99, Utah Commission on Aging, is repealed July 1, 2007.

3422 (10) ~~(a)~~ Section 63A-4-204, authorizing the Risk Management Fund to provide
 3423 coverage to any public school district that chooses to participate, is repealed July 1, 2016.

3424 ~~[(b) Section 63A-4-205, authorizing the Risk Management Fund to provide coverage to~~
 3425 ~~any local health department that chooses to participate, is repealed July 1, 2006.]~~

3426 (11) Section 63C-8-106, Rural residency training program, is repealed July 1, 2015.

3427 Section 76. Section **63-55b-154** is amended to read:

3428 **63-55b-154. Repeal dates -- Title 54.**

3429 ~~[Section 54-7-12.6 is repealed November 30, 2004.]~~

3430 Section 77. Section **63-55b-159** is amended to read:

3431 **63-55b-159. Repeal dates -- Title 59.**

3432 ~~[Section 59-9-101.3 is repealed January 1, 2005, and the Labor Commission may not~~
 3433 ~~impose an assessment under Section 59-9-101.3 after December 31, 2004.]~~

3434 Section 78. Section **63-55b-163** is amended to read:

3435 **63-55b-163. Repeal dates, Title 63 to Title 63B.**

3436 (1) Section 63-38a-105 is repealed July 1, 2007.

3437 (2) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.

3438 ~~[(3) Section 63A-1-110 is repealed July 1, 2006.]~~

3439 ~~[(4) Title 63A, Chapter 6, Part 1, Division of Information Technology Services, is~~
 3440 ~~repealed on July 1, 2006.]~~

3441 ~~[(5)]~~ (3) Section 63B-14-101 is repealed December 31, 2008.

3442 Section 79. Section **63-55b-178** is amended to read:

3443 **63-55b-178. Repeal dates, Title 78.**

3444 ~~[(1)]~~ Section 78-9-101, Practicing law without a license, is repealed May 3, 2007.

3445 ~~[(2) Title 78, Chapter 60, Limitation of Judgments Against Governmental Entities Act,~~

3446 is repealed December 31, 2004.]

3447 Section 80. Section **63-56-806** is amended to read:

3448 **63-56-806. Decisions of chief procurement officer to be in writing -- Effect of no**
3449 **writing.**

3450 (1) The chief procurement officer, the head of a purchasing agency, or the designee of
3451 either officer shall promptly issue a written decision regarding any protest, debarment or
3452 suspension, or contract controversy if it is not settled by a mutual agreement. The decision
3453 shall state the reasons for the action taken and inform the protestor, contractor, or prospective
3454 contractor of the right to judicial or administrative review as provided in this chapter.

3455 (2) A decision shall be effective until stayed or reversed on appeal, except to the extent
3456 provided in Section 63-56-802. A copy of the decision under Subsection (1) shall be mailed or
3457 otherwise furnished immediately to the protestor, prospective contractor, or contractor. The
3458 decision shall be final and conclusive unless the protestor, prospective contractor, or contractor
3459 appeals administratively to the procurement appeals board in accordance with Subsection
3460 [~~63-45-810~~] 63-56-810(2) or the protestor, prospective contractor, or contractor commences an
3461 action in district court in accordance with Section 63-56-815.

3462 (3) If the chief procurement officer, the head of a purchasing agency, or the designee of
3463 either officer does not issue the written decision regarding a contract controversy within 60
3464 calendar days after written request for a final decision, or within such longer period as may be
3465 agreed upon by the parties, then the contractor may proceed as if an adverse decision had been
3466 received.

3467 Section 81. Section **63-65-2** is amended to read:

3468 **63-65-2. Definitions.**

3469 As used in this chapter:

3470 (1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness
3471 representing loans or grants made by an authorizing agency.

3472 (2) "Authorized official" means the state treasurer or other person authorized by a bond
3473 document to perform the required action.

3474 (3) "Authorizing agency" means the board, person, or unit with legal responsibility for
3475 administering and managing revolving loan funds.

3476 (4) "Bond document" means:

3477 (a) a resolution of the commission; or

3478 (b) an indenture or other similar document authorized by the commission that
3479 authorizes and secures outstanding revenue bonds from time to time.

3480 (5) "Commission" means the State Bonding Commission created in Section
3481 63B-1-201.

3482 (6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

3483 (7) "Revolving Loan Funds" means:

3484 (a) the Water Resources Conservation and Development Fund, created in Section
3485 73-10-24;

3486 (b) the Water Resources Construction Fund, created in Section 73-10-8;

3487 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

3488 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
3489 Fuels [~~Conversion~~] and Vehicle Technology Program Act;

3490 (e) the Water Development Security Fund and its subaccounts created in Section
3491 73-10c-5;

3492 (f) the Agriculture Resource Development Fund, created in Section 4-18-6;

3493 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

3494 (h) the Permanent Community Impact Fund, created in Section 9-4-303;

3495 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3; and

3496 (j) the Transportation Infrastructure Loan Fund, created in Section 72-2-202.

3497 Section 82. Section **63-90-2** is amended to read:

3498 **63-90-2. Definitions.**

3499 As used in this chapter:

3500 (1) "Constitutional taking" or "taking" means a governmental action that results in a
3501 taking of private property so that compensation to the owner of the property is required by:

3502 (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or
3503 (b) Utah Constitution Article I, Section 22.

3504 (2) (a) "Governmental action" or "action" means:
3505 (i) proposed rules and emergency rules by a state agency that if adopted and enforced
3506 may limit the use of private property unless:
3507 (A) its provisions are in accordance with applicable state or federal statutes; and
3508 (B) the agency has adopted and implemented the guidelines required by Section
3509 63-90-3;

3510 (ii) proposed or implemented licensing or permitting conditions, requirements, or
3511 limitations to the use of private property unless:
3512 (A) its provisions are in accordance with applicable state or federal statutes, rules, or
3513 regulations; and
3514 (B) the agency has adopted and implemented the guidelines required by Section
3515 63-90-3;

3516 (iii) required dedications or exactions from owners of private property; or
3517 (iv) statutes and rules.

3518 (b) "Governmental action" or "action" does not mean:
3519 (i) activity in which the power of eminent domain is exercised formally;
3520 (ii) repealing rules discontinuing governmental programs or amending rules in a
3521 manner that lessens interference with the use of private property;
3522 (iii) law enforcement activity involving seizure or forfeiture of private property for
3523 violations of law or as evidence in criminal proceedings;

3524 (iv) school and institutional trust land management activities and disposal of land and
3525 interests in land conducted pursuant to Title 53C, Schools and Institutional Trust Lands
3526 Management Act;

3527 (v) orders and enforcement actions that are issued by a state agency in accordance with
3528 Title 63, Chapter 46b, [Utah] Administrative Procedures Act, and applicable federal or state
3529 statutes; or

3530 (vi) orders and enforcement actions that are issued by a court of law in accordance with
 3531 applicable federal or state statutes.

3532 (3) "Private property" means any school or institutional trust lands and any real or
 3533 personal property in this state that is protected by:

3534 (a) the Fifth or Fourteenth Amendment of the Constitution of the United States; or

3535 (b) Utah Constitution Article I, Section 22.

3536 (4) (a) "State agency" means an officer or administrative unit of the executive branch
 3537 of state government that is authorized by law to adopt rules.

3538 (b) "State agency" does not include the legislative or judicial branches of state
 3539 government.

3540 [~~(6)~~ (5) "Takings law" means the provisions of the federal and state constitutions, the
 3541 case law interpreting those provisions, and any relevant statutory provisions that require a
 3542 governmental unit to compensate a private property owner for a constitutional taking.

3543 Section 83. Section **63A-3-205** is amended to read:

3544 **63A-3-205. Revolving loan funds -- Standards and procedures -- Annual report.**

3545 (1) As used in this section, "revolving loan fund" means:

3546 (a) the Water Resources Conservation and Development Fund, created in Section
 3547 73-10-24;

3548 (b) the Water Resources Construction Fund, created in Section 73-10-8;

3549 (c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

3550 (d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean
 3551 Fuels [~~Conversion~~] and Vehicle Technology Program Act;

3552 (e) the Water Development Security Account and its subaccounts created in Section
 3553 73-10c-5;

3554 (f) the Agriculture Resource Development Fund, created in Section 4-18-6;

3555 (g) the Utah Rural Rehabilitation Fund, created in Section 4-19-4;

3556 (h) the Permanent Community Impact Fund, created in Section 9-4-303;

3557 (i) the Petroleum Storage Tank Loan Fund, created in Section 19-6-405.3;

- 3558 (j) the Uintah Basin Revitalization Fund, created in Section 9-10-102; and
- 3559 (k) the Navajo Revitalization Fund, created in Section 9-11-104.
- 3560 (2) The division shall for each revolving loan fund:
- 3561 (a) make rules establishing standards and procedures governing:
- 3562 (i) payment schedules and due dates;
- 3563 (ii) interest rate effective dates;
- 3564 (iii) loan documentation requirements; and
- 3565 (iv) interest rate calculation requirements; and
- 3566 (b) make an annual report to the Legislature containing:
- 3567 (i) the total dollars loaned by that fund during the last fiscal year;
- 3568 (ii) a listing of each loan currently more than 90 days delinquent, in default, or that was
- 3569 restructured during the last fiscal year;
- 3570 (iii) a description of each project that received money from that revolving loan fund;
- 3571 (iv) the amount of each loan made to that project;
- 3572 (v) the specific purpose for which the proceeds of the loan were to be used, if any;
- 3573 (vi) any restrictions on the use of the loan proceeds;
- 3574 (vii) the present value of each loan at the end of the fiscal year calculated using the
- 3575 interest rate paid by the state on the bonds providing the revenue on which the loan is based or,
- 3576 if that is unknown, on the average interest rate paid by the state on general obligation bonds
- 3577 issued during the most recent fiscal year in which bonds were sold; and
- 3578 (viii) the financial position of each revolving loan fund, including the fund's cash
- 3579 investments, cash forecasts, and equity position.
- 3580 Section 84. Section **63F-1-205** is amended to read:
- 3581 **63F-1-205. Approval of acquisitions of information technology.**
- 3582 (1) (a) In accordance with Subsection (2), the chief information officer shall approve
- 3583 the acquisition by an executive branch agency of:
- 3584 (i) information technology equipment;
- 3585 (ii) telecommunications equipment;

3586 (iii) software;

3587 (iv) services related to the items listed in Subsections (1)(a)(i) through (iii); and

3588 (v) data acquisition.

3589 (b) The chief information officer may negotiate the purchase, lease, or rental of private

3590 or public information technology or telecommunication services or facilities in accordance with

3591 this section.

3592 (c) Where practical, efficient, and economically beneficial, the chief information

3593 officer shall use existing private and public information technology or telecommunication

3594 resources.

3595 (2) Before negotiating a purchase, lease, or rental under Subsection (1) for an amount

3596 that exceeds the value established by the chief information officer by rule in accordance with

3597 Section 63F-1-206, the chief information officer shall:

3598 (a) conduct an analysis of the needs of executive branch agencies and subscribers of

3599 services and the ability of the proposed information technology or telecommunications services

3600 or supplies to meet those needs; and

3601 (b) for purchases, leases, or rentals not covered by an existing statewide contract,

3602 provide in writing to the chief procurement officer in the Division of Purchasing and General

3603 Services that:

3604 (i) the analysis required in Subsection (2)(a) was completed; and

3605 (ii) based on the analysis, the proposed purchase, lease, rental, or master contract of

3606 services, products, or supplies is practical, efficient, and economically beneficial to the state

3607 and the executive branch agency or subscriber of services.

3608 (3) In approving an acquisition described in Subsections (1) and (2), the chief

3609 information officer shall:

3610 (a) establish by administrative rule, in accordance with Section 63F-1-206, standards

3611 under which an agency must obtain approval from the chief information officer before

3612 acquiring the items listed in Subsections (1) and (2);

3613 (b) for those acquisitions requiring approval, determine whether the acquisition is in

3614 compliance with:

3615 (i) the executive branch strategic plan;

3616 (ii) the applicable agency information technology plan;

3617 (iii) the budget for the executive branch agency or department as adopted by the

3618 Legislature; and

3619 (iv) Title 63, Chapter 56, Utah Procurement Code; and

3620 (c) in accordance with Section 63F-1-207, require coordination of acquisitions between

3621 two or more executive branch agencies if it is in the best interests of the state.

3622 (4) (a) Each executive branch agency shall provide the chief information officer with

3623 complete access to all information technology records, documents, and reports:

3624 (i) at the request of the chief information officer; and

3625 (ii) related to the executive branch agency's acquisition of any item listed in Subsection

3626 (1).

3627 (b) Beginning July 1, 2006 and in accordance with administrative rules established by

3628 the department under Section 63F-1-206, no new technology projects may be initiated by an

3629 executive branch agency or the department unless the technology project is described in a

3630 formal project plan and the business case analysis has been approved by the chief information

3631 officer and agency head. The project plan and business case analysis required by this

3632 Subsection (4) shall be in the form required by the chief information officer, and shall include:

3633 (i) a statement of work to be done and existing work to be modified or displaced;

3634 (ii) total cost of system development and conversion effort, including system analysis

3635 and programming costs, establishment of master files, testing, documentation, special

3636 equipment cost and all other costs, including overhead;

3637 (iii) savings or added operating costs that will result after conversion;

3638 (iv) other advantages or reasons that justify the work;

3639 (v) source of funding of the work, including ongoing costs;

3640 (vi) consistency with budget submissions and planning components of budgets; and

3641 (vii) whether the work is within the scope of projects or initiatives envisioned when the

3642 current fiscal year budget was approved.

3643 (5) (a) The chief information officer and the Division of Purchasing and General
3644 Services shall work cooperatively to establish procedures under which the chief information
3645 officer shall monitor and approve acquisitions as provided in this section.

3646 (b) The procedures established under this section shall include at least the written
3647 certification required by Subsection [~~63-56-9~~] 63-56-204(8).

3648 Section 85. Section **64-13-14** is amended to read:

3649 **64-13-14. Secure correctional facilities.**

3650 (1) The department shall maintain and operate secure correctional facilities for the
3651 incarceration of offenders.

3652 (2) For each compound of secure correctional facilities, as established by the executive
3653 director, wardens shall be appointed as the chief administrative officers by the executive
3654 director.

3655 [~~(2)~~] (3) The department may transfer offenders from one correctional facility to
3656 another and may, with the consent of the sheriff, transfer any offender to a county jail.

3657 Section 86. Section **67-11-2** is amended to read:

3658 **67-11-2. Definitions.**

3659 For the purposes of this chapter:

3660 [~~(d)~~] (1) "Employee" includes an elective or appointive officer or employee of a state
3661 or political subdivision thereof.

3662 [~~(e)~~] (2) "Employment" means any service performed by an employee in the employ of
3663 the state, or any political subdivision thereof, for such employer, except:

3664 [~~(f)~~] (a) service which in the absence of an agreement entered into under this chapter
3665 would constitute "employment" as defined in the Social Security Act;

3666 [~~(g)~~] (b) service which under the Social Security Act may not be included in an
3667 agreement between the state and federal security administrator entered into under this [~~act~~]
3668 chapter;

3669 [~~(h)~~] (c) services of an emergency nature, service in any class or classes of positions the

3670 compensation for which is on a fee basis~~;~~:

3671 ~~(i)~~ (i) performed ~~[(A)]~~ by employees of the state~~;~~; or ~~[(B)]~~

3672 ~~(ii)~~ (ii) if so provided in the plan submitted under Section 67-11-5, by a political

3673 subdivision of the state, by an employee of such subdivision;

3674 ~~(4)~~ (d) services performed by students employed by a public school, college, or

3675 university at which they are enrolled and which they are attending on a full-time basis;

3676 ~~(5)~~ (e) part-time services performed by election workers, i.e., judges of election and

3677 registrars; or

3678 ~~(6)~~ (f) services performed by voluntary firemen, except when such services are

3679 prescheduled for a specific period of duty.

3680 ~~(7)~~ (3) "Federal Insurance Contributions Act" means Chapter 21 of the ~~[federal]~~

3681 Internal Revenue Code as such Code may be amended.

3682 ~~(8)~~ (4) "Federal security administrator" includes any individual to whom the federal

3683 security administrator has delegated any of his functions under the Social Security Act with

3684 respect to coverage under such act of employees of states and their political subdivisions.

3685 ~~(9)~~ (5) "Political subdivision" includes an instrumentality of the state, of one or more

3686 of its political subdivisions, or of the state and one or more of its political subdivisions,

3687 including leagues or associations thereof, but only if such instrumentality is a juristic entity

3688 which is legally separate and distinct from the state or subdivision and only if its employees are

3689 not by virtue of their relation to such juristic entity employees of the state or subdivision. The

3690 term shall include special districts or authorities created by the Legislature or local

3691 governments such as, but not limited to, mosquito abatement districts, sewer or water districts,

3692 and libraries.

3693 ~~(10)~~ (6) "Sick pay" means payments made to employees on account of sickness or

3694 accident disability under a sick leave plan of the type outlined in ~~[Subsections 209(b) and~~

3695 ~~209(d)]~~ 42 U.S.C. Secs. 409(a)(2) and (3) of the Social Security Act.

3696 ~~(11)~~ (7) "Social Security Act" means the Act of Congress approved August 14, 1935,

3697 Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations

3698 and requirements issued pursuant thereto), as such act has been and may from time to time be
3699 amended.

3700 ~~[(e)]~~ (8) "State agency" means the Division of Finance, referred to herein as the state
3701 agency.

3702 ~~[(a)]~~ (9) "Wages" means all remuneration for employment as defined herein, including
3703 the cash value of all remuneration paid in any medium other than cash, except that such term
3704 shall not include "sick pay" as that term is defined in this section and shall not include that part
3705 of such remuneration which, even if it were for "employment" within the meaning of the
3706 Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that
3707 act.

3708 Section 87. Section **67-11-3** is amended to read:

3709 **67-11-3. General powers of state agency and interstate instrumentalities.**

3710 ~~[(a)]~~ (1) The state agency, with the approval of the governor, is hereby authorized to
3711 enter on behalf of the state into an agreement with the federal security administrator, consistent
3712 with the terms and provisions of this chapter, for the purpose of extending the benefits of the
3713 federal old-age and survivors insurance system to employees of the state or any political
3714 subdivision thereof with respect to services specified in such agreement which constitute
3715 "employment" as defined in Section 67-11-2. Such agreement may contain such provisions
3716 relating to coverage, benefits, contributions, effective date, modification and termination of the
3717 agreement, administration, and other appropriate provisions as the state agency and federal
3718 security administrator shall agree upon~~[, but]~~. However, except as may be otherwise required
3719 or permitted by or under the Social Security Act as to the services to be covered, such
3720 agreement shall provide in effect that:

3721 ~~[(+)]~~ (a) Benefits will be provided for employees whose services are covered by the
3722 agreement (and their dependents and survivors) on the same basis as though such services
3723 constituted employment within the meaning of Title II of the Social Security Act.

3724 ~~[(2)]~~ (b) The state will pay to the secretary of the treasury of the United States, at such
3725 time or times as may be prescribed under the Social Security Act, contributions with respect to

3726 wages, [~~as defined in Section 67-11-2~~], equal to the sum of the taxes which would be
3727 imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services
3728 covered by the agreement constituted employment within the meaning of that act.

3729 ~~Such~~ (c) The agreement shall be effective with respect to services in employment
3730 covered by the agreement performed after a date specified therein but in no event may it be
3731 effective with respect to any such services performed prior to January 1, 1951, and in no case
3732 prior to an employment period with reference to which said insurance coverage can be obtained
3733 under the provisions of the Social Security Act.

3734 ~~(4)~~ (d) All services which constitute employment as defined in Section 67-11-2 and
3735 are performed in the employ of the state by employees of the state, shall be covered by the
3736 agreement.

3737 ~~(5)~~ (e) All services which ~~(A)~~ constitute employment as defined in Section 67-11-2,
3738 ~~(B)~~ are performed in the employ of a political subdivision of the state, and ~~(C)~~ are covered
3739 by a plan which is in conformity with the terms of the agreement and has been approved by the
3740 state agency under Section 67-11-5, shall be covered by the agreement.

3741 ~~(b)~~ (2) Any instrumentality jointly created by this state and any other state or states is
3742 hereby authorized, upon the granting of like authority by such other state or states~~(1)~~;

3743 (a) to enter into an agreement with the federal security administrator whereby the
3744 benefits of the federal old-age and survivors insurance system shall be extended to employees
3745 of such instrumentality~~(2)~~;

3746 (b) to require its employees to pay, ~~and for that purpose to deduct from their~~
3747 wages~~],~~ contributions equal to the amounts which they would be required to pay under
3748 Subsection 67-11-4~~(a)~~(1) if they were covered by an agreement made pursuant to Subsection
3749 ~~(a)~~ (1); and ~~(3)~~

3750 (c) to make payments to the secretary of the treasury in accordance with such
3751 agreement, including payments from its own funds, and otherwise to comply with such
3752 agreements. ~~Such~~

3753 (3) An agreement shall, to the extent practicable, be consistent with the terms and

3754 provisions of [~~Subsection (a)~~] Subsections (1) and (2) and other provisions of this chapter.

3755 Section 88. Section **67-11-4** is amended to read:

3756 **67-11-4. Payments into Contribution Fund by employees.**

3757 [~~(a)~~] (1) Every employee of the state whose services are covered by an agreement
 3758 entered into under Section 67-11-3 shall be required to pay contributions for the period of such
 3759 coverage, into the Contribution Fund established by Section 67-11-6[~~, contributions;~~] with
 3760 respect to wages, [~~(f)~~]as defined in Section 67-11-2[~~),~~], equal to the amount of tax which would
 3761 be imposed by Section 1400 of the Federal Insurance Contributions Act if such services
 3762 constituted employment within the meaning of that act. [~~Such~~] This liability shall arise in
 3763 consideration of the employee's retention in the service of the state, or his entry upon such
 3764 service, after [~~the enactment of this act~~] February 14, 1951.

3765 [~~(b)~~] (2) The contribution imposed by this section shall be collected by the authorized
 3766 state fiscal officers by deducting the amount of the contribution from wages as and when paid,
 3767 but failure to make such deduction shall not relieve the employee from liability for such
 3768 contribution.

3769 [~~(c)~~] (3) If more or less than the correct amount of the contribution imposed by this
 3770 section is paid or deducted with respect to any remuneration, proper adjustments, or refund if
 3771 adjustment is impracticable, shall be made, without interest, in such manner and at such times
 3772 as the state agency shall prescribe.

3773 Section 89. Section **67-11-5** is amended to read:

3774 **67-11-5. Political subdivisions of state -- Planned participation.**

3775 [~~(a)~~] (1) Each political subdivision of the state is hereby authorized to submit for
 3776 approval by the state agency a plan for extending the benefits of Title II of the Social Security
 3777 Act, in conformity with applicable provisions of such act, to employees of such political
 3778 subdivision. Each such plan and any amendment thereof shall be approved by the state agency
 3779 if it finds that such plan, or such plan as amended, is in conformity with such requirements as
 3780 are provided in [~~regulations~~] rules of the state agency, except that no such plan shall be
 3781 approved unless[~~==~~]:

3782 [~~(1)~~] (a) it is in conformity with the requirements of the Social Security Act and with
3783 the agreement entered into under Section 67-11-3;

3784 [~~(2)~~] (b) it provides that all services which constitute employment as defined in Section
3785 67-11-2 and are performed in the employ of the political subdivision by employees thereof,
3786 shall be covered by the plan;

3787 [~~(3)~~] (c) it specifies the source or sources from which the funds necessary to make the
3788 payments required by [~~Subsection (c) and by Subsection (d)~~] Subsections (3) and (4) are
3789 expected to be derived and contains reasonable assurance that such sources will be adequate for
3790 such purpose;

3791 [~~(4)~~] (d) it provides for such methods of administration of the plan by the political
3792 subdivision as are found by the state agency to be necessary for the proper and efficient
3793 administration of the plan;

3794 [~~(5)~~] (e) it provides that the political subdivision will make such reports, in such form
3795 and containing such information, as the state agency may from time to time require, and
3796 comply with such provisions as the state agency or the federal security administrator may from
3797 time to time find necessary to assure the correctness and verification of such reports; and

3798 [~~(6)~~] (f) it authorizes the state agency to terminate the plan in its entirety, in the
3799 discretion of the state agency, if it finds that there has been a failure to comply substantially
3800 with any provision contained in such plan, such termination to take effect at the expiration of
3801 such notice and on such conditions as may be provided by [~~regulations~~] rules of the state
3802 agency and may be consistent with the provisions of the Social Security Act.

3803 [~~(b)~~] (2) The state agency shall not finally refuse to approve a plan submitted by a
3804 political subdivision under Subsection [~~(a)~~] (1), and shall not terminate an approved plan,
3805 without reasonable notice and opportunity for hearing to the political subdivision affected
3806 thereby.

3807 [~~(c)~~] (3) (a) Each political subdivision as to which a plan has been approved under this
3808 section shall pay into the Contribution Fund, with respect to wages, [~~(c)~~] as defined in Section
3809 67-11-2[~~]~~], at such time or times as the state agency may by [~~regulation~~] rule prescribe,

3810 contributions in the amounts and at the rates specified in the applicable agreement entered into
 3811 by the state agency under Section 67-11-3.

3812 ~~(b)~~ Each political subdivision required to make payment under ~~[this Subsection]~~
 3813 Subsection (3)(a) shall, in consideration of the employees retention in, or entry upon,
 3814 employment after enactment of this ~~[act]~~ chapter, impose upon each of its employees, as to
 3815 services which are covered by an approved plan, a contribution with respect to his wages, ~~[f]as~~
 3816 defined in Section 67-11-2~~[j]~~, not exceeding the amount of tax which would be imposed by
 3817 Section 1400 of the Federal Insurance Contributions Act if such services constituted
 3818 employment within the meaning of that act, and to deduct the amount of such contribution
 3819 from his wages as and when paid. Contributions so collected shall be paid into the Contribution
 3820 Fund in partial discharge of the liability of such political subdivision or instrumentality under
 3821 this Subsection (3). Failure to deduct such contribution shall not relieve the employee or
 3822 employer of liability therefor.

3823 ~~[(d)]~~ (4) Delinquent payments due under Subsection ~~[(c)]~~ (3) may, with interest at the
 3824 rate of ~~[four per cent]~~ 4% per annum, be recovered by action in a court of competent
 3825 jurisdiction against the political subdivision liable therefor or may, at the request of the state
 3826 agency, be deducted from any other moneys payable to such subdivision by any department,
 3827 agency, or fund of the state.

3828 Section 90. Section **67-11-6** is amended to read:

3829 **67-11-6. Establishment of Contribution Fund -- Powers, authority, and**
 3830 **jurisdiction of state agency -- Withdrawals from fund -- Payments into United States**
 3831 **Treasury.**

3832 ~~[(a)]~~ (1) There is hereby established a special fund to be known as the Contribution
 3833 Fund. Such fund shall consist of and there shall be deposited in such fund:

3834 ~~[(1)]~~ (a) all contributions, interests, and penalties collected under Sections 67-11-4 and
 3835 67-11-5;

3836 ~~[(2)]~~ (b) all moneys appropriated thereto under this chapter;

3837 ~~[(3)]~~ (c) any property or securities and earnings thereof acquired through the use of

3838 moneys belonging to the fund;

3839 ~~[(4)]~~ (d) interest earned upon any moneys in the fund; and

3840 ~~[(5)]~~ (e) all sums recovered upon the bond of the custodian or otherwise for losses

3841 sustained by the fund and all other moneys received from the fund from any other source.

3842 (2) All moneys in the fund shall be mingled and undivided. Subject to the provisions
3843 of this chapter, the state agency is vested with full power, authority, and jurisdiction over the
3844 fund, including all moneys and property or securities belonging to it, and may perform any and
3845 all acts whether or not specifically designated, which are necessary to the administration of the
3846 fund and are consistent with the provisions of this chapter.

3847 ~~[(b)]~~ (3) The Contribution Fund shall be established and held separate and apart from
3848 any other funds or moneys of the state and shall be used and administered exclusively for the
3849 purpose of this chapter. Withdrawals from such fund shall be made for, and solely for:

3850 ~~[(1)]~~ (a) payment of amounts required to be paid to the secretary of the treasury of the
3851 United States pursuant to an agreement entered into under Section 67-11-3;

3852 ~~[(2)]~~ (b) payment of refunds provided for in Subsection 67-11-4~~[(c)]~~(3); and

3853 ~~[(3)]~~ (c) refunds for overpayments, not otherwise adjustable, made by a political
3854 subdivision or instrumentality.

3855 ~~[(c) From the Contribution Fund the]~~ (4) The custodian of the ~~[fund]~~ Contribution
3856 Fund shall pay to the secretary of the treasury of the United States from the Contribution Fund
3857 such amounts and at such time or times as may be directed by the state agency in accordance
3858 with any agreement entered into under Section 67-11-3 and the Social Security Act.

3859 ~~[(d)]~~ (5) The treasurer of the state shall be ex officio treasurer and custodian of the
3860 Contribution Fund and shall administer ~~[such]~~ the fund in accordance with the provisions of
3861 this chapter and the directions of the state agency and shall pay all warrants drawn upon it in
3862 accordance with the provisions of this section and with such rules as the state agency may
3863 prescribe pursuant thereto.

3864 ~~[(e)]~~ (6) In addition to the contributions collected and paid into the Contribution Fund
3865 under Sections 67-11-4 and 67-11-5, there shall be paid into the Contribution Fund such sums

3866 as are found to be necessary in order to make the payments to the secretary of the treasury
3867 which the state is obligated to make pursuant to an agreement entered into under Section
3868 67-11-3. The amount which is necessary to make the portion of such additional payment to the
3869 secretary of the treasury which is attributable to the coverage of the employees of each
3870 department, commission, council, branch, agency, or other division or organization of the state
3871 [~~of Utah~~] which employs persons covered by the Social Security Act pursuant to an agreement
3872 entered into under Section 67-11-3 shall be paid from the funds which have been appropriated,
3873 authorized, or allocated to such department.

3874 Section 91. Section **70A-2-504** is amended to read:

3875 **70A-2-504. Shipment by seller.**

3876 (1) Where the seller is required or authorized to send the goods to the buyer and the
3877 contract does not require him to deliver them at a particular destination, then unless otherwise
3878 agreed he must:

3879 (a) put the goods in the possession of such a carrier and make such a contract for their
3880 transportation as may be reasonable having regard to the nature of the goods and other
3881 circumstances of the case; [~~and~~]

3882 (b) obtain and promptly deliver or tender in due form any document necessary to
3883 enable the buyer to obtain possession of the goods or otherwise required by the agreement or by
3884 usage of trade; and

3885 (c) promptly notify the buyer of the shipment.

3886 (2) Failure to notify the buyer under [~~Paragraph (c)~~] Subsection (1)(c) or to make a
3887 proper contract under [~~Paragraph (a)~~] Subsection (1)(a) is a ground for rejection only if
3888 material delay or loss ensues.

3889 Section 92. Section **70A-3-312** is amended to read:

3890 **70A-3-312. Lost, destroyed, or stolen cashier's check, teller's check, or certified**
3891 **check.**

3892 (1) In this section:

3893 (a) "Check" means a cashier's check, teller's check, or certified check.

3894 (b) "Claimant" means a person who claims the right to receive the amount of a
3895 cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.

3896 (c) "Declaration of loss" means a written statement, bearing a notification to the effect
3897 that false statements made in the written statement are punishable by law, to the effect that:

3898 (i) the declarer lost possession of a check;

3899 (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or
3900 the remitter or payee of the check, in the case of a cashier's check or teller's check;

3901 (iii) the loss of possession was not the result of a transfer by the declarer or a lawful
3902 seizure; and

3903 (iv) the declarer cannot reasonably obtain possession of the check because the check
3904 was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an
3905 unknown person or a person that cannot be found or is not amenable to service of process.

3906 (d) "Obligated bank" means the issuer of a cashier's check or teller's check or the
3907 acceptor of a certified check.

3908 (2) (a) A claimant may assert a claim to the amount of a check by a communication to
3909 the obligated bank describing the check with reasonable certainty and requesting payment of
3910 the amount of the check, if:

3911 (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a
3912 cashier's check or teller's check;

3913 (ii) the communication contains or is accompanied by a declaration of loss of the
3914 claimant with respect to the check;

3915 (iii) the communication is received at a time and in a manner affording the bank a
3916 reasonable time to act on it before the check is paid; and

3917 (iv) the claimant provides reasonable identification if requested by the obligated bank.

3918 (b) (i) Delivery of a declaration of loss is a warranty of the truth of the statements made
3919 in the declaration.

3920 (ii) If a claim is asserted in compliance with this Subsection (2), the ~~[following rules~~
3921 ~~apply: (i) The]~~ claim becomes enforceable at the later of:

3922 (A) the time the claim is asserted; or
3923 (B) the 90th day following the date of the check, in the case of a cashier's check or
3924 teller's check, or the 90th day following the date of the acceptance, in the case of a certified
3925 check.
3926 (c) Until the claim becomes enforceable, it has no legal effect and the obligated bank
3927 may pay the check or, in the case of a teller's check, may permit the drawee to pay the check.
3928 Payment to a person entitled to enforce the check discharges all liability of the obligated bank
3929 with respect to the check.
3930 (d) If the claim becomes enforceable before the check is presented for payment, the
3931 obligated bank is not obliged to pay the check.
3932 (e) When the claim becomes enforceable, the obligated bank becomes obliged to pay
3933 the amount of the check to the claimant if payment of the check has not been made to a person
3934 entitled to enforce the check. Subject to Subsection 70A-4-302(1)(a), payment to the claimant
3935 discharges all liability of the obligated bank with respect to the check.
3936 (3) If the obligated bank pays the amount of a check to a claimant under Subsection
3937 (2)(e) and the check is presented for payment by a person having rights of a holder in due
3938 course, the claimant is obliged to:
3939 (a) refund the payment to the obligated bank if the check is paid; or
3940 (b) pay the amount of the check to the person having rights of a holder in due course if
3941 the check is dishonored.
3942 (4) If a claimant has the right to assert a claim under Subsection (2) and is also a person
3943 entitled to enforce a cashier's check, teller's check, or certified check that is lost, destroyed, or
3944 stolen, the claimant may assert rights with respect to the check either under this section or
3945 Section 70A-3-309.
3946 (5) This section does not apply to checks that have become the property of the state
3947 pursuant to Title 67, Chapter 4a, Unclaimed Property Act.
3948 Section 93. Section **70A-10-102** is amended to read:
3949 **70A-10-102. Specific repealer -- Provision for transition.**

3950 (1) The following acts and all other acts and parts of acts inconsistent herewith are
3951 hereby repealed:

- 3952 (a) Uniform Negotiable Instruments Act, Title 44, U.C.A., 1953;
- 3953 (b) Uniform Warehouse Receipts Act, Title 72, U.C.A., 1953;
- 3954 (c) Uniform Sales Act, Title 60, U.C.A., 1953;
- 3955 (d) Uniform Stock Transfer Act, Title 16, Chapter 3, U.C.A., 1953;
- 3956 (e) Uniform Trust Receipts Act, Title 9, Chapter 2, U.C.A., 1953;
- 3957 (f) Title 9, Chapter 1, U.C.A., 1953;
- 3958 (g) Title 9, Chapter 3, U.C.A., 1953;
- 3959 (h) Title 25, Chapter 2, U.C.A., 1953;
- 3960 (i) Title 25, Chapter 3, U.C.A., 1953;
- 3961 (j) Title 25, Chapter 4, U.C.A., 1953; and
- 3962 (k) Sections 7-3-48; 7-3-49; 7-3-52; 7-3-63; 7-3-64; 7-3-65; 11-6-2; 56-1-23; 56-1-24,
3963 U.C.A., 1953.

3964 (2) Transactions validly entered into before the effective date specified in Section
3965 70A-10-101 and the rights, duties and interests flowing from them remain valid thereafter and
3966 may be terminated, completed, consummated or enforced as required or permitted by any
3967 statute or other law amended or repealed by this act as though such repeal or amendment had
3968 not occurred.

3969 Section 94. Section **70C-7-107** is amended to read:

3970 **70C-7-107. Notice of negative credit report required.**

3971 (1) As used in this section:

3972 (a) "Creditor," in addition to its definition under Section 70C-1-302, includes an agent
3973 of a creditor engaged in administering or collecting the creditor's accounts.

3974 (b) "Credit reporting agency" means any credit bureau, consumer reporting agency,
3975 association of lending institutions, association of merchants, association of other creditors, any
3976 person, firm, partnership, cooperative, or corporation which, for a fee, dues, or on a cooperative
3977 nonprofit basis, is organized for the purpose of, or regularly engages in, the gathering or

3978 evaluating of consumer credit information or other information about consumers for the
3979 purpose of reporting to third parties on the credit rating or creditworthiness of any party.

3980 (c) (i) "Negative credit report" means information reflecting on the credit history of a
3981 party that, because of the party's past delinquencies, late or irregular payment history,
3982 insolvency, or any form of default, would reasonably be expected to affect adversely the party's
3983 ability to obtain or maintain credit.

3984 (ii) Negative credit report does not include information or credit histories arising from
3985 a nonconsumer transaction or any other credit transaction outside the scope of this title, nor
3986 does it include inquiries about a consumer's record.

3987 (2) A creditor may submit a negative credit report to a credit reporting agency, only if
3988 the creditor notifies the party whose credit record is the subject of the negative report. After
3989 providing this notice, a creditor may submit additional information to a credit reporting agency
3990 respecting the same transaction or extension of credit that gave rise to the original negative
3991 credit report without providing any additional notice.

3992 (3) (a) Notice shall be in writing and shall be delivered in person or mailed first class,
3993 postage prepaid, to the party's last-known address prior to or within 30 days after the
3994 transmission of the report.

3995 (b) The notice may be part of any notice of default, billing statement, or other
3996 correspondence from the creditor to the party.

3997 (c) The notice is sufficient if it takes substantially the following form:

3998 "As required by Utah law, you are hereby notified that a negative credit report reflecting
3999 on your credit record may be submitted to a credit reporting agency if you fail to fulfill the
4000 terms of your credit obligations."

4001 (d) The notice may, in the creditor's discretion, be more specific than the form given in
4002 Subsection (3)(c). For example, the notice may provide particular information regarding an
4003 account or list the approximate date on which the creditor submitted or intends to submit a
4004 negative credit report.

4005 (4) (a) A creditor who fails to provide notice as required by this section is liable to the

4006 injured party for actual damages. In any cause of action filed to determine the liability of a
4007 creditor or damages, the prevailing party in such an action is entitled to court costs and
4008 attorney's fees.

4009 (b) If a creditor willfully violates this section, the court may award punitive damages in
4010 an amount not in excess of two times the amount of the actual damages awarded.

4011 (c) A creditor is not liable for failure to provide notice if he establishes by a
4012 preponderance of the evidence that, at the time of his failure to give notice, he maintained
4013 reasonable procedures to comply with this section.

4014 (5) A creditor is not required to comply with this section in violation of 11 U.S.C. Sec.
4015 362, as amended.

4016 Section 95. Section **73-10-23** is amended to read:

4017 **73-10-23. Loans for water systems -- Board of Water Resources authority --**
4018 **Procedure.**

4019 (1) The Board of Water Resources is authorized to make loans to cities, towns,
4020 metropolitan water districts, water conservancy districts, improvement districts, special
4021 improvement districts, or special service districts within the state for the acquisition or
4022 construction of new or existing water systems or the improvement or extension of those
4023 systems from funds appropriated for the purpose of this chapter.

4024 (2) (a) Cities, towns, or districts which participate in this program shall submit an
4025 application for funds to the Board of Water Resources.

4026 (b) The application may request a loan to cover all or part of the cost of an eligible
4027 project.

4028 (c) Requests for loans shall be submitted in a form and shall include information as the
4029 board prescribes.

4030 (3) (a) The board shall establish criteria for determining eligibility for loans and shall
4031 determine appropriate priorities among projects.

4032 (b) Funds received from the repayment of loans shall be added to this special fund and
4033 be available for additional loans under the administration of the board.

4034 ~~[(2)]~~ (c) In determining priorities for eligible projects, the board shall consider:
4035 ~~[(a)]~~ (i) probable growth of population due to actual or prospective economic
4036 development in an area;
4037 ~~[(b)]~~ (ii) possible additional sources of state and local revenue;
4038 ~~[(c)]~~ (iii) opportunities for expanded employment;
4039 ~~[(d)]~~ (iv) present or potential health hazards;
4040 ~~[(e)]~~ (v) water systems which do not meet minimum state standards;
4041 ~~[(f)]~~ (vi) cities, towns, or districts which have insufficient water to meet current
4042 demands;
4043 ~~[(g)]~~ (vii) feasibility and practicality of the project;
4044 ~~[(h)]~~ (viii) per capita cost of the project;
4045 ~~[(i)]~~ (ix) per capita income of the residents in the area;
4046 ~~[(j)]~~ (x) the borrowing capacity of the city, town, or district and its ability to sell bonds
4047 in the open market; and
4048 ~~[(k)]~~ (xi) the availability of federal funds for the project.
4049 (4) (a) The board shall consult with the Governor's Advisory Council on Community
4050 Affairs in the establishment of priorities but that advice is not binding upon the board.
4051 (b) If an application is rejected, the board shall notify the applicant stating the reasons
4052 for the rejection.
4053 ~~[(3)]~~ (5) The Board of Water Resources shall review the plans and specifications for
4054 the project prior to approval and may condition approval and the availability of funds on
4055 assurances the board ~~[deems]~~ considers necessary to ensure that the proceeds of the loan will
4056 be used to pay the cost of the project and that the project will be completed.
4057 (6) Any loan shall specify the terms for repayment and may be evidenced by general
4058 obligation bonds, revenue bonds, special assessment bonds, or other bonds or obligations
4059 legally issued by the appropriate city, town, metropolitan water district, water conservancy
4060 district, improvement district, special improvement district, or special service district and
4061 purchased by the board pursuant to the authority for the issuance that exists at the time of the

4062 loan.

4063 ~~[(4)]~~ (7) (a) Upon approval of an application, the board shall advise the applicant and
4064 may provide funds as a loan to cover all or part of the costs of eligible projects.

4065 (b) Costs of an eligible project may include all costs of acquisition and construction as
4066 well as costs incurred for preliminary planning to determine the economic and engineering
4067 feasibility of a proposed project, the engineering, architectural, legal, fiscal, and economic
4068 investigations and studies, surveys, designs, plans, working drawings, specifications,
4069 procedures, and other action necessary to the project and its financing; the cost of erection,
4070 building, acquisition, modification, improvement, or extension of water system facilities and
4071 the inspection and supervision of the construction of such facilities.

4072 (8) No loan shall include any project costs for which the applicant receives federal
4073 financial assistance, other than federal loans which must be repaid by the applicant.

4074 Section 96. Section **75-2-1105** is amended to read:

4075 **75-2-1105. Directive for medical services after injury or illness is incurred.**

4076 (1) (a) A person 18 years of age or older may, after incurring an injury, disease, or
4077 illness, direct his care by means of a directive made under this section, which is binding upon
4078 attending physicians and other providers of medical services.

4079 (b) When a declarant has executed a directive under Section 75-2-1104 and is in a
4080 terminal condition or a persistent vegetative state, that directive takes precedence over a
4081 nonconflicting directive executed under this section. A directive executed by an
4082 attorney-in-fact appointed under Section 75-2-1106 takes precedence over all earlier signed
4083 directives.

4084 (2) A directive made under this section shall be:

4085 (a) in writing;

4086 (b) signed by the declarant or by another person in the declarant's presence and by the
4087 declarant's expressed direction, or if the declarant does not have the ability to give current
4088 directions concerning his care and treatment, by the following persons, as proxy, in the
4089 following order of priority if no person in a prior class is available, willing, and competent to

4090 act:

- 4091 (i) an attorney-in-fact appointed under Section 75-2-1106;
- 4092 (ii) any previously appointed legal guardian of the declarant;
- 4093 (iii) the person's spouse if not legally separated;
- 4094 (iv) the parents or surviving parent;
- 4095 (v) the person's child 18 years of age or older, or if the person has more than one child,

4096 by a majority of the children 18 years of age or older who are reasonably available for
4097 consultation upon good faith efforts to secure participation of all those children;

- 4098 (vi) by the declarant's nearest reasonably available living relative 18 years of age or
4099 older if the declarant has no parent or child living; or

- 4100 (vii) by a legal guardian appointed for the purposes of this section;

- 4101 (c) dated;

- 4102 (d) signed, completed, and certified by the declarant's attending physician; and

- 4103 (e) signed pursuant to Subsection (2)(b) [~~above~~] in the presence of two or more
4104 witnesses 18 years of age or older.

- 4105 (3) Neither of the witnesses may be:

- 4106 (a) the person who signed the directive on behalf of the declarant;

- 4107 (b) related to the declarant by blood or marriage;

- 4108 (c) entitled to any portion of the declarant's estate according to the laws of intestate
4109 succession of this state or under any will or codicil of the declarant;

- 4110 (d) directly financially responsible for declarant's medical care; or

- 4111 (e) an agent of any health care facility in which the declarant is a patient or resident at
4112 the time of executing the directive.

- 4113 (4) A directive executed under this section shall be in substantially the following form
4114 or in a form substantially similar to the form approved by prior Utah law and shall contain a
4115 description by the attending physician of the declarant's injury, disease, or illness. It shall
4116 include specific directions for care and treatment or withholding of treatment.

4117 DIRECTIVE TO PHYSICIANS AND PROVIDERS OF MEDICAL SERVICES

4118 (Pursuant to Section 75-2-1105, UCA)

4119 I, _____, certify that I am serving as the attending physician for
4120 _____ of _____, who has been under my care since the ____ day of
4121 _____, _____.

4122 1. This declarant, _____, is currently suffering from
4123 the following injury, disease, or illness:

4124 _____
4125 _____
4126 _____

4127 2. I certify that I have explained to the declarant to the extent he is able to understand,
4128 and to the available persons acting as proxy, the reasonable available alternatives for his care
4129 and treatment.

4130 3. I certify that the care and treatment alternatives directed below are:

4131 _____ (a) directed by the declarant; or
4132 _____ (b) that the declarant has a physical or mental condition which renders him
4133 unable to give personal directions for care and treatment and that the care and treatment
4134 alternatives directed below are in my opinion, and in the opinion of the declarant's proxy, what
4135 the declarant would probably decide if able to give current directions concerning his care and
4136 treatment.

4137 Date: _____

4138 _____
Signature of attending physician

4139 The following care and treatment or withholding of treatment is directed with respect to
4140 the declarant:

4141 _____
4142 _____
4143 _____

4144 _____

4145 Relationship to declarant _____
Signature of declarant or person

Enrolled Copy

H.B. 264

4146 of person signing on
4147 declarant's behalf,
4148 if applicable.

authorized by law to sign
directive as a proxy on
behalf of declarant

4149

Address of Signer

4150

4151

City, County, and State of
residence of Signer

4152

4153

4154 We witnesses certify that each of us is 18 years of age or older; that we personally
4155 witnessed the declarant or a proxy sign this directive; that we are acquainted with the declarant
4156 and believe that care and treatment alternatives directed above are what the declarant has
4157 decided for himself concerning his care and treatment, or, if the foregoing was signed by a
4158 proxy, that we are acquainted with the proxy and believe that the proxy sincerely believes that
4159 the care and treatment alternatives directed above are what the declarant would probably decide
4160 for himself if he were able to give current directions concerning his care and treatment; that
4161 neither of us signed the above directive for or on behalf of declarant; that we are not related to
4162 the declarant by blood or marriage nor are we entitled to any portion of declarant's estate
4163 according to the laws of intestate succession of this state or under any will or codicil of the
4164 declarant; that we are not directly financially responsible for declarant's medical care; and that
4165 we are not agents of any health care facility in which declarant may be a patient at the time of
4166 signing this directive.

4167

Signature of Witness

Signature of Witness

4168

4169

Address of Witness

Address of Witness

4170

4171 Section 97. Section **75-3-902** is amended to read:

4172 **75-3-902. Distribution -- Order in which assets appropriated -- Abatement.**

4173 (1) Except as provided in Subsection [~~(2)~~ below] (3) and except as provided in

4174 connection with the share of the surviving spouse who elects to take an elective share, shares of
4175 distributees abate, without any preference or priority as between real and personal property, in
4176 the following order:

- 4177 (a) property not disposed of by the will;
- 4178 (b) residuary devises;
- 4179 (c) general devises;
- 4180 (d) specific devises.

4181 (2) For purposes of abatement, a general devise charged on any specific property or
4182 fund is a specific devise to the extent of the value of the property on which it is charged, and
4183 upon the failure or insufficiency of the property on which it is charged, a general devise to the
4184 extent of the failure or insufficiency. Abatement within each classification is in proportion to
4185 the amounts of property each of the beneficiaries would have received if full distribution of the
4186 property had been made in accordance with the terms of the will.

4187 [~~(2)~~] (3) If the will expresses an order of abatement, or if the testamentary plan or the
4188 express or implied purpose of the devise would be defeated by the order of abatement stated in
4189 Subsection (1), the shares of the distributees abate as may be found necessary to give effect to
4190 the intention of the testator.

4191 [~~(3)~~] (4) If the subject of a preferred devise is sold or used incident to administration,
4192 abatement shall be achieved by appropriate adjustments in, or contribution from, other interests
4193 in the remaining assets.

4194 Section 98. Section **75-5-428** is amended to read:

4195 **75-5-428. Claims against protected person -- Enforcement.**

4196 (1) A conservator must pay from the estate all just claims against the estate and against
4197 the protected person arising before or after the conservatorship upon their presentation and
4198 allowance. A claim may be presented by either of the following methods:

- 4199 (a) The claimant may deliver or mail to the conservator a written statement of the claim
4200 indicating its basis, the name and address of the claimant, and the amount claimed[;].
- 4201 (b) The claimant may file a written statement of the claim, in the form prescribed by

4202 rule, with the clerk of the court and deliver or mail a copy of the statement to the conservator.
4203 A claim is [~~deemed~~] considered presented on the first to occur of receipt of the written
4204 statement of claim by the conservator, or the filing of the claim with the court.

4205 (2) A presented claim is allowed if it is not disallowed by written statement mailed by
4206 the conservator to the claimant within 60 days after its presentation. The presentation of a
4207 claim tolls any statute of limitation relating to the claim until 30 days after its disallowance.

4208 [~~(2)~~] (3) A claimant whose claim has not been paid may petition the court for
4209 determination of his claim at any time before it is barred by the applicable statute of limitation,
4210 and, upon due proof, procure an order for its allowance and payment from the estate. If a
4211 proceeding is pending against a protected person at the time of appointment of a conservator or
4212 is initiated against the protected person thereafter, the moving party must give notice of the
4213 proceeding to the conservator if the outcome is to constitute a claim against the estate.

4214 [~~(3)~~] (4) If it appears that the estate in conservatorship is likely to be exhausted before
4215 all existing claims are paid, preference is to be given to prior claims for the care, maintenance,
4216 and education of the protected person or his dependents and existing claims for expenses of
4217 administration.

4218 Section 99. Section **76-6-505** is amended to read:

4219 **76-6-505. Issuing a bad check or draft -- Presumption.**

4220 (1) (a) Any person who issues or passes a check or draft for the payment of money, for
4221 the purpose of obtaining from any person, firm, partnership, or corporation, any money,
4222 property, or other thing of value or paying for any services, wages, salary, labor, or rent,
4223 knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of
4224 issuing a bad check or draft.

4225 (b) For purposes of this Subsection (1), a person who issues a check or draft for which
4226 payment is refused by the drawee is presumed to know the check or draft would not be paid if
4227 he had no account with the drawee at the time of issue.

4228 (2) Any person who issues or passes a check or draft for the payment of money, for the
4229 purpose of obtaining from any person, firm, partnership, or corporation, any money, property,

4230 or other thing of value or paying for any services, wages, salary, labor, or rent, payment of
4231 which check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if
4232 he fails to make good and actual payment to the payee in the amount of the refused check or
4233 draft within 14 days of his receiving actual notice of the check or draft's nonpayment.

4234 (3) An offense of issuing a bad check or draft shall be punished as follows:

4235 (a) If the check or draft or series of checks or drafts made or drawn in this state within
4236 a period not exceeding six months amounts to a sum that is less than \$300, the offense is a
4237 class B misdemeanor.

4238 (b) If the check or draft or checks or drafts made or drawn in this state within a period
4239 not exceeding six months amounts to a sum that is or exceeds \$300 but is less than \$1,000, the
4240 offense is a class A misdemeanor.

4241 (c) If the check or draft or checks or drafts made or drawn in this state within a period
4242 not exceeding six months amounts to a sum that is or exceeds \$1,000 but is less than \$5,000,
4243 the offense is a felony of the third degree.

4244 (d) If the check or draft or checks or drafts made or drawn in this state within a period
4245 not exceeding six months amounts to a sum that is or exceeds \$5,000, the offense is a second
4246 degree felony.

4247 Section 100. Section **76-6-506.2** is amended to read:

4248 **76-6-506.2. Financial transaction card offenses -- Unlawful use of card or**
4249 **automated banking device -- False application for card.**

4250 It is unlawful for any person to:

4251 (1) knowingly, with intent to defraud, obtain or attempt to obtain credit or purchase or
4252 attempt to purchase goods, property, or services, by the use of a false, fictitious, altered,
4253 counterfeit, revoked, expired, stolen, or fraudulently obtained financial transaction card, by any
4254 financial transaction card credit number, personal identification code, or by the use of a
4255 financial transaction card not authorized by the issuer or the card holder;

4256 (2) use a financial transaction card, with intent to defraud, to knowingly and willfully
4257 exceed the actual balance of a demand or time deposit account;

4258 (3) use a financial transaction card, with intent to defraud, to willfully exceed an
4259 authorized credit line by \$500 or more, or by 50% of such line, whichever is greater;

4260 (4) willfully, with intent to defraud, deposit into his or any other account by means of
4261 an automated banking device a false, fictitious, forged, altered, or counterfeit check, draft,
4262 money order, or any other similar document;

4263 (5) make application for a financial transaction card to an issuer, while knowingly
4264 making or causing to be made a false statement or report relative to his name, occupation,
4265 financial condition, assets, or to willfully and substantially undervalue or understate any
4266 indebtedness for the purposes of influencing the issuer to issue the financial transaction card; or

4267 (6) knowingly, with intent to defraud any authorized credit card merchant, card holder,
4268 or issuer, sell or attempt to sell credit card sales drafts to an authorized credit card merchant or
4269 any other person or organization, for any consideration whether at a discount or otherwise, or
4270 present or cause to be presented to the issuer or an authorized credit card merchant, for
4271 payment or collection, any such credit card sales draft, if:

4272 [~~(i)~~] (a) the draft is counterfeit or fictitious;

4273 [~~(ii)~~] (b) the purported sales evidenced by any such credit card sales draft did not take
4274 place;

4275 [~~(iii)~~] (c) the purported sale was not authorized by the card holder;

4276 [~~(iv)~~] (d) the items or services purported to be sold as evidenced by the credit card sales
4277 drafts are not delivered or rendered to the card holder or person intended to receive them; or

4278 [~~(v)~~] (e) when delivered or rendered, the goods or services are materially different or of
4279 materially lesser value or quality than represented by the seller or his agent to the purchaser, or
4280 have substantial discrepancies from goods or services impliedly represented by the purchase
4281 price when compared with the actual goods or services delivered or rendered.

4282 Section 101. Section **76-6-603** is amended to read:

4283 **76-6-603. Detention of suspected violator by merchant -- Purposes.**

4284 (1) Any merchant who has probable cause to believe that a person has committed retail
4285 theft may detain such person, on or off the premises of a retail mercantile establishment, in a

4286 reasonable manner and for a reasonable length of time for all or any of the following purposes:

4287 ~~[(1)]~~ (a) to make reasonable inquiry as to whether such person has in his possession
4288 unpurchased merchandise and to make reasonable investigation of the ownership of such
4289 merchandise;

4290 ~~[(2)]~~ (b) to request identification;

4291 ~~[(3)]~~ (c) to verify such identification;

4292 ~~[(4)]~~ (d) to make a reasonable request of such person to place or keep in full view any
4293 merchandise such individual may have removed, or which the merchant has reason to believe
4294 he may have removed, from its place of display or elsewhere, whether for examination,
4295 purchase, or for any other reasonable purpose;

4296 ~~[(5)]~~ (e) to inform a peace officer of the detention of the person and surrender that
4297 person to the custody of a peace officer;

4298 ~~[(6)]~~ (f) in the case of a minor, to inform a peace officer, the parents, guardian, or other
4299 private person interested in the welfare of that minor immediately, if possible, of this detention
4300 and to surrender custody of such minor to such person.

4301 (2) A merchant may make a detention as permitted herein off the premises of a retail
4302 mercantile establishment only if such detention is pursuant to an immediate pursuit of such
4303 person.

4304 Section 102. Section **77-13-1** is amended to read:

4305 **77-13-1. Kinds of pleas.**

4306 (1) There are five kinds of pleas to an indictment or information:

4307 ~~[(1)]~~ (a) not guilty;

4308 ~~[(2)]~~ (b) guilty;

4309 ~~[(3)]~~ (c) no contest;

4310 ~~[(4)]~~ (d) not guilty by reason of insanity; and

4311 ~~[(5)]~~ (e) guilty and mentally ill at the time of the offense.

4312 (2) An alternative plea of not guilty or not guilty by reason of insanity may be entered.

4313 Section 103. Section **77-19-4** is amended to read:

4314 **77-19-4. Special release from city or county jail -- Conditions and limitations.**

4315 (1) All released prisoners, while absent from the jail, are in the custody of the jailer and
 4316 subject at any time to being returned to jail, if good cause appears for so doing. The judge shall
 4317 specify the terms and conditions of the release time which may include, but are not limited to
 4318 the following:

4319 ~~[(1)]~~ (a) the prisoner may be required to pay all monies earned from employment
 4320 during the jail term to those persons he is legally responsible to support; or

4321 ~~[(2) he]~~ (b) the prisoner may be required to pay a reasonable amount for the expenses
 4322 of his maintenance in the jail but may be permitted to retain sufficient money to pay his costs
 4323 of transportation, meals, and other incidental and necessary expenses.

4324 (2) During all hours when the prisoner is not serving the function for which he is
 4325 awarded release time, he shall be confined to jail. The prisoner shall be responsible for
 4326 obtaining his own transportation to and from the place where he performs the function for
 4327 which he is released.

4328 Section 104. Section **77-27-24** is amended to read:

4329 **77-27-24. Out-of-state supervision of probationers and parolees -- Compacts.**

4330 The governor of this state is authorized to execute a compact on behalf of the State of
 4331 Utah with any other state legally joining therein. "State," as used in this section, includes any
 4332 state, territory or possession of the United States, and the District of Columbia. The compact
 4333 shall be in ~~[the form]~~ substantially ~~[as follows]~~ the following form:

4334 (1) A compact entered into by and among the contracting states, signatories thereto,
 4335 with the consent of the Congress of the United States of America, granted by an act entitled An
 4336 Act Granting the Consent of Congress to any two or more States to enter into Agreements or
 4337 Compacts for cooperative effort and mutual assistance in the prevention of crime and for other
 4338 purposes.

4339 (2) The contracting states solemnly agree:

4340 ~~[Form of Compact.]~~

4341 (a) That it shall be competent for the duly constituted judicial and administrative

4342 authorities of a state party to this compact (herein called sending state) to permit any person
4343 convicted of an offense within such state and placed on probation or released on parole to
4344 reside in any other state party to this compact (herein called receiving state) while on probation
4345 or parole, if:

4346 ~~[(1) Such]~~ (i) such person is in fact a resident of or has his family residing within the
4347 receiving state and can obtain employment there~~[-]; or~~

4348 ~~[(2) Though]~~ (ii) though not a resident of the receiving state and not having his family
4349 residing there, the receiving state consents to such person being sent there.

4350 (A) Before granting such permission, opportunity shall be granted to the receiving state
4351 to investigate the home and prospective employment of such person.

4352 (B) A resident of the receiving state, within the meaning of this section, is one who has
4353 been an actual inhabitant of such state continuously for more than one year prior to his coming
4354 to the sending state and has not resided within the sending state more than six continuous
4355 months immediately preceding the commission of the offense for which he has been convicted.

4356 ~~[Receiving State to Supervise Probationers or Parolees.]~~

4357 (b) That each receiving state will assume the duties of visitation of and supervision
4358 over probationers or parolees of any sending state and in the exercise of those duties will be
4359 governed by the same standards that prevail for its own probationers and parolees.

4360 ~~[Extraditions Procedure Waived, When.]~~

4361 (c) That duly accredited officers of a sending state may at all times enter a receiving
4362 state and there apprehend and retake any person on probation or parole from such sending state.
4363 For that purpose no formalities will be required other than establishing the authority of the
4364 officer and the identity of the person to be retaken. All legal requirements to obtain extradition
4365 of fugitives from justice are expressly waived on the part of states party hereto as to such
4366 persons. The decision of the sending state to retake a person on probation (or parole) shall be
4367 conclusive upon and not reviewable within the receiving state; provided if at the time when a
4368 state seeks to retake a probationer or parolee there should be pending against him within the
4369 receiving state any criminal charge, or he should be suspected of having committed within such

4370 state a criminal offense, he shall not be retaken without the consent of the receiving state until
4371 discharged from prosecution or from imprisonment for such offense.

4372 ~~[Transporting Prisoners.]~~

4373 (d) That the duly accredited officers of the sending state will be permitted to transport
4374 prisoners being retaken through any and all states parties to this compact without interference.

4375 ~~[Rules and Regulations.]~~

4376 (e) That the governor of each state may designate an officer who, acting jointly with
4377 like officers of other contracting states, if and when appointed, shall promulgate such rules and
4378 regulations as may be deemed necessary to more effectively carry out the terms of this
4379 compact.

4380 ~~[Execution of Compact -- Effect.]~~

4381 (f) That this compact shall become operative immediately upon its execution by any
4382 state as between it and any other state or states so executing. When executed it shall have the
4383 full force and effect of law within such state, the form of execution to be in accordance with the
4384 laws of the executing state.

4385 ~~[Renunciation of Compact.]~~

4386 (g) That this compact shall continue in force and remain binding upon each executing
4387 state until renounced by it. That duties and obligations hereunder of a renouncing state shall
4388 continue as to parolees or probationers residing therein at the time of withdrawal until retaken
4389 or finally discharged by the sending state. Renunciation of this compact shall be by the same
4390 authority which executed it, on sending six months' notice in writing of intention to withdraw
4391 from the compact to the other states party thereto.

4392 Section 105. Section ~~77-27-29~~ is amended to read:

4393 **~~77-27-29. Rights of parolee or probationer -- Record of proceedings.~~**

4394 (1) With respect to any hearing pursuant to ~~[this act]~~ the Uniform Act for Out-of-State
4395 Supervision, the parolee or probationer shall have the following rights:

4396 (a) ~~[Reasonable]~~ reasonable notice in writing of the nature and content of the
4397 allegations to be made, including notice that its purpose is to determine whether there is

4398 probable cause to believe that he has committed a violation that may lead to a revocation of
4399 parole or probation[-];

4400 (b) [~~Be~~] be permitted to advise with any persons whose assistance he reasonably
4401 desires, prior to the hearing[-];

4402 (c) [~~To~~] to confront and examine any persons who have made allegations against him,
4403 unless the hearing officer determines that such confrontation would present a substantial
4404 present or subsequent danger of harm to such person or persons[-]; and

4405 (d) [~~May~~] may admit, deny, or explain the violation alleged and may present proof,
4406 including affidavits and other evidence, in support of his contentions.

4407 (2) A record of the proceedings shall be made and preserved.

4408 Section 106. Section **77-30-23** is amended to read:

4409 **77-30-23. Fugitives from this state -- Applications for requisition for return.**

4410 (1) When the return to this state of a person charged with a crime in this state is
4411 required, the prosecuting attorney shall present to the governor his written application for a
4412 requisition for the return of the person charged, in which application shall be stated the name of
4413 the person so charged, the crime charged against him, the approximate time, place, and
4414 circumstances of its commission, the state in which he is believed to be, including the location
4415 of the accused therein at the time the application is made, and certifying that in the opinion of
4416 the said prosecuting attorney the ends of justice require the arrest and return of the accused to
4417 this state for trial and that the proceeding is not instituted to enforce a private claim.

4418 (2) When the return to this state is required of a person who has been convicted of a
4419 crime in this state and has escaped from confinement or broken the terms of his bail, probation,
4420 or parole, the prosecuting attorney of the county in which the offense was committed, the
4421 parole board, or the warden of the institution or sheriff of the county from which escape was
4422 made shall present to the governor a written application for a requisition for the return of such
4423 person, in which application shall be stated the name of the person, the crime of which he was
4424 convicted, the circumstances of his escape from confinement, or of the breach of the terms of
4425 his bail, probation, or parole, the state in which he is believed to be, including the location of

4426 the person therein at the time application is made.

4427 (3) The application shall be verified by affidavit, shall be executed in duplicate, and
4428 shall be accompanied by two certified copies of the indictment returned, or information and
4429 affidavit filed, or of the complaint made to the judge or magistrate stating the offense with
4430 which the accused is charged, or of the judgment or conviction, or of the sentence.

4431 (4) The prosecuting officer, parole board, warden, or sheriff may also attach such
4432 further affidavits and other documents in duplicate as he shall deem proper to be submitted
4433 with such application. One copy of the application with the action of the governor indicated by
4434 endorsement thereon and one of the certified copies of the indictment, complaint, information,
4435 and affidavits or of the judgment of conviction or of the sentence shall be filed in the office of
4436 the governor to remain of record in that office. The other copies of all papers shall be
4437 forwarded with the governor's requisition.

4438 Section 107. Section **77-30-25** is amended to read:

4439 **77-30-25. Person brought into state on extradition exempt from civil process --**
4440 **Waiver of extradition proceedings -- Nonwaiver by this state.**

4441 (1) A person brought into this state by or after waiver of extradition based on a criminal
4442 charge shall not be subject to service of personal process in civil actions arising out of the same
4443 facts as the criminal proceedings to answer which he is being or has been returned until he has
4444 been convicted in the criminal proceedings, or, if acquitted, until he has had reasonable
4445 opportunity to return to the state from which he was extradited.

4446 (2) (a) Any person arrested in this state charged with having committed any crime in
4447 another state or alleged to have escaped from confinement or broken the terms of his bail,
4448 probation or parole may waive the issuance and service of the warrant provided for in Sections
4449 77-30-7 and 77-30-8, and all other procedure incidental to extradition proceedings, by
4450 executing or subscribing in the presence of a judge of any court of record within this state a
4451 writing which states that he consents to return to the demanding state; provided, before such
4452 waiver shall be executed or subscribed by such person it shall be the duty of such judge to
4453 inform such person of his rights to the issuance and service of a warrant of extradition and to

4454 obtain a writ of habeas corpus as provided for in Section 77-30-10.

4455 (b) If and when such consent has been duly executed it shall forthwith be forwarded to
4456 the office of the governor of this state and filed therein. The judge shall direct the officer
4457 having such person in custody to deliver forthwith such person to the duly accredited agent or
4458 agents of the demanding state and shall deliver or cause to be delivered to such agent or agents
4459 a copy of such consent; provided, nothing in this section shall be deemed to limit the rights of
4460 the accused person to return voluntarily and without formality to the demanding state, or shall
4461 this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights, or
4462 duties of the officers of the demanding state or of this state.

4463 (3) Nothing in this [~~act~~] chapter shall be deemed to constitute a waiver by this state of
4464 its right, power or privilege to try such demanded person for a crime committed within this
4465 state, or of its right, power or privilege to regain custody of such person by extradition
4466 proceedings or otherwise for the purpose of trial, sentence or punishment for any crime
4467 committed within this state, or shall any proceedings had under this [~~act~~] chapter which result
4468 in or fail to result in extradition be deemed a waiver by this state of any of its rights, privileges
4469 or jurisdiction in any way whatsoever.

4470 Section 108. Section **77-32-303** is amended to read:

4471 **77-32-303. Standard for court to appoint noncontracting attorney or defense**
4472 **resource -- Hearing.**

4473 If a county or municipality has contracted for, or otherwise made arrangements for, the
4474 legal defense of indigents, including a competent attorney and defense resources, the court may
4475 not appoint a noncontracting attorney or resource either under this part, Section [~~21-5-14.5~~]
4476 78-46-33, or Rule 15, Utah Rules of Criminal Procedure, unless the court:

4477 (1) conducts a hearing with proper notice to the responsible entity to consider the
4478 authorization or designation of a noncontract attorney or resource; and

4479 (2) makes a finding that there is a compelling reason to authorize or designate a
4480 noncontracting attorney or resources for the indigent defendant.

4481 Section 109. Section **78-13-1** is amended to read:

4482 **78-13-1. Actions respecting real property.**

4483 (1) Actions for the following causes must be tried in the county in which the subject of
4484 the action, or some part thereof, is situated, subject to the power of the court to change the
4485 place of trial as provided in this code:

4486 [~~(1)~~] (a) for the recovery of real property, or of an estate or interest therein, or for the
4487 determination in any form of such right or interest, and for injuries to real property;

4488 [~~(2)~~] (b) for the partition of real property; and

4489 [~~(3)~~] (c) for the foreclosure of all liens and mortgages on real property.

4490 (2) Where the real property is situated partly in one county and partly in another, the
4491 plaintiff may select either of the counties, and the county so selected is the proper county for
4492 the trial of such action.

4493 Section 110. Section **78-14-9.5** is amended to read:

4494 **78-14-9.5. Periodic payment of future damages in malpractice actions.**

4495 (1) As used in this section:

4496 (a) "Future damages" means a judgment creditor's damages for future medical
4497 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
4498 suffering.

4499 (b) "Periodic payments" means the payment of money or delivery of other property to
4500 the judgment creditor at such intervals as ordered by the court.

4501 (2) In any malpractice action against a health care provider, as defined in Section
4502 78-14-3, the court shall, at the request of any party, order that future damages which equal or
4503 exceed \$100,000, less amounts payable for attorney's fees and other costs which are due at the
4504 time of judgment, shall be paid by periodic payments rather than by a lump sum payment.

4505 (3) In rendering a judgment which orders the payment of future damages by periodic
4506 payments, the court shall order periodic payments to provide a fair correlation between the
4507 sustaining of losses and the payment of damages. Lost future earnings shall be paid over the
4508 judgment creditor's work life expectancy. The court shall also order, when appropriate, that
4509 periodic payments increase at a fixed rate, equal to the rate of inflation which the finder of fact

4510 used to determine the amount of future damages, or as measured by the most recent Consumer
4511 Price Index applicable to Utah for all goods and services. The present cash value of all
4512 periodic payments shall equal the fact finder's award of future damages, less any amount paid
4513 for attorney's fees and costs. The present cash value of periodic payments shall be determined
4514 by discounting the total amount of periodic payments projected over the judgment creditor's
4515 life expectancy, by the rate of interest which the finder of fact used to reduce the amount of
4516 future damages to present value, or the rate of interest available at the time of trial on one year
4517 U.S. Government Treasury Bills. Before periodic payments of future damages may be ordered,
4518 the court shall require a judgment debtor to post security which assures full payment of those
4519 damages. Security for payment of a judgment of periodic payments may be in one or more of
4520 the following forms:

- 4521 (a) a bond executed by a qualified insurer;
- 4522 (b) an annuity contract executed by a qualified insurer;
- 4523 (c) evidence of applicable and collectable liability insurance with one or more qualified
4524 insurers;
- 4525 (d) an agreement by one or more qualified insurers to guarantee payment of the
4526 judgment; or
- 4527 (e) any other form of security approved by the court.

4528 (4) Security which complies with this section may also serve as a supersedeas bond,
4529 where one is required.

4530 [~~(4)~~] (5) A judgment which orders payment of future damages by periodic payments
4531 shall specify the recipient or recipients of the payments, the dollar amount of the payments, the
4532 interval between payments, and the number of payments or the period of time over which
4533 payments shall be made. Those payments may only be modified in the event of the death of the
4534 judgment creditor.

4535 [~~(5)~~] (6) If the court finds that the judgment debtor, or the assignee of his obligation to
4536 make periodic payments, has failed to make periodic payments as ordered by the court, it shall,
4537 in addition to the required periodic payments, order the judgment debtor or his assignee to pay

4538 the judgment creditor all damages caused by the failure to make payments, including court
4539 costs and attorney's fees.

4540 ~~[(6)]~~ (7) The obligation to make periodic payments for all future damages, other than
4541 damages for loss of future earnings, shall cease upon the death of the judgment creditor.
4542 Damages awarded for loss of future earnings shall not be reduced or payments terminated by
4543 reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment
4544 creditor owed a duty of support, as provided by law, immediately prior to his death. In that
4545 case the court which rendered the original judgment may, upon petition of any party in interest,
4546 modify the judgment to award and apportion the unpaid future damages in accordance with this
4547 section.

4548 ~~[(7)]~~ (8) If security is posted in accordance with Subsection (3), and approved by a
4549 final judgment entered under this section, the judgment is considered to be satisfied, and the
4550 judgment debtor on whose behalf the security is posted shall be discharged.

4551 Section 111. Section **78-24-14** is amended to read:

4552 **78-24-14. Liability of officer making arrest.**

4553 (1) An officer is not liable for making the arrest in ignorance of the facts creating the
4554 exemption, but is liable for any subsequent detention of the witness, if such witness claims the
4555 exemption and makes an affidavit stating:

4556 ~~[(1)]~~ (a) that he has been served with a subpoena to attend as a witness before a court,
4557 officer or other person, specifying the same, the place of attendance and the action or
4558 proceeding in which the subpoena was issued;

4559 ~~[(2)]~~ (b) that he has not thus been served by his own procurement, with the intention of
4560 avoiding an arrest; and[;]

4561 ~~[(3)]~~ (c) that he is at the time going to the place of attendance, or returning therefrom,
4562 or remaining there in obedience to the subpoena.

4563 (2) The affidavit may be taken by the officer, and exonerates him from liability for
4564 discharging the witness when arrested.

4565 Section 112. Section **78-25-16** is amended to read:

4566 **78-25-16. Parol evidence of contents of writings -- When admissible.**

4567 (1) There can be no evidence of the contents of a writing, other than the writing itself,
4568 except in the following cases:

4569 ~~[(1)]~~ (a) when the original has been lost or destroyed, in which case proof of the loss or
4570 destruction must first be made;

4571 ~~[(2)]~~ (b) when the original is in the possession of the party against whom the evidence
4572 is offered and he fails to produce it after reasonable notice;

4573 ~~[(3)]~~ (c) when the original is a record or other document in the custody of a public
4574 officer;

4575 ~~[(4)]~~ (d) when the original has been recorded, and the record or a certified copy thereof
4576 is made evidence by this code or other statute; or

4577 ~~[(5)]~~ (e) when the original consists of numerous accounts or other documents which
4578 cannot be examined in court without great loss of time, and the evidence sought from them is
4579 only the general result of the whole.

4580 (2) Provided, however, if any business, institution, member of a profession or calling,
4581 or any department or agency of government, in the regular course of business or activity has
4582 kept or recorded any memorandum, writing, entry, print, representation or combination thereof,
4583 of any act, transaction, occurrence or event, and in the regular course of business has caused
4584 any or all of the same to be recorded, copied or reproduced by any photographic, photostatic,
4585 microfilm, microcard, miniature photographic, or other process which accurately reproduces or
4586 forms a durable medium for so reproducing the original, the original may be destroyed in the
4587 regular course of business unless its preservation is required by law; and such reproduction,
4588 when satisfactorily identified, is as admissible in evidence as the original itself in any judicial
4589 or administrative proceeding whether the original is in existence or not, an enlargement or
4590 facsimile of such reproduction is likewise admissible in evidence if the original reproduction is
4591 in existence and available for inspection under direction of court. The introduction of a
4592 reproduced record, enlargement or facsimile, does not preclude admission of the original.

4593 (3) In the cases mentioned in Subsections ~~[(3)]~~ (1)(c) and ~~[(4)]~~ (d), a copy of the

4594 original, or of the record, must be produced; in those mentioned in Subsections (1)(a) and [(2)]
4595 (b), either a copy or oral evidence of the contents must be given.

4596 Section 113. Section **78-31a-121** is amended to read:

4597 **78-31a-121. Change of award by arbitrator.**

4598 (1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator
4599 may modify or correct an award:

4600 (a) on any grounds stated in Subsection 78-31a-125(1)(a) or (c);

4601 (b) if the arbitrator has not made a final and definite award upon a claim submitted by
4602 the parties to the arbitration proceeding; or

4603 (c) to clarify the award.

4604 (2) A motion under Subsection (1) must be made and notice given to all parties within
4605 20 days after the movant receives notice of the award.

4606 (3) A party to the arbitration proceeding must give notice of any objection to the
4607 motion within ten days after receipt of the notice.

4608 (4) If a motion to the court is pending under Section 78-31a-123, 78-31a-124, or
4609 78-31a-125, the court may submit the claim to the arbitrator to consider whether to modify or
4610 correct the award:

4611 (a) on any grounds stated in Subsection 78-31a-125(1)(a) or (c);

4612 (b) if the arbitrator has not made a final and definite award upon a claim submitted by
4613 the parties to the arbitration proceeding; or

4614 (c) to clarify the award.

4615 (5) An award modified or corrected pursuant to this section is subject to Subsection
4616 78-3a-120(1)[;] and Sections 78-31a-123, 78-31a-124, and [~~71-31a-125~~] 78-31a-125.

4617 Section 114. Section **78-34-4.5** is amended to read:

4618 **78-34-4.5. Negotiation and disclosure required before voting to approve an**
4619 **eminent domain action.**

4620 Each person who seeks to acquire property by eminent domain or who intends to use
4621 eminent domain to acquire property if the property cannot be acquired in a voluntary

4622 transaction shall:

4623 (1) before taking a final vote to approve the filing of an eminent domain action, make a
4624 reasonable effort to negotiate with the property owner for the purchase of the property; and

4625 (2) as early in the negotiation process under Subsection (1) as practicable but no later
4626 than 14 days before a final vote is taken to approve the filing of an eminent domain action,
4627 unless the court for good cause allows a shorter period before filing:

4628 (a) advise the property owner of the owner's rights to mediation and arbitration under
4629 Section 78-34-21, including the name and current telephone number of the property rights
4630 ombudsman, established in [~~Section 63-34-13~~] Title 13, Chapter 43, Property Rights
4631 Ombudsman Act; and

4632 (b) provide the property owner a written statement explaining that oral representations
4633 or promises made during the negotiation process are not binding upon the person seeking to
4634 acquire the property by eminent domain.

4635 Section 115. Section **78-34-9** is amended to read:

4636 **78-34-9. Occupancy of premises pending action -- Deposit paid into court --**
4637 **Procedure for payment of compensation.**

4638 (1) (a) At any time after the commencement of suit, and after giving notice to the
4639 defendant as provided in the Utah Rules of Civil Procedure, the plaintiff may file a motion
4640 with the court requesting an order permitting the plaintiff to:

4641 (i) occupy the premises sought to be condemned pending the action, including appeal;
4642 and

4643 (ii) to do whatever work on the premises that is required.

4644 (b) Except as ordered by the court for good cause shown, a defendant may not be
4645 required to reply to a motion for immediate occupancy before expiration of the time to answer
4646 the complaint.

4647 (2) The court shall:

4648 (a) take proof by affidavit or otherwise of:

4649 (i) the value of the premises sought to be condemned;

4650 (ii) the damages that will accrue from the condemnation; and
4651 (iii) the reasons for requiring a speedy occupation; and
4652 (b) grant or refuse the motion according to the equity of the case and the relative
4653 damages that may accrue to the parties.

4654 (3) (a) If the motion is granted, the court shall enter its order requiring that the plaintiff,
4655 as a condition precedent to occupancy, file with the clerk of the court a sum equal to the
4656 condemning authority's appraised valuation of the property sought to be condemned.

4657 (b) That amount shall be for the purposes of the motion only and is not admissible in
4658 evidence on final hearing.

4659 (4) (a) Upon the filing of the petition for immediate occupancy, the court shall fix the
4660 time within which, and the terms upon which, the parties in possession are required to
4661 surrender possession to the plaintiff.

4662 (b) The court may issue orders governing encumbrances, liens, rents, assessments,
4663 insurance, and other charges, if any, as required.

4664 (5) (a) The rights of just compensation for the land taken as authorized by this section
4665 or damaged as a result of that taking vests in the parties entitled to it.

4666 (b) That compensation shall be ascertained and awarded as provided in Section
4667 78-34-10.

4668 (c) (i) Except as provided in Subsection (5)(c)(ii), judgment shall include, as part of the
4669 just compensation awarded, interest at the rate of 8% per annum on the amount finally awarded
4670 as the value of the property and damages, from the date of taking actual possession of the
4671 property by the plaintiff or from the date of the order of occupancy, whichever is earlier, to the
4672 date of judgment.

4673 (ii) The court may not award interest on the amount of the judgment that was paid into
4674 court.

4675 (6) (a) Upon the application of the parties in interest, the court shall order that the
4676 money deposited in the court be paid before judgment as an advance on the just compensation
4677 to be awarded in the proceeding.

4678 (b) This advance payment to a defendant shall be considered to be an abandonment by
4679 the defendant of all defenses except a claim for greater compensation.

4680 (c) If the compensation finally awarded exceeds the advance, the court shall enter
4681 judgment against the plaintiff for the amount of the deficiency.

4682 (d) If the advance received by the defendant is greater than the amount finally awarded,
4683 the court shall enter judgment against the defendant for the amount of the excess.

4684 (7) Arbitration of a dispute under Section 13-43-204 or 78-34-21 [~~or Section 63-34-13~~]
4685 is not a bar or cause to stay the action for occupancy of premises authorized by this section.

4686 Section 116. Section **78-34-21** is amended to read:

4687 **78-34-21. Dispute resolution.**

4688 (1) In any dispute between a condemner and a private property owner arising out of this
4689 chapter, the private property owner may submit the dispute for mediation or arbitration to the
4690 private property ombudsman under Section [~~63-34-13~~] 13-43-204.

4691 (2) An action submitted to the private property ombudsman under authority of this
4692 section does not bar or stay any action for occupancy of premises authorized by Section
4693 78-34-9.

4694 (3) (a) (i) A mediator or arbitrator, acting at the request of the property owner under
4695 Section [~~63-34-13~~] 13-43-204, has standing in an action brought in district court under this
4696 chapter to file with the court a motion to stay the action during the pendency of the mediation
4697 or arbitration.

4698 (ii) A mediator or arbitrator may not file a motion to stay under Subsection (3)(a)(i)
4699 unless the mediator or arbitrator certifies at the time of filing the motion that a stay is
4700 reasonably necessary to reach a resolution of the case through mediation or arbitration.

4701 (b) If a stay is granted pursuant to a motion under Subsection (3)(a) and the order
4702 granting the stay does not specify when the stay terminates, the mediator or arbitrator shall file
4703 with the district court a motion to terminate the stay within 30 days after:

4704 (i) the resolution of the dispute through mediation;

4705 (ii) the issuance of a final arbitration award; or

4706 (iii) a determination by the mediator or arbitrator that mediation or arbitration is not
4707 appropriate.

4708 (4) (a) The private property owner or displaced person may request that the mediator or
4709 arbitrator authorize an additional appraisal.

4710 (b) If the mediator or arbitrator determines that an additional appraisal is reasonably
4711 necessary to reach a resolution of the case, the mediator or arbitrator may:

4712 (i) have an additional appraisal of the property prepared by an independent appraiser;
4713 and

4714 (ii) require the condemnor to pay the costs of the first additional appraisal.

4715 Section 117. Section **78-39-15** is amended to read:

4716 **78-39-15. Confirmation, modification, or vacation by court -- Effect of death of**
4717 **party before judgment.**

4718 (1) The court may confirm, change, modify, or set aside the report, and if necessary,
4719 appoint new referees. Upon the report being confirmed judgment must be rendered that such
4720 partition be effectual forever, which judgment is binding and conclusive:

4721 [(+) (a) on all persons named as parties to the action, and their legal representatives,
4722 who have at the time any interest in the property divided or any part thereof, as owners in fee,
4723 or as tenants for life or for years, or as entitled to the reversion, remainder or the inheritance of
4724 such property or of any part thereof after the determination of a particular estate therein, and
4725 who by any contingency may be entitled to a beneficial interest in the property, or who have an
4726 interest in any undivided share thereof as tenants for years or for life;

4727 [(2) (b) on all persons interested in the property who may be unknown, to whom
4728 notice of the action for partition has been given by publications; and[;]

4729 [(3) (c) on all other persons claiming from such parties or persons, or either of them.

4730 [And no] (2) No judgment is invalid by reason of the death of any party before final
4731 judgment or decree; but such judgment or decree is as conclusive against the heirs, legal
4732 representatives or assigns of such decedent as if it had been entered before his death.

4733 Section 118. Section **78-45-7.5** is amended to read:

4734 **78-45-7.5. Determination of gross income -- Imputed income.**

4735 (1) As used in the guidelines, "gross income" includes prospective income from any
4736 source, including earned and nonearned income sources which may include salaries, wages,
4737 commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay,
4738 pensions, interest, trust income, alimony from previous marriages, annuities, capital gains,
4739 Social Security benefits, workers' compensation benefits, unemployment compensation,
4740 income replacement disability insurance benefits, and payments from "nonmeans-tested"
4741 government programs.

4742 (2) Income from earned income sources is limited to the equivalent of one full-time
4743 40-hour job. If and only if during the time prior to the original support order, the parent
4744 normally and consistently worked more than 40 hours at his job, the court may consider this
4745 extra time as a pattern in calculating the parent's ability to provide child support.

4746 (3) Notwithstanding Subsection (1), specifically excluded from gross income are:

4747 (a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
4748 Program;

4749 (b) benefits received under a housing subsidy program, the Job Training Partnership
4750 Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food
4751 Stamps, or General Assistance; and

4752 (c) other similar means-tested welfare benefits received by a parent.

4753 (4) (a) Gross income from self-employment or operation of a business shall be
4754 calculated by subtracting necessary expenses required for self-employment or business
4755 operation from gross receipts. The income and expenses from self-employment or operation of
4756 a business shall be reviewed to determine an appropriate level of gross income available to the
4757 parent to satisfy a child support award. Only those expenses necessary to allow the business to
4758 operate at a reasonable level may be deducted from gross receipts.

4759 (b) Gross income determined under this Subsection (4) may differ from the amount of
4760 business income determined for tax purposes.

4761 (5) (a) When possible, gross income should first be computed on an annual basis and

4762 then recalculated to determine the average gross monthly income.

4763 (b) Each parent shall provide verification of current income. Each parent shall provide
4764 year-to-date pay stubs or employer statements and complete copies of tax returns from at least
4765 the most recent year unless the court finds the verification is not reasonably available.

4766 Verification of income from records maintained by the Department of Workforce Services may
4767 be substituted for pay stubs, employer statements, and income tax returns.

4768 (c) Historical and current earnings shall be used to determine whether an
4769 underemployment or overemployment situation exists.

4770 (6) Gross income includes income imputed to the parent under Subsection (7).

4771 (7) (a) Income may not be imputed to a parent unless the parent stipulates to the
4772 amount imputed, the party defaults, or, in contested cases, a hearing is held and a finding made
4773 that the parent is voluntarily unemployed or underemployed.

4774 (b) If income is imputed to a parent, the income shall be based upon employment
4775 potential and probable earnings as derived from work history, occupation qualifications, and
4776 prevailing earnings for persons of similar backgrounds in the community, or the median
4777 earning for persons in the same occupation in the same geographical area as found in the
4778 statistics maintained by the Bureau of Labor Statistics.

4779 (c) If a parent has no recent work history or [~~their~~] a parent's occupation is unknown,
4780 income shall be imputed at least at the federal minimum wage for a 40-hour work week. To
4781 impute a greater income, the judge in a judicial proceeding or the presiding officer in an
4782 administrative proceeding shall enter specific findings of fact as to the evidentiary basis for the
4783 imputation.

4784 (d) Income may not be imputed if any of the following conditions exist:

4785 (i) the reasonable costs of child care for the parents' minor children approach or equal
4786 the amount of income the custodial parent can earn;

4787 (ii) a parent is physically or mentally disabled to the extent he cannot earn minimum
4788 wage;

4789 (iii) a parent is engaged in career or occupational training to establish basic job skills;

4790 or

4791 (iv) unusual emotional or physical needs of a child require the custodial parent's
4792 presence in the home.

4793 (8) (a) Gross income may not include the earnings of a minor child who is the subject
4794 of a child support award nor benefits to a minor child in the child's own right such as
4795 Supplemental Security Income.

4796 (b) Social Security benefits received by a child due to the earnings of a parent shall be
4797 credited as child support to the parent upon whose earning record it is based, by crediting the
4798 amount against the potential obligation of that parent. Other unearned income of a child may
4799 be considered as income to a parent depending upon the circumstances of each case.