

1 **REVISOR'S STATUTE**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kevin S. Garn**

5 Senate Sponsor: Sheldon L. Killpack

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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10 eliminating references to repealed provisions, making minor wording changes,  
11 updating cross references, and correcting numbering.

12 **Highlighted Provisions:**

13 This bill:

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15 eliminating references to repealed provisions, making minor wording changes,  
16 updating cross 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 **7-1-104**, as last amended by Laws of Utah 2007, Chapter 306

24 **7-1-505**, as last amended by Laws of Utah 1983, Chapter 8

25 **7-7-38**, as last amended by Laws of Utah 1994, Chapter 200

26 **9-3-403**, as last amended by Laws of Utah 2004, Chapter 18

27 **17-27a-703**, as last amended by Laws of Utah 2008, Chapter 326

28 **17D-1-106**, as enacted by Laws of Utah 2008, Chapter 360

29 **17D-1-301**, as enacted by Laws of Utah 2008, Chapter 360

- 30           **17D-2-506**, as enacted by Laws of Utah 2008, Chapter 360
- 31           **19-2-103**, as last amended by Laws of Utah 2008, Chapter 250
- 32           **19-6-302**, as last amended by Laws of Utah 2005, Chapter 200
- 33           **19-6-310**, as last amended by Laws of Utah 1995, Chapter 324
- 34           **19-8-119**, as enacted by Laws of Utah 2005, Chapter 200
- 35           **32A-1-119.5**, as enacted by Laws of Utah 2008, Chapter 317
- 36           **32A-5-107**, as last amended by Laws of Utah 2008, Chapters 266 and 391
- 37           **32A-8-101**, as last amended by Laws of Utah 2008, Chapter 391
- 38           **36-11-103**, as last amended by Laws of Utah 2008, Chapter 382
- 39           **38-8-1**, as last amended by Laws of Utah 2006, Chapter 42
- 40           **51-9-405**, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and
- 41 amended by Laws of Utah 2008, Chapter 382
- 42           **51-9-504**, as enacted by Laws of Utah 2008, Chapter 202
- 43           **53-3-102**, as last amended by Laws of Utah 2008, Chapter 322
- 44           **53-3-204**, as last amended by Laws of Utah 2008, Chapters 3, 250, and 304
- 45           **53-3-205**, as last amended by Laws of Utah 2008, Chapters 304 and 382
- 46           **53-10-208**, as last amended by Laws of Utah 2008, Chapter 3
- 47           **53-10-208.1**, as last amended by Laws of Utah 2008, Chapter 3
- 48           **53B-8a-105**, as last amended by Laws of Utah 2007, Chapter 100
- 49           **58-60-114**, as last amended by Laws of Utah 2008, Chapter 3
- 50           **58-60-509**, as last amended by Laws of Utah 2008, Chapter 3
- 51           **58-61-602**, as last amended by Laws of Utah 2008, Chapter 3
- 52           **59-2-924**, as last amended by Laws of Utah 2008, Chapters 61, 118, 231, 236, 330,
- 53 360, and 382
- 54           **61-1-2**, as last amended by Laws of Utah 1993, Chapter 158
- 55           **61-2-3**, as last amended by Laws of Utah 2008, Chapter 169
- 56           **63D-2-102**, as last amended by Laws of Utah 2008, Chapter 3
- 57           **63I-1-263**, as last amended by Laws of Utah 2008, Chapters 148, 334, 339 and

58 renumbered and amended by Laws of Utah 2008, Chapter 382  
 59 **63L-3-202**, as renumbered and amended by Laws of Utah 2008, Chapter 382  
 60 **72-9-107**, as enacted by Laws of Utah 2000, Chapter 150  
 61 **76-3-201.1**, as last amended by Laws of Utah 2003, Chapter 278  
 62 **76-9-802**, as enacted by Laws of Utah 2008, Chapter 15  
 63 **78A-6-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 64 **78A-6-1205**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 65 **78A-6-1206**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
 66 **78B-6-115**, as renumbered and amended by Laws of Utah 2008, Chapter 3

67 REPEALS:

68 **9-3-102**, as enacted by Laws of Utah 1992, Chapter 241



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

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

72 **7-1-104. Exemptions from application of title.**

73 (1) This title does not apply to:

74 (a) investment companies registered under the Investment Company Act of 1940, 15

75 U.S.C. Sec. 80a-1 et seq.;

76 (b) securities brokers and dealers registered pursuant to:

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

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

79 (c) depository or other institutions performing transaction account services, including  
 80 third party transactions, in connection with:

81 (i) the purchase and redemption of investment company shares; or

82 (ii) access to a margin or cash securities account maintained by a person identified in

83 Subsection (1)(b); or

84 (d) insurance companies selling interests in an investment company or "separate  
 85 account" and subject to regulation by the Utah Insurance Department.

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

89 (b) An investment company is not exempt from this title unless the investment  
90 company is registered with the United States Securities and Exchange Commission under the  
91 Investment Company Act of 1940, 15 U.S.C. Sec. 80a-1 et seq., and is advised by an  
92 investment [~~advisor~~] adviser:

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

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

97 Section 2. Section **7-1-505** is amended to read:

98 **7-1-505. Rules and regulations governing persons or institutions not regulated**  
99 **under other chapters of title.**

100 With respect to any person or institution or class of institutions subject to the  
101 jurisdiction of the department under this [~~article~~] part and not regulated or supervised under  
102 any other chapter of this title, the commissioner shall issue appropriate rules and regulations  
103 consistent with the purposes and provisions of this title governing the regulation, supervision,  
104 and examination of those persons, institutions, or classes of institutions.

105 Section 3. Section **7-7-38** is amended to read:

106 **7-7-38. Reports and examinations required -- Access to records.**

107 Every association shall file such reports and be subject to such examinations as may be  
108 required by the commissioner under the provisions of Title 7, Chapter 1, [~~Article 3~~] Part 3,  
109 Powers and Duties of Commissioner of Financial Institutions. In lieu of any examination  
110 required under that article, the commissioner may accept any examination made by the Office  
111 of Thrift Supervision, the Federal Deposit Insurance Corporation, or their successor federal  
112 agencies, or an association's supervisory authority of another state. The commissioner, the  
113 supervisor, or their examiners or auditors shall have free access to all books and papers of an

114 association, savings and loan holding company or any subsidiary thereof, the principal office  
115 of which is located in this state.

116 Section 4. Section **9-3-403** is amended to read:

117 **9-3-403. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**  
118 **expenses.**

119 (1) There is created an independent state agency and a body politic and corporate  
120 known as the "Utah Science Center Authority."

121 (2) (a) The authority shall be composed of 13 members.

122 (b) The governor shall appoint:

123 (i) three members representing the informal science and arts community that could  
124 include members from the board of directors of the Hansen Planetarium, the Hogle Zoo, the  
125 Children's Museum of Utah, the Utah Museum of Natural History, and other related museums,  
126 centers, and agencies;

127 (ii) one member of the State Board of Education;

128 (iii) one member of the Division of Housing and Community Development of the  
129 Department of Community and Culture;

130 (iv) one member of the Board of [~~Travel~~] Tourism Development;

131 (v) one member of the State Board of Regents; and

132 (vi) three public members representing Utah industry, the diverse regions of the state,  
133 and the public at large.

134 (c) The county legislative body of Salt Lake County shall appoint one member to  
135 represent Salt Lake County.

136 (d) The mayor of Salt Lake City shall appoint one member to represent Salt Lake City  
137 Corporation.

138 (e) The State Science Advisor or the advisor's designee is also a member of the  
139 authority.

140 (f) In appointing the three public members, the governor shall ensure that there is  
141 representation from the science, technology, and business communities.

142 (3) All members shall be residents of Utah.

143 (4) Each member shall be appointed for four-year terms beginning July 1 of the year  
144 appointed.

145 (5) (a) Except as required by Subsection (5)(b), as terms of current authority members  
146 expire, the governor shall appoint each new member or reappointed member to a four-year  
147 term.

148 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
149 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
150 authority members are staggered so that approximately half of the authority is appointed every  
151 two years.

152 (6) A member may be removed from office by the governor or for cause by an  
153 affirmative vote of nine members of the authority.

154 (7) When a vacancy occurs in the membership for any reason, the replacement shall be  
155 appointed by the governor for the unexpired term.

156 (8) Each public member shall hold office for the term of his appointment and until the  
157 member's successor has been appointed and qualified.

158 (9) A public member is eligible for reappointment, but may not serve more than two  
159 full consecutive terms.

160 (10) The governor shall appoint the chair of the authority from among its members.

161 (11) The members shall elect from among their number a vice chair and other officers  
162 they may determine.

163 (12) The chair and vice chair shall be elected for two-year terms.

164 (13) The powers of the authority shall be vested in its members.

165 (14) Seven members constitute a quorum for transaction of authority business.

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

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

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

177 (c) (i) Local government members who do not receive salary, per diem, or expenses  
178 from the entity that they represent for their service may receive per diem and expenses  
179 incurred in the performance of their official duties at the rates established by the Division of  
180 Finance under Sections 63A-3-106 and 63A-3-107.

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

183 (d) (i) Higher education members who do not receive salary, per diem, or expenses  
184 from the entity that they represent for their service may receive per diem and expenses  
185 incurred in the performance of their official duties from the committee at the rates established  
186 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

187 (ii) Higher education members may decline to receive per diem and expenses for their  
188 service.

189 Section 5. Section **17-27a-703** is amended to read:

190 **17-27a-703. Appealing a land use authority's decision -- Panel of experts for**  
191 **appeals of geologic hazard decisions.**

192 (1) The applicant, a board or officer of the county, or any person adversely affected by  
193 the land use authority's decision administering or interpreting a land use ordinance may,  
194 within the time period provided by ordinance, appeal that decision to the appeal authority by  
195 alleging that there is error in any order, requirement, decision, or determination made by the  
196 land use authority in the administration or interpretation of the land use ordinance.

197 (2) (a) An applicant who has appealed a decision of the land use authority

198 administering or interpreting the county's geologic hazard ordinance may request the county to  
199 assemble a panel of qualified experts to serve as the appeal authority for purposes of  
200 determining the technical aspects of the appeal.

201 (b) If an applicant makes a request under Subsection (2)(a), the county shall assemble  
202 the panel described in Subsection (2)(a) consisting of, unless otherwise agreed by the applicant  
203 and county:

- 204 (i) one expert designated by the county;
- 205 (ii) one expert designated by the applicant; and
- 206 (iii) one expert chosen jointly by the county's designated expert and the applicant's  
207 designated expert.

208 (c) A member of the panel assembled by the county under Subsection (2)(b) may not  
209 be associated with the application that is the subject of the appeal.

210 (d) The applicant shall pay:

- 211 (i) 1/2 of the cost of the panel; and
- 212 (ii) the ~~[municipality's]~~ county's published appeal fee.

213 Section 6. Section **17D-1-106** is amended to read:

214 **17D-1-106. Special service districts subject to other provisions.**

215 (1) A special service district is, to the same extent as if it were a local district, subject  
216 to and governed by:

217 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-109, 17B-1-110, 17B-1-111,  
218 17B-1-112, 17B-1-113, and 17B-1-116;

219 (b) Sections 17B-1-304, 17B-1-305, 17B-1-306, 17B-1-307, 17B-1-310, 17B-1-312,  
220 and 17B-1-313;

221 (c) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

222 (d) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

223 (e) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

224 (f) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

225 (2) For purposes of applying the provisions listed in Subsection (1) to a special service

226 district, each reference in those provisions to the local district board of trustees means the  
227 governing [authority] body.

228 Section 7. Section **17D-1-301** is amended to read:

229 **17D-1-301. Governance of a special service district -- Authority to create and**  
230 **delegate authority to an administrative control board -- Limitations on authority to**  
231 **delegate.**

232 (1) Each special service district shall be governed by the legislative body of the county  
233 or municipality that creates the special service district, subject to any delegation under this  
234 section of a right, power, or authority to an administrative control board.

235 (2) At the time a special service district is created or at any time thereafter, the  
236 legislative body of a county or municipality that creates a special service district may, by  
237 resolution or ordinance:

- 238 (a) create an administrative control board for the special service district; and
- 239 (b) subject to Subsection (3), delegate to the administrative control board the exercise  
240 of any right, power, or authority that the legislative body possesses with respect to the  
241 governance of the special service district.

242 (3) A county or municipal legislative body may not delegate to an administrative  
243 control board of a special service district the power to:

- 244 (a) annex an area to an existing special service district or add a service within the area  
245 of an existing special service district under Part 4, Annexing a New Area and Adding a New  
246 Service;
- 247 (b) designate, under Section 17D-1-107, the classes of special service district contracts  
248 that are subject to Title 11, Chapter 39, Building Improvements and Public Works Projects;
- 249 (c) levy a tax on the taxable property within the special service district;
- 250 (d) issue special service district bonds payable from taxes;
- 251 (e) call or hold an election for the authorization of a property tax or the issuance of  
252 bonds;
- 253 (f) levy an assessment;

254 (g) issue interim warrants or bonds payable from an assessment; or

255 (h) appoint a board of equalization under Section [~~11-42-404~~] 11-42-403.

256 (4) (a) A county or municipal legislative body that has delegated a right, power, or  
257 authority under this section to an administrative control board may at any time modify, limit,  
258 or revoke any right, power, or authority delegated to the administrative control board.

259 (b) A modification, limitation, or revocation under Subsection (4)(a) does not affect  
260 the validity of an action taken by an administrative control board before the modification,  
261 limitation, or revocation.

262 Section 8. Section **17D-2-506** is amended to read:

263 **17D-2-506. Other entities not responsible for local building authority bonds or**  
264 **breach of mortgage and other obligations.**

265 (1) Nothing in this part may be construed to require:

266 (a) the state or any political subdivision of the state to pay a bond issued under this  
267 part;

268 (b) the state or, except the creating local entity, any political subdivision of the state to  
269 pay any rent or lease payment due to a local building authority under the terms of a lease  
270 agreement; or

271 (c) the creating local entity to appropriate money to pay:

272 (i) principal of or interest on bonds issued by a local building authority; or

273 (ii) the lease payments under a lease agreement with the local building authority.

274 (2) A breach of a mortgage or a covenant or agreement in a mortgage may not impose  
275 a general obligation or liability upon or a charge against:

276 (a) the creating local entity; or

277 (b) the general credit or taxing power of the state or any political subdivision of the  
278 state.

279 Section 9. Section **19-2-103** is amended to read:

280 **19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per**  
281 **diem and expenses.**

282 (1) The board comprises 11 members, one of whom shall be the executive director and  
283 ten of whom shall be appointed by the governor with the consent of the Senate.

284 (2) The members shall be knowledgeable of air pollution matters and shall be:

285 (a) a practicing physician and surgeon licensed in the state not connected with  
286 industry;

287 (b) a registered professional engineer who is not from industry;

288 (c) a representative from municipal government;

289 (d) a representative from county government;

290 (e) a representative from agriculture;

291 (f) a representative from the mining industry;

292 (g) a representative from manufacturing;

293 (h) a representative from the fuel industry; and

294 (i) two representatives of the public not representing or connected with industry, at  
295 least one of whom represents organized environmental interests.

296 (3) No more than five of the appointed members shall belong to the same political  
297 party.

298 (4) The majority of the members may not derive any significant portion of their  
299 income from persons subject to permits or orders under this chapter. Any potential conflict of  
300 interest of any member or the executive secretary, relevant to the interests of the board, shall  
301 be adequately disclosed.

302 (5) Members serving on the Air Conservation Committee created by Laws of Utah  
303 1981, Chapter 126, as amended, shall serve as members of the board throughout the terms for  
304 which they were appointed.

305 (6) (a) Except as required by Subsection (6)(b), members shall be appointed for a term  
306 of four years.

307 (b) Notwithstanding the requirements of Subsection (6)(a), the governor shall, at the  
308 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
309 board members are staggered so that approximately half of the board is appointed every two

310 years.

311 (7) A member may serve more than one term.

312 (8) A member shall hold office until the expiration of [~~their terms~~] the member's term  
313 and until [~~their successors are~~] the member's successor is appointed, but not more than 90 days  
314 after the expiration of [~~their terms~~] the member's term.

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

317 (10) The board shall elect annually a chair and a vice chair from its members.

318 (11) (a) The board shall meet at least quarterly, and special meetings may be called by  
319 the chair upon his own initiative, upon the request of the executive secretary, or upon the  
320 request of three members of the board.

321 (b) Three days' notice shall be given to each member of the board prior to any  
322 meeting.

323 (12) Six members constitute a quorum at any meeting, and the action of a majority of  
324 members present is the action of the board.

325 (13) (a) (i) A member who is not a government employee shall receive no  
326 compensation or benefits for the member's services, but may receive per diem and expenses  
327 incurred in the performance of the member's official duties at the rates established by the  
328 Division of Finance under Sections 63A-3-106 and 63A-3-107.

329 (ii) A member may decline to receive per diem and expenses for the member's service.

330 (b) (i) A state government officer and employee member who does not receive salary,  
331 per diem, or expenses from the agency the member represents for the member's service may  
332 receive per diem and expenses incurred in the performance of the member's official duties  
333 from the board at the rates established by the Division of Finance under Sections 63A-3-106  
334 and 63A-3-107.

335 (ii) A state government officer and employee member may decline to receive per diem  
336 and expenses for the member's service.

337 (c) (i) A local government member who does not receive salary, per diem, or expenses

338 from the entity that the member represents for the member's service may receive per diem and  
339 expenses incurred in the performance of the member's official duties at the rates established by  
340 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

341 (ii) A local government member may decline to receive per diem and expenses for the  
342 member's service.

343 Section 10. Section **19-6-302** is amended to read:

344 **19-6-302. Definitions.**

345 As used in this part:

346 (1) (a) "Abatement action" means to take steps or contract with someone to take steps  
347 to eliminate or mitigate the direct or immediate threat to the public health or the environment  
348 caused by a hazardous materials release.

349 (b) "Abatement action" includes control of the source of the contamination.

350 (2) "Bona fide prospective purchaser" has the meaning given in 42 U.S.C. Sec.  
351 9601(40) of CERCLA, but with the substitution of "executive director" for "President" and  
352 "part" for "chapter," and including "hazardous materials" where the term "hazardous  
353 substances" appears.

354 (3) "CERCLA" means 42 U.S.C. 9601 et seq., the Comprehensive Environmental  
355 Response, Compensation, and Liability Act.

356 (4) "Cleanup action" means action taken according to the procedures established in  
357 this part to prevent, eliminate, minimize, mitigate, or clean up the release of a hazardous  
358 material from a facility.

359 (5) "Contiguous property owner" means a person who qualifies for the exemption from  
360 liability in 42 U.S.C. Sec. 9607(q)(1) of CERCLA, but with the substitution of "executive  
361 director" for "President" and "part" for "chapter[<sup>2</sup>]."

362 (6) "Enforcement action" means the procedures contained in Section 19-6-306 to  
363 enforce orders, rules, and agreements authorized by this part.

364 (7) (a) "Facility" means:

365 (i) any building, structure, installation, equipment, pipe, or pipeline, including any

366 pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment,  
367 ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

368 (ii) any site or area where a hazardous material or substance has been deposited,  
369 stored, disposed of, or placed, or otherwise come to be located.

370 (b) "Facility" does not mean any consumer product in consumer use or any vessel.

371 (8) "Fund" means the Hazardous Substances Mitigation Fund created by Section  
372 19-6-307.

373 (9) "Hazardous materials" means hazardous waste as defined in the Utah Hazardous  
374 Waste Management Regulations, PCBs, dioxin, asbestos, or a substance regulated under 42  
375 U.S.C.[;] Section 6991[~~(2)~~](7).

376 (10) "Hazardous substances" means the definition of hazardous substances contained  
377 in CERCLA.

378 (11) "Hazardous substances priority list" means a list of facilities meeting the criteria  
379 established by Section 19-6-311 that may be addressed under the authority of this part.

380 (12) "Innocent landowner" means a person who qualifies for the exemption from  
381 liability in 42 U.S.C. Sec. 9607(b)(3) of CERCLA.

382 (13) "National Contingency Plan" means the National Oil and Hazardous Substance  
383 Contingency plan established by CERCLA.

384 (14) "National Priority List" means the list established by CERCLA.

385 (15) "National priority list site" means a site in Utah that is listed on the National  
386 Priority List.

387 (16) "Proposed national priority list site" means a site in Utah that has been proposed  
388 by the Environmental Protection Agency for listing on the National Priority List.

389 (17) (a) "Release" means a spilling, leaking, pumping, pouring, emitting, emptying,  
390 discharging, injecting, escaping, leaching, dumping, or disposing of substances into the  
391 environment that is not authorized under state or federal law, rule, or regulation.

392 (b) "Release" includes abandoning or discarding barrels, containers, and other closed  
393 receptacles containing any hazardous material or substance, unless the discard or

394 abandonment is authorized under state or federal law, rule, or regulation.

395 (18) "Remedial action" means action taken consistent with the substantive  
396 requirements of CERCLA according to the procedures established by this part to prevent,  
397 eliminate, minimize, mitigate, or clean up the release of a hazardous substance from a facility  
398 on the hazardous substances priority list.

399 (19) "Remedial action plan" means a plan for remedial action consistent with the  
400 substantive requirements of CERCLA and approved by the executive director.

401 (20) "Remedial investigation" means a remedial investigation and feasibility study as  
402 defined in the National Contingency Plan established by CERCLA.

403 (21) (a) "Responsible party" means:

404 (i) the owner or operator of a facility;

405 (ii) any person who, at the time any hazardous substance or material was disposed of  
406 at the facility, owned or operated the facility;

407 (iii) any person who arranged for disposal or treatment, or arranged with a transporter  
408 for transport, for disposal, or treatment of hazardous materials or substances owned or  
409 possessed by the person, at any facility owned or operated by another person and containing  
410 the hazardous materials or substances; or

411 (iv) any person who accepts or accepted any hazardous materials or substances for  
412 transport to a facility selected by that person from which there is a release that causes the  
413 incurrence of response costs.

414 (b) For hazardous materials or substances that were delivered by a motor carrier to  
415 any facility, "responsible party" does not include the motor carrier, and the motor carrier may  
416 not be considered to have caused or contributed to any release at the facility that results from  
417 circumstances or conditions beyond its control.

418 (c) "Responsible party" under Subsections (21)(a)(i) and (ii) does not include:

419 (i) any person who does not participate in the management of a facility and who holds  
420 indicia of ownership:

421 (A) primarily to protect a security interest in a facility; or

422 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under  
423 an employee benefit plan;

424 (ii) governmental ownership or control of property by involuntary transfers as  
425 provided in CERCLA Section 101(20)(D) and 40 CFR 300.1105, National Contingency Plan;  
426 or

427 (iii) any person, including a fiduciary or custodian under Title 75, Utah Uniform  
428 Probate Code, or under an employee benefit plan who holds indicia of ownership and did not  
429 participate in the management of a facility prior to foreclosure in accordance with 42 U.S.C.  
430 Sec. 9601(20)(E)(ii) of CERCLA.

431 (d) The exemption created by Subsection (21)(c)(i)(B) does not apply to actions taken  
432 by the state or its officials or agencies under this part.

433 (e) The terms "security interest," "participate in management," "foreclose," and  
434 "foreclosure" under this part are defined in accordance with 42 U.S.C. Sec. 9601(20)(E), (F),  
435 and (G) of CERCLA.

436 (22) "Scored site" means a facility in Utah that meets the requirements of scoring  
437 established by the National Contingency Plan for placement on the National Priority List.

438 Section 11. Section **19-6-310** is amended to read:

439 **19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.**

440 (1) The executive director may recover only the proportionate share of costs of any  
441 investigation and abatement performed under Section 19-6-309 and this section from each  
442 responsible party, as provided in this section.

443 (2) (a) In apportioning responsibility for the investigation and abatement, or liability  
444 for the costs of the investigation and abatement, in any administrative proceeding or judicial  
445 action, the following standards apply:

446 (i) liability shall be apportioned in proportion to each responsible party's respective  
447 contribution to the release; and

448 (ii) the apportionment of liability shall be based on equitable factors, including the  
449 quantity, mobility, persistence, and toxicity of hazardous materials contributed by a

450 responsible party, and the comparative behavior of a responsible party in contributing to the  
451 release, relative to other responsible parties.

452 (b) Liability may not be apportioned against a current or previous owner or operator  
453 who acquired or became the operator of the facility before March 18, 1985, who may  
454 otherwise be a responsible party but who did not know that any hazardous material which is  
455 the subject of a release was on, in, or at the facility prior to acquisition or operation of the  
456 facility, and the release is not the result of an act or omission of the current or previous owner  
457 or operator.

458 (c) Liability may not be apportioned against a current or previous owner or operator  
459 who acquired or became the operator of the facility on or after March 18, 1985, who may  
460 otherwise be a responsible party but who did not know and had no reason to know, after  
461 having taken all appropriate inquiry into the previous ownership and uses of the facility,  
462 consistent with good commercial or customary practice at the time of the purchase, that any  
463 hazardous material which is the subject of a release was on, in, or at the facility prior to  
464 acquisition or operation of the facility, and the release is not the result of an act or omission of  
465 the current or previous owner or operator.

466 (d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be  
467 considered to have contributed to the release and may be liable for a proportionate share of  
468 costs as provided under this section either by affirmatively causing a release or by failing to  
469 take action to prevent or abate a release which has originated at or from the facility. A person  
470 whose property is contaminated by migration from an offsite release is not considered to have  
471 contributed to the release unless the person takes actions which exacerbate the release.

472 (e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person  
473 who is not considered to have contributed to a release under Subsection (2)(d) is not  
474 considered to have contributed to a release solely by failing to take abatement or remedial  
475 action pursuant to an administrative order.

476 (f) (i) The burden of proving proportionate contribution shall be borne by each  
477 responsible party.

478 (ii) If a responsible party does not prove his proportionate contribution, the court or  
479 the executive director shall apportion liability to the party based solely on available evidence  
480 and the standards of Subsection (2)(a).

481 (iii) The ability of a responsible party to pay is not a factor in the apportionment of  
482 liability.

483 (g) The court may not impose joint and several liability.

484 (h) Each responsible party is strictly liable solely for his proportionate share of  
485 investigation and abatement costs.

486 (3) The failure of the executive director to name all responsible parties is not a defense  
487 to an action under this section.

488 (4) (a) Any party who incurs costs under Section 19-6-309 and this section in excess  
489 of his liability may seek contribution from any other party who is or may be liable under  
490 Section 19-6-309 and this section for the excess costs in the district court.

491 (b) In resolving claims made under Subsection (4)(a), the court shall allocate costs  
492 using the standards set forth in Subsection (2).

493 (5) (a) A party who has resolved his liability in an agreement under Section 19-6-309  
494 and this section is not liable for claims for contribution regarding matters addressed in the  
495 settlement.

496 (b) (i) An agreement does not discharge any of the liability of responsible parties who  
497 are not parties to the agreement, unless the terms of the agreement provide otherwise.

498 (ii) An agreement made under this subsection reduces the potential liability of other  
499 responsible parties by the amount of the agreement.

500 (6) (a) If the executive director obtains less than complete relief from a party who has  
501 resolved his liability in an agreement under Section 19-6-309 and this section, the executive  
502 director may bring an action against any party who has not resolved his liability in an  
503 agreement.

504 (b) In apportioning liability, the standards of Subsection (2) apply.

505 (c) A party who resolved his liability for some or all of the costs in an agreement under

506 Section 19-6-309 and this section may seek contribution from any person who is not party to  
507 an agreement under Section 19-6-309 and this section.

508 (7) (a) An agreement made under Section 19-6-309 and this section may provide that  
509 the executive director will pay for costs of actions that the parties have agreed to perform, but  
510 which the executive director has agreed to finance, under the agreement.

511 (b) If the executive director makes payments from the fund, he may recover the  
512 amount paid using the authority of Section 19-6-309 and this section or any other applicable  
513 authority.

514 (8) (a) The executive director may not recover costs of any investigation performed  
515 under the authority of Subsection [~~19-6-304~~] 19-6-309(2)(b) if the investigation does not  
516 confirm that a release presenting a direct and immediate threat to public health has occurred.

517 (b) This subsection takes precedence over any conflicting provision of this section  
518 regarding cost recovery.

519 Section 12. Section **19-8-119** is amended to read:

520 **19-8-119. Apportionment or contribution.**

521 (1) Any party who incurs costs under a voluntary agreement entered into under this  
522 part in excess of his liability may seek contribution in an action in district court from any other  
523 party who is or may be liable under Subsection 19-6-302[~~(18)~~](21) or 19-6-402(26) for the  
524 excess costs after providing written notice to any other party that the party bringing the action  
525 has entered into a voluntary agreement and will incur costs.

526 (2) In resolving claims made under Subsection (1), the court shall allocate costs using  
527 the standards in Subsection 19-6-310(2).

528 Section 13. Section **32A-1-119.5** is amended to read:

529 **32A-1-119.5. Timing of reporting violations.**

530 (1) As used in this section:

531 (a) "Department compliance officer" means an individual who is:

532 (i) an auditor or inspector; and

533 (ii) employed by the department.

534 (b) "Nondepartment enforcement agency" means an agency that:  
535 (i) (A) is a state agency other than the department; or  
536 (B) is an agency of a county, city, or town; and  
537 (ii) has a responsibility, as provided in another provision of this title, to enforce one or  
538 more provisions of this title.

539 (c) "Nondepartment enforcement officer" means an individual who is:  
540 (i) a peace officer, examiner, or investigator; and  
541 (ii) employed by an agency described in Subsection (1)(b).  
542 (2) A disciplinary proceeding may not be initiated or maintained by the commission or  
543 department on the basis, in whole or in part, of a violation of this title unless a person listed in  
544 Subsections 32A-1-105[~~(15)~~](17)(a)(i) through (vi) against whom the violation is alleged is  
545 notified by the department of the violation in accordance with this section.

546 (3) (a) A nondepartment enforcement agency or nondepartment enforcement officer  
547 may not report a violation of this title to the department more than eight business days after  
548 the day on which a nondepartment enforcement officer or agency completes an investigation  
549 that finds a violation of this title.

550 (b) If the commission or department wants the right to initiate or maintain a  
551 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged in a  
552 report described in Subsection (3)(a), the department shall notify a person listed in  
553 Subsections 32A-1-105[~~(15)~~](17)(a)(i) through (vi) alleged by the report to have violated this  
554 title:

555 (i) by no later than eight business days of the day on which the department receives  
556 the report described in Subsection (3)(a); and  
557 (ii) that the commission or department may initiate or maintain a disciplinary  
558 proceeding on the basis, in whole or in part, of the violation.

559 (4) If the commission or department wants the right to initiate or maintain a  
560 disciplinary proceeding on the basis, in whole or in part, of a violation of this title alleged by  
561 report of a department compliance officer, the department shall notify a person listed in

562 Subsections 32A-1-105[~~(15)~~](17)(a)(i) through (vi) alleged by the report to have violated this  
563 title:

564 (a) by no later than eight business days of the day on which the department  
565 compliance officer completes an investigation that finds a violation of this title; and

566 (b) that the commission or department may initiate or maintain a disciplinary  
567 proceeding on the basis, in whole or in part, of the violation.

568 (5) The notice described in Subsection (2), (3)(b), or (4) is not required with respect to  
569 a person listed in Subsection 32A-1-105[~~(15)~~](17)(a)(vii).

570 (6) (a) A notice required by Subsection (2), (3)(b), or (4) may be done orally, if after  
571 the oral notification the department provides written notification.

572 (b) The written notification described in Subsection (6)(a) may be sent outside the  
573 time periods required by this section.

574 (7) The department shall maintain a record of a notification required by Subsection  
575 (2), (3)(b), or (4) that includes:

576 (a) the name of the person notified; and

577 (b) the date of the notification.

578 Section 14. Section **32A-5-107** is amended to read:

579 **32A-5-107. Operational restrictions.**

580 A club granted a private club license and the employees, management personnel, and  
581 members of the club shall comply with the following conditions and requirements. Failure to  
582 comply may result in a suspension or revocation of the private club license or other  
583 disciplinary action taken against individual employees or management personnel.

584 (1) A private club shall have a governing body that:

585 (a) consists of three or more members of the private club; and

586 (b) holds regular meetings to:

587 (i) review membership applications; and

588 (ii) conduct other business as required by the bylaws or house rules of the private club.

589 (2) (a) A private club may admit an individual as a member only on written application

590 signed by the applicant, subject to:

591 (i) the applicant paying an application fee as required by Subsection (4); and

592 (ii) investigation, vote, and approval of a quorum of the governing body.

593 (b) (i) An admission of a member shall be recorded in the official minutes of a regular  
594 meeting of the governing body.

595 (ii) An application, whether approved or disapproved, shall be filed as a part of the  
596 official records of the private club licensee.

597 (c) Notwithstanding Subsection (2)(a), a private club, in its discretion, may admit an  
598 applicant and immediately accord the applicant temporary privileges of a member until the  
599 governing body completes its investigation and votes on the application, subject to the  
600 following conditions:

601 (i) the applicant shall:

602 (A) submit a written application; and

603 (B) pay the application fee required by Subsection (4);

604 (ii) the governing body votes on the application at its next meeting, which shall take  
605 place no later than 31 days following the day on which the application is submitted; and

606 (iii) the applicant's temporary membership privileges terminate if the governing body  
607 disapproves the application.

608 (d) The spouse of a member of any class of private club has the rights and privileges  
609 of the member:

610 (i) to the extent permitted by the bylaws or house rules of the private club; and

611 (ii) except to the extent restricted by this title.

612 (e) The minor child of a member of a class A private club has the rights and privileges  
613 of the member:

614 (i) to the extent permitted by the bylaws or house rules of the private club; and

615 (ii) except to the extent restricted by this title.

616 (3) (a) A private club shall maintain a current and complete membership record  
617 showing:

- 618 (i) the date of application of a proposed member;
- 619 (ii) a member's address;
- 620 (iii) the date the governing body approved a member's admission;
- 621 (iv) the date initiation fees and dues are assessed and paid; and
- 622 (v) the serial number of the membership card issued to a member.
- 623 (b) A current record shall be kept indicating when a member is dropped or resigns.
- 624 (4) (a) A private club shall establish in the private club bylaws or house rules
- 625 application fees and membership dues:
  - 626 (i) as established by commission rules; and
  - 627 (ii) that are collected from all members.
- 628 (b) An application fee:
  - 629 (i) may not be less than \$4;
  - 630 (ii) shall be paid when the applicant applies for membership; and
  - 631 (iii) at the discretion of the private club, may be credited toward membership dues if
  - 632 the governing body approves the applicant as a member.
- 633 (5) (a) A private club may, in its discretion, allow an individual to be admitted to or
- 634 use the private club premises as a guest only under the following conditions:
  - 635 (i) a guest must be previously authorized by one of the following who agrees to host the
  - 636 guest into the private club:
    - 637 (A) an active member of the private club; or
    - 638 (B) a holder of a current visitor card;
  - 639 (ii) a guest must be known by the guest's host based on a preexisting bonafide business
  - 640 or personal relationship with the host before the guest's admittance to the private club;
  - 641 (iii) a guest must be accompanied by the guest's host for the duration of the guest's visit
  - 642 to the private club;
  - 643 (iv) a guest's host must remain on the private club premises for the duration of the
  - 644 guest's visit to the private club;
  - 645 (v) a guest's host is responsible for the cost of services extended to the guest;

646 (vi) a guest has only those privileges derived from the guest's host for the duration of  
647 the guest's visit to the private club;

648 (vii) an employee of the private club, while on duty, may not act as a host for a guest;

649 (viii) an employee of the private club, while on duty, may not attempt to locate a  
650 member or current visitor card holder to serve as a host for a guest with whom the member or  
651 visitor card holder has no acquaintance based on a preexisting bonafide business or personal  
652 relationship prior to the guest's arrival at the private club; and

653 (ix) a private club or an employee of the private club may not enter into an agreement  
654 or arrangement with a club member or holder of a current visitor card to indiscriminately host  
655 a member of the general public into the private club as a guest.

656 (b) Notwithstanding Subsection (5)(a), previous authorization is not required if:

657 (i) the private club licensee is a class B private club; and

658 (ii) the guest is a member of the same fraternal organization as the private club  
659 licensee.

660 (6) A private club may, in its discretion, issue a visitor card to allow an individual to  
661 enter and use the private club premises on a temporary basis under the following conditions:

662 (a) a visitor card shall be issued for a period not to exceed three weeks;

663 (b) a fee of not less than \$4 shall be assessed for a visitor card that is issued;

664 (c) a visitor card may not be issued to a minor;

665 (d) a holder of a visitor card may not host more than seven guests at one time;

666 (e) a visitor card issued shall include:

667 (i) the visitor's full name and signature;

668 (ii) the date the visitor card is issued;

669 (iii) the date the visitor card expires;

670 (iv) the club's name; and

671 (v) the serial number of the visitor card; and

672 (f) (i) the private club shall maintain a current record of the issuance of a visitor card  
673 on the private club premises; and

- 674 (ii) the record described in Subsection (6)(f)(i) shall:
- 675 (A) be available for inspection by the department; and
- 676 (B) include:
  - 677 (I) the name of the person to whom the visitor card is issued;
  - 678 (II) the date the visitor card is issued;
  - 679 (III) the date the visitor card expires; and
  - 680 (IV) the serial number of the visitor card.
- 681 (7) A private club may not sell an alcoholic beverage to or allow a patron to be
- 682 admitted to or use the private club premises other than:
  - 683 (a) a member;
  - 684 (b) a visitor who holds a valid visitor card issued under Subsection (6); or
  - 685 (c) a guest of:
    - 686 (i) a member; or
    - 687 (ii) a holder of a valid visitor card.
  - 688 (8) (a) A minor may not be:
    - 689 (i) a member, officer, director, or trustee of a private club;
    - 690 (ii) issued a visitor card;
    - 691 (iii) admitted into, use, or be on the premises of a lounge or bar area, as defined by
    - 692 commission rule, of a private club except to the extent authorized under Subsection (8)(c)(ii);
    - 693 (iv) admitted into, use, or be on the premises of a class D private club:
      - 694 (A) that operates as a sexually oriented business as defined by local ordinance; or
      - 695 (B) when a sexually oriented entertainer is performing on the premises; or
      - 696 (v) admitted into, use, or be on the premises of a class D private club except to the
      - 697 extent authorized under Subsections (8)(b) through (g).
  - 698 (b) Except as provided in Subsection (8)(a)(iv), at the discretion of a class D private
  - 699 club, a minor may be admitted into, use, or be on the premises of a class D private club under
  - 700 the following circumstances:
    - 701 (i) during a period when no alcoholic beverages are sold, served, otherwise furnished,

702 or consumed on the premises, but in no event later than 1 p.m.;

703 (ii) when accompanied at all times by a member or holder of a current visitor card who  
704 is the minor's parent, legal guardian, or spouse; and

705 (iii) the private club has a full kitchen and is licensed by the local jurisdiction as a  
706 food service provider.

707 (c) A class D private club may employ a minor on the premises of the private club if:

708 (i) the parent or legal guardian of the minor owns or operates the class D private club;

709 or

710 (ii) the minor performs maintenance and cleaning services during the hours when the  
711 private club is not open for business.

712 (d) (i) Subject to Subsection (8)(d)(ii), a minor who is at least 18 years of age may be  
713 admitted into, use, or be on the premises of a dance or concert hall if:

714 (A) the dance or concert hall is located:

715 (I) on the premises of a class D private club; or

716 (II) on the property that immediately adjoins the premises of and is operated by a class  
717 D private club; and

718 (B) the commission issues the class D private club a permit to operate a minor dance  
719 or concert hall based on the criteria described in Subsection (8)(d)(iii).

720 (ii) If the dance or concert hall is located on the premises of a class D private club, a  
721 minor must be properly hosted in accordance with Subsection (5) by:

722 (A) a member; or

723 (B) a holder of a current visitor card.

724 (iii) The commission may issue a minor dance or concert hall permit if:

725 (A) the private club's lounge, bar, and alcoholic beverage consumption area is:

726 (I) not accessible to a minor;

727 (II) clearly defined; and

728 (III) separated from the dance or concert hall area by one or more walls, multiple floor  
729 levels, or other substantial physical barriers;

- 730 (B) a bar or dispensing area is not visible to a minor;
- 731 (C) consumption of an alcoholic beverage may not occur in:
- 732 (I) the dance or concert hall area; or
- 733 (II) an area of the private club accessible to a minor;
- 734 (D) the private club maintains sufficient security personnel to prevent the passing of
- 735 beverages from the private club's lounge, bar, or an alcoholic beverage consumption area to:
- 736 (I) the dance or concert hall area; or
- 737 (II) an area of the private club accessible to a minor;
- 738 (E) there are one or more separate entrances, exits, and restroom facilities from the
- 739 private club's lounge, bar, and alcoholic beverage consumption areas than for:
- 740 (I) the dance or concert hall area; or
- 741 (II) an area accessible to a minor; and
- 742 (F) the private club complies with any other restrictions imposed by the commission
- 743 by rule.
- 744 (e) A minor under 18 years of age who is accompanied at all times by a parent or legal
- 745 guardian who is a member or holder of a current visitor card may be admitted into, use, or be
- 746 on the premises of a concert hall described in Subsection (8)(d)(i) if:
- 747 (i) the requirements of Subsection (8)(d) are met; and
- 748 (ii) signage, product, and dispensing equipment containing recognition of an alcoholic
- 749 beverage is not visible to the minor.
- 750 (f) A minor under 18 years of age but who is 14 years of age or older who is not
- 751 accompanied by a parent or legal guardian may be admitted into, use, or be on the premises of
- 752 a concert hall described in Subsection (8)(d)(i) if:
- 753 (i) the requirements of Subsections (8)(d) and (8)(e)(ii) are met; and
- 754 (ii) there is no alcoholic beverage, sales, service, or consumption on the premises of
- 755 the class D private club.
- 756 (g) The commission may suspend or revoke a minor dance or concert permit issued to
- 757 a class D private club and suspend or revoke the license of the class D private club if:

- 758 (i) the private club fails to comply with the restrictions in Subsection (8)(d), (e), or (f);
- 759 (ii) the private club sells, serves, or otherwise furnishes an alcoholic beverage to a
- 760 minor;
- 761 (iii) the private club licensee or a supervisory or managerial level employee of the
- 762 private club licensee is convicted under Title 58, Chapter 37, Utah Controlled Substances Act,
- 763 on the basis of an activity that occurs on:
- 764 (A) the licensed premises; or
- 765 (B) the dance or concert hall that is located on property that immediately adjoins the
- 766 premises of and is operated by the class D private club;
- 767 (iv) there are three or more convictions of patrons of the private club under Title 58,
- 768 Chapter 37, Utah Controlled Substances Act, based on activities that occur on:
- 769 (A) the licensed premises; or
- 770 (B) the dance or concert hall that is located on property that immediately adjoins the
- 771 premises of and is operated by the class D private club;
- 772 (v) there is more than one conviction:
- 773 (A) of:
- 774 (I) the private club licensee;
- 775 (II) an employee of the private club licensee;
- 776 (III) an entertainer contracted by the private club licensee; or
- 777 (IV) a patron of the private club licensee; and
- 778 (B) made on the basis of a lewd act or lewd entertainment prohibited by this title that
- 779 occurs on:
- 780 (I) the licensed premises; or
- 781 (II) the dance or concert hall that is located on property that immediately adjoins the
- 782 premises of and is operated by the class D private club; or
- 783 (vi) the commission finds acts or conduct contrary to the public welfare and morals
- 784 involving lewd acts or lewd entertainment prohibited by this title that occurs on:
- 785 (A) the licensed premises; or

786 (B) the dance or concert hall that is located on property that immediately adjoins the  
787 premises of and is operated by the class D private club.

788 (h) Nothing in this Subsection (8) prohibits a class D private club from selling,  
789 serving, or otherwise furnishing an alcoholic beverage in a dance or concert area located on  
790 the private club premises on days and times when the private club does not allow a minor into  
791 those areas.

792 (i) Nothing in Subsections (8)(a) through (g) precludes a local authority from being  
793 more restrictive of a minor's admittance to, use of, or presence on the premises of a private  
794 club.

795 (9) (a) A private club shall maintain an expense ledger or record showing in detail all  
796 expenditures separated by payments for:

797 (i) malt or brewed beverages;

798 (ii) liquor;

799 (iii) food;

800 (iv) detailed payroll;

801 (v) entertainment;

802 (vi) rent;

803 (vii) utilities;

804 (viii) supplies; and

805 (ix) other expenditures.

806 (b) A private club shall keep a record required by this Subsection (9):

807 (i) in a form approved by the department; and

808 (ii) balanced each month.

809 (c) An expenditure shall be supported by:

810 (i) a delivery ticket;

811 (ii) an invoice;

812 (iii) a receipted bill;

813 (iv) a canceled check;

814 (v) a petty cash voucher; or  
815 (vi) other sustaining datum or memorandum.  
816 (d) An invoice or receipted bill for the current calendar or fiscal year documenting a  
817 purchase made by the private club shall be maintained.  
818 (10) (a) A private club shall maintain a minute book that is posted currently by the  
819 private club.  
820 (b) The minute book required by this Subsection (10) shall contain the minutes of a  
821 regular or special meeting of the governing body.  
822 (c) A private club shall maintain a membership list.  
823 (11) (a) A private club shall maintain a current copy of the private club's current  
824 bylaws and current house rules.  
825 (b) A change in the bylaws or house rules:  
826 (i) is not effective unless submitted to the department within ten days after adoption;  
827 and  
828 (ii) becomes effective 15 days after received by the department unless rejected by the  
829 department before the expiration of the 15-day period.  
830 (12) A private club shall maintain accounting and other records and documents as the  
831 department may require.  
832 (13) A private club or person acting for the private club, who knowingly forges,  
833 falsifies, alters, cancels, destroys, conceals, or removes an entry in a book of account or other  
834 document of the private club licensee required to be made, maintained, or preserved by this  
835 title or the rules of the commission for the purpose of deceiving the commission, the  
836 department, or an official or employee of the commission or department, is subject to:  
837 (a) the suspension or revocation of the private club's license; and  
838 (b) possible criminal prosecution under Chapter 12, Criminal Offenses.  
839 (14) (a) A private club licensee shall maintain and keep a record required by this  
840 section and a book, record, receipt, or disbursement maintained or used by the licensee, as the  
841 department requires, for a minimum period of three years.

842 (b) A record, book, receipt, or disbursement is subject to inspection by an authorized  
843 representative of the commission and the department.

844 (c) A private club licensee shall allow the department, through an auditor or examiner  
845 of the department, to audit the records of the private club licensee at times the department  
846 considers advisable.

847 (d) The department shall audit the records of the private club licensee at least once  
848 annually.

849 (15) A private club licensee shall own or lease premises suitable for the private club's  
850 activities.

851 (16) (a) A private club licensee may not maintain facilities in a manner that barricades  
852 or conceals the private club licensee's operation.

853 (b) A member of the commission, authorized department personnel, or a peace officer  
854 shall, upon presentation of credentials, be admitted immediately to the private club and  
855 permitted without hindrance or delay to inspect completely the entire private club premises  
856 and the books and records of the private club licensee, at any time during which the private  
857 club licensee is open for the transaction of business to its members.

858 (17) Public advertising related to a private club licensee by the following shall clearly  
859 identify a private club as being "a private club for members":

860 (a) the private club licensee;

861 (b) an employee or agent of the private club licensee; or

862 (c) a person under a contract or agreement with the private club licensee.

863 (18) A private club licensee must have food available at all times when an alcoholic  
864 beverage is sold, served, or consumed on the premises.

865 (19) (a) Liquor may not be purchased by a private club licensee except from a state  
866 store or package agency.

867 (b) Liquor purchased from a state store or package agency may be transported by the  
868 private club licensee from the place of purchase to the licensed premises.

869 (c) Payment for liquor shall be made in accordance with rules established by the

870 commission.

871 (20) A private club licensee may sell or provide a primary spirituous liquor only in a  
872 quantity not to exceed 1.5 ounces per beverage dispensed through a calibrated metered  
873 dispensing system approved by the department in accordance with commission rules adopted  
874 under this title, except that:

875 (a) spirituous liquor need not be dispensed through a calibrated metered dispensing  
876 system if used as a secondary flavoring ingredient in a beverage subject to the following  
877 restrictions:

878 (i) the secondary ingredient may be dispensed only in conjunction with the purchase  
879 of a primary spirituous liquor;

880 (ii) the secondary ingredient may not be the only spirituous liquor in the beverage;

881 (iii) the private club licensee shall designate a location where flavorings are stored on  
882 the floor plan provided to the department; and

883 (iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";

884 (b) spirituous liquor need not be dispensed through a calibrated metered dispensing  
885 system if used:

886 (i) as a flavoring on a dessert; and

887 (ii) in the preparation of a flaming food dish, drink, or dessert;

888 (c) a private club patron may have no more than 2.5 ounces of spirituous liquor at a  
889 time before the private club patron[-]; and

890 (d) a private club patron may have no more than two spirituous liquor drinks at a time  
891 before the private club patron, except that a private club patron may not have two spirituous  
892 liquor drinks before the private club patron if one of the spirituous liquor drinks consists only  
893 of the primary spirituous liquor for the other spirituous liquor drink.

894 (21) (a) (i) Wine may be sold and served by the glass or an individual portion not to  
895 exceed five ounces per glass or individual portion.

896 (ii) An individual portion may be served to a patron in more than one glass as long as  
897 the total amount of wine does not exceed five ounces.

898 (iii) An individual portion of wine is considered to be one alcoholic beverage under  
899 Subsection (25)(c).

900 (b) (i) Wine may be sold and served in a container not exceeding 1.5 liters at a price  
901 fixed by the commission to a table of four or more persons.

902 (ii) Wine may be sold and served in a container not exceeding 750 milliliters at a price  
903 fixed by the commission to a table of less than four persons.

904 (c) A wine service may be performed and a service charge assessed by the private club  
905 licensee as authorized by commission rule for wine purchased at the private club.

906 (22) (a) Heavy beer may be served in an original container not exceeding one liter at a  
907 price fixed by the commission.

908 (b) A flavored malt beverage may be served in an original container not exceeding one  
909 liter at a price fixed by the commission.

910 (c) A service charge may be assessed by the private club licensee for heavy beer or a  
911 flavored malt beverage purchased at the private club.

912 (23) (a) (i) Subject to Subsection (23)(a)(ii), a private club licensee may sell beer for  
913 on-premise consumption:

914 (A) in an open container; and

915 (B) on draft.

916 (ii) Beer sold pursuant to Subsection (23)(a)(i) shall be in a size of container that does  
917 not exceed two liters, except that beer may not be sold to an individual patron in a size of  
918 container that exceeds one liter.

919 (b) (i) A private club licensee that sells beer pursuant to Subsection (23)(a):

920 (A) may do so without obtaining a separate on-premise beer retailer license from the  
921 commission; and

922 (B) shall comply with all appropriate operational restrictions under Chapter 10, Beer  
923 Retailer Licenses, that apply to an on-premise beer retailer except when those restrictions are  
924 inconsistent with or less restrictive than the operational restrictions under this chapter.

925 (ii) Failure to comply with the operational restrictions under Chapter 10, Beer Retailer

926 Licenses, required by Subsection (23)(b)(i) may result in a suspension or revocation of the  
927 private club's:

928 (A) state liquor license; and

929 (B) alcoholic beverage license issued by the local authority.

930 (24) An alcoholic beverage may not be stored, served, or sold in a place other than as  
931 designated in the private club licensee's application, unless the private club licensee first  
932 applies for and receives approval from the department for a change of location within the  
933 private club.

934 (25) (a) A patron may only make an alcoholic beverage purchase in the private club  
935 from and be served by a person employed, designated, and trained by the private club licensee  
936 to sell, dispense, and serve an alcoholic beverage.

937 (b) Notwithstanding Subsection (25)(a), a patron who purchases bottled wine from an  
938 employee of the private club licensee or carries bottled wine onto the premises of the private  
939 club pursuant to Subsection (31) may thereafter serve wine from the bottle to the patron or  
940 others at the patron's table.

941 (c) A private club patron may have no more than two alcoholic beverages of any kind  
942 at a time before the private club patron, subject to the limitation of Subsection (20)(d).

943 (26) The liquor storage area shall remain locked at all times other than those hours and  
944 days when liquor sales and service are authorized by law.

945 (27) (a) Liquor may not be sold, offered for sale, served, or otherwise furnished at a  
946 private club on any day after 1 a.m. or before 10 a.m.

947 (b) The hours of beer sales and service are those specified in Chapter 10, Beer Retailer  
948 Licenses, for on-premise beer licenses.

949 (c) (i) Notwithstanding Subsections (27)(a) and (b), a private club shall remain open  
950 for one hour after the private club ceases the sale and service of an alcoholic beverage during  
951 which time a patron of the private club may finish consuming:

952 (A) a single drink containing spirituous liquor;

953 (B) a single serving of wine not exceeding five ounces;

- 954 (C) a single serving of heavy beer;
- 955 (D) a single serving of beer not exceeding 26 ounces; or
- 956 (E) a single serving of a flavored malt beverage.
- 957 (ii) A private club is not required to remain open:
- 958 (A) after all patrons have vacated the premises; or
- 959 (B) during an emergency.
- 960 (d) Between the hours of 2 a.m. and 10 a.m. on any day a private club licensee may
- 961 not allow a patron to remain on the premises of the private club to consume an alcoholic
- 962 beverage on the premises.
- 963 (28) An alcoholic beverage may not be sold, served, or otherwise furnished to a:
- 964 (a) minor;
- 965 (b) person actually, apparently, or obviously intoxicated;
- 966 (c) known habitual drunkard; or
- 967 (d) known interdicted person.
- 968 (29) (a) (i) Liquor may be sold only at a price fixed by the commission.
- 969 (ii) Liquor may not be sold at a discount price on any date or at any time.
- 970 (b) An alcoholic beverage may not be sold at less than the cost of the alcoholic
- 971 beverage to the private club licensee.
- 972 (c) An alcoholic beverage may not be sold at a special or reduced price that
- 973 encourages over consumption or intoxication.
- 974 (d) The price of a single serving of a primary spirituous liquor shall be the same
- 975 whether served as a single drink or in conjunction with another alcoholic beverage.
- 976 (e) An alcoholic beverage may not be sold at a special or reduced price for only certain
- 977 hours of the private club's business day such as a "happy hour."
- 978 (f) More than one alcoholic beverage may not be sold or served for the price of a single
- 979 alcoholic beverage.
- 980 (g) An indefinite or unlimited number of alcoholic beverages may not be sold or served
- 981 during a set period for a fixed price.

982 (h) A private club licensee may not engage in a promotion involving or offering free  
983 alcoholic beverages to patrons of the private club.

984 (30) An alcoholic beverage may not be purchased for a patron of the private club  
985 licensee by:

986 (a) the private club licensee; or

987 (b) an employee or agent of the private club licensee.

988 (31) (a) A person may not bring onto the premises of a private club licensee an  
989 alcoholic beverage for on-premise consumption, except a person may bring, subject to the  
990 discretion of the licensee, bottled wine onto the premises of a private club licensee for  
991 on-premise consumption.

992 (b) Except bottled wine under Subsection (31)(a), a private club licensee or an officer,  
993 manager, employee, or agent of a private club licensee may not allow:

994 (i) a person to bring onto the private club premises an alcoholic beverage for  
995 consumption on the private club premises; or

996 (ii) consumption of an alcoholic beverage described in Subsection (31)(b)(i) on the  
997 premises of the private club.

998 (c) If bottled wine is carried in by a patron, the patron shall deliver the wine to a server  
999 or other representative of the private club licensee upon entering the private club.

1000 (d) A wine service may be performed and a service charge assessed by the private club  
1001 licensee as authorized by commission rule for wine carried in by a patron.

1002 (32) (a) Except as provided in Subsection (32)(b), a private club licensee or an  
1003 employee of the private club licensee may not permit a patron of the private club to carry from  
1004 the private club premises an open container that:

1005 (i) is used primarily for drinking purposes; and

1006 (ii) contains an alcoholic beverage.

1007 (b) A patron may remove the unconsumed contents of a bottle of wine if before  
1008 removal, the bottle is recorked or recapped.

1009 (33) (a) A minor may not be employed by a class A, B, or C private club licensee to

1010 sell, dispense, or handle an alcoholic beverage.

1011 (b) Notwithstanding Subsection (33)(a), a minor who is at least 16 years of age may be  
1012 employed by a class A or C private club licensee to enter the sale at a cash register or other  
1013 sales recording device.

1014 (c) Except to the extent authorized in Subsection (8)(c), a minor may not be employed  
1015 by or be on the premises of a class D private club.

1016 (d) A minor may not be employed to work in a lounge or bar area of a class A, B, or C  
1017 private club licensee.

1018 (34) An employee of a private club licensee, while on duty, may not:

1019 (a) consume an alcoholic beverage; or

1020 (b) be intoxicated.

1021 (35) A private club licensee shall have available on the premises for a patron to review  
1022 at the time that the [~~customer~~] patron requests it, a written alcoholic beverage price list or a  
1023 menu containing the price of an alcoholic beverage sold or served by the private club licensee  
1024 including:

1025 (a) a set-up charge;

1026 (b) a service charge; or

1027 (c) a chilling fee.

1028 (36) A private club licensee shall display in a prominent place in the private club:

1029 (a) the private club license that is issued by the department;

1030 (b) a list of the types and brand names of liquor being served through its calibrated  
1031 metered dispensing system; and

1032 (c) a sign in large letters stating: "Warning: Driving under the influence of alcohol or  
1033 drugs is a serious crime that is prosecuted aggressively in Utah."

1034 (37) A private club licensee may not on the premises of the private club:

1035 (a) engage in or permit any form of gambling, as defined and proscribed in Title 76,  
1036 Chapter 10, Part 11, Gambling;

1037 (b) have any video gaming device, as defined and proscribed in Title 76, Chapter 10,

1038 Part 11, Gambling; or

1039 (c) engage in or permit a contest, game, gaming scheme, or gaming device that  
1040 requires the risking of something of value for a return or for an outcome when the return or  
1041 outcome is based upon an element of chance, excluding the playing of an amusement device  
1042 that confers only an immediate and unrecorded right of replay not exchangeable for value.

1043 (38) (a) A private club licensee may not close or cease operation for a period longer  
1044 than 240 hours, unless:

1045 (i) the private club licensee notifies the department in writing at least seven days  
1046 before the day on which the private club licensee closes or ceases operation; and

1047 (ii) the closure or cessation of operation is first approved by the department.

1048 (b) Notwithstanding Subsection (38)(a), in the case of emergency closure, the private  
1049 club licensee shall immediately notify the department by telephone.

1050 (c) (i) The department may authorize a closure or cessation of operation for a period  
1051 not to exceed 60 days.

1052 (ii) The department may extend the initial period an additional 30 days upon:

1053 (A) written request of the private club; and

1054 (B) a showing of good cause.

1055 (iii) A closure or cessation of operation may not exceed a total of 90 days without  
1056 commission approval.

1057 (d) The notice required by Subsection (38)(a) shall include:

1058 (i) the dates of closure or cessation of operation;

1059 (ii) the reason for the closure or cessation of operation; and

1060 (iii) the date on which the private club licensee will reopen or resume operation.

1061 (e) Failure of the private club licensee to provide notice and to obtain department  
1062 authorization before closure or cessation of operation results in an automatic forfeiture of:

1063 (i) the private club license; and

1064 (ii) the unused portion of the private club license fee for the remainder of the license  
1065 year effective immediately.

1066 (f) Failure of the private club licensee to reopen or resume operation by the approved  
1067 date results in an automatic forfeiture of:

- 1068 (i) the private club license; and
- 1069 (ii) the unused portion of the private club license fee for the remainder of the license  
1070 year.

1071 (39) A private club license may not be transferred from one location to another person,  
1072 without prior written approval of the commission.

1073 (40) (a) A private club licensee, may not sell, transfer, assign, exchange, barter, give,  
1074 or attempt in any way to dispose of the private club license to another person, whether for  
1075 monetary gain or not.

1076 (b) A private club license has no monetary value for the purpose of any type of  
1077 disposition.

1078 (41) A private club licensee or an employee of the private club licensee may not  
1079 knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37,  
1080 Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

1081 (a) sell, distribute, possess, or use a controlled substance, as defined in Section  
1082 58-37-2; or

1083 (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in  
1084 Section 58-37a-3.

1085 Section 15. Section **32A-8-101** is amended to read:

1086 **32A-8-101. Commission's power to grant licenses -- Limitations.**

1087 (1) The commission may issue an alcoholic beverage manufacturing license to a  
1088 manufacturer whose business [~~in this state~~] is located in this state for the manufacture, storage,  
1089 and sale of alcoholic beverages for each type of license provided by this chapter.

1090 (2) The type of manufacturing licenses issued under this chapter are known as a:

- 1091 (a) winery license;
- 1092 (b) distillery license; and
- 1093 (c) brewery license.

- 1094 (3) (a) A person may not manufacture an alcoholic beverage unless an alcoholic  
1095 beverage manufacturing license is issued by the commission.
- 1096 (b) A separate license is required for each place of manufacture, storage, and sale of an  
1097 alcoholic beverage.
- 1098 (c) Violation of this Subsection (3) is a class B misdemeanor.
- 1099 (4) (a) A brewer located outside the state is not required to be licensed under this  
1100 chapter.
- 1101 (b) A brewer described in Subsection (4)(a) must obtain a certificate of approval from  
1102 the department before selling or delivering:
- 1103 (i) beer to a licensed beer wholesaler in this state;
- 1104 (ii) on or after October 1, 2008, a flavored malt beverage to the department or a  
1105 military installation; or
- 1106 (iii) if a small brewer, beer to a licensed beer wholesaler or retailer in this state.
- 1107 (c) A brewer seeking a certificate of approval shall file a written application with the  
1108 department, in a form prescribed by the department. The application shall be accompanied by:
- 1109 (i) a nonrefundable \$50 application fee;
- 1110 (ii) an initial certificate of approval fee of \$250 that is refundable if a certificate is not  
1111 granted;
- 1112 (iii) evidence of authority from the United States Bureau of Alcohol, Tobacco, and  
1113 Firearms to brew beer, heavy beer, or a flavored malt beverage; and
- 1114 (iv) any other information or documents the department may require.
- 1115 (d) (i) An application shall be signed and verified by oath or affirmation by:
- 1116 (A) a partner if the brewer is a partnership; or
- 1117 (B) an executive officer, manager, or person specifically authorized by a corporation  
1118 or limited liability company to sign the application.
- 1119 (ii) The brewer filing an application shall attach to the application written evidence of  
1120 the authority of the person described in Subsection (4)(d)(i) to sign the application.
- 1121 (e) (i) All certificates of approval expire on December 31 of each year.

1122 (ii) A brewer desiring to renew its certificate shall submit a renewal fee of \$200, and a  
1123 completed renewal application to the department no later than November 30 of the year the  
1124 certificate expires.

1125 (iii) Failure to meet the renewal requirements results in an automatic forfeiture of the  
1126 certificate effective on the date the existing certificate expires.

1127 (iv) A renewal application shall be in a form prescribed by the department.

1128 (5) The commission may prescribe by policy, directive, or rule, consistent with this  
1129 title, the general operational requirements of licensees relating to:

1130 (a) physical facilities;

1131 (b) conditions of sale, storage, or manufacture of alcoholic beverages;

1132 (c) storage and sales quantity limitations; and

1133 (d) other matters considered appropriate by the commission.

1134 Section 16. Section **36-11-103** is amended to read:

1135 **36-11-103. Licensing requirements.**

1136 (1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the  
1137 lieutenant governor by completing the form required by this section.

1138 (b) The lieutenant governor shall issue licenses to qualified lobbyists.

1139 (c) The lieutenant governor shall prepare a Lobbyist License Application Form that  
1140 includes:

1141 (i) a place for the lobbyist's name and business address;

1142 (ii) a place for the name and business address of each principal for whom the lobbyist  
1143 works or is hired as an independent contractor;

1144 (iii) a place for the name and address of the person who paid or will pay the lobbyist's  
1145 registration fee, if the fee is not paid by the lobbyist;

1146 (iv) a place for the lobbyist to disclose any elected or appointed position that the  
1147 lobbyist holds in state or local government, if any;

1148 (v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist  
1149 will be reimbursed; and

1150 (vi) a certification to be signed by the lobbyist that certifies that the information  
1151 provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and  
1152 belief.

1153 (2) Each lobbyist who obtains a license under this section shall update the licensure  
1154 information when the lobbyist accepts employment for lobbying by a new client.

1155 (3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a  
1156 lobbying license to an applicant who:

1157 (i) files an application with the lieutenant governor that contains the information  
1158 required by this section; and

1159 (ii) pays a \$25 filing fee.

1160 (b) A license entitles a person to serve as a lobbyist on behalf of one or more  
1161 principals and expires on December 31 of each even-numbered year.

1162 (4) (a) The lieutenant governor may disapprove an application for a lobbying license:

1163 (i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107,  
1164 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

1165 (ii) if the applicant has been convicted of violating Section 76-8-104 or 76-8-304  
1166 within one year before the date of the lobbying license application;

1167 (iii) for the term of any suspension imposed under Section 36-11-401; or

1168 (iv) if, within one year before the date of the lobbying license application, the  
1169 applicant has been found to have willingly and knowingly:

1170 (A) violated Section 36-11-103, 36-11-201, 36-11-301, 36-11-302, 36-11-303,  
1171 36-11-304, 36-11-305, or 36-11-403; or

1172 (B) filed a document required by this chapter that the lobbyist knew contained  
1173 materially false information or omitted material information.

1174 (b) An applicant may appeal the disapproval in accordance with the procedures  
1175 established by the lieutenant governor under this chapter and Title 63G, Chapter 4,  
1176 Administrative Procedures Act.

1177 (5) The lieutenant governor shall deposit license fees in the General Fund.

1178 (6) A principal need not obtain a license under this section, but if the principal makes  
1179 expenditures to benefit a public official without using a lobbyist as an agent to confer those  
1180 benefits, the principal shall disclose those expenditures as required by ~~[Sections]~~ Section  
1181 36-11-201.

1182 (7) Government officers need not obtain a license under this section, but shall disclose  
1183 any expenditures made to benefit public officials as required by ~~[Sections]~~ Section 36-11-201.

1184 (8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the  
1185 lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the  
1186 reports by Section 36-11-201.

1187 Section 17. Section **38-8-1** is amended to read:

1188 **38-8-1. Definitions.**

1189 As used in this chapter:

1190 (1) "Default" means the failure to perform in a timely manner any obligation or duty  
1191 set forth in this chapter or the rental agreement.

1192 (2) "Last known address" means that address provided by the occupant in the latest  
1193 rental agreement or the address provided by the occupant in a subsequent written notice of a  
1194 change of address.

1195 (3) "Occupant" means a person, or his sublessee, successor, or ~~[assign]~~ assignee,  
1196 entitled to the use of the storage space at a self-service storage facility under a rental  
1197 agreement, to the exclusion of others.

1198 (4) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage  
1199 facility, his agent, or any other person authorized by him to manage the facility or to receive  
1200 rent from an occupant under a rental agreement.

1201 (5) "Personal property" means movable property not affixed to land and includes, but  
1202 is not limited to, goods, merchandise, and household items.

1203 (6) "Rental agreement" means any written agreement or lease which establishes or  
1204 modifies the terms, conditions, rules, or any other provisions concerning the use and  
1205 occupancy at a self-service storage facility and which contains a notice stating that all articles

1206 stored under the terms of the agreement will be sold or otherwise disposed of if no payment  
1207 has been received for a continuous 30-day period. The agreement shall contain a provision  
1208 directing the occupant to disclose any lienholders with an interest in property that is or will be  
1209 stored in the self-service storage facility.

1210 (7) "Self-service storage facility" means any real property designed and used for the  
1211 purpose of renting or leasing individual storage space to occupants who are to have access to  
1212 the facility for the purpose of storing and removing personal property. No occupant may use a  
1213 self-service storage facility for residential purposes. The owner of a self-service storage facility  
1214 is not a warehouse as used in Section 70A-7a-102. If an owner issues any warehouse receipt,  
1215 bill of lading, or other document of title for the personal property stored, the owner and the  
1216 occupant are subject to the provisions of the Uniform Commercial Code, and the provisions of  
1217 this chapter do not apply.

1218 Section 18. Section **51-9-405** is amended to read:

1219 **51-9-405. Substance Abuse Prevention Account established -- Funding -- Uses.**

1220 (1) There is created a restricted account within the General Fund known as the  
1221 Substance Abuse Prevention Account.

1222 (2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention  
1223 Account from the collected surcharge established in Section 51-9-401:

1224 (i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the  
1225 Legislature; and

1226 (ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated  
1227 by the Legislature.

1228 (b) The juvenile court shall use the allocation to pay for [~~community~~] compensatory  
1229 service programs required by Subsection 78A-6-117(2)(m).

1230 (c) The State Office of Education shall use the allocation in public school programs  
1231 for:

1232 (i) substance abuse prevention and education;

1233 (ii) substance abuse prevention training for teachers and administrators; and

1234 (iii) district and school programs to supplement, not supplant, existing local  
1235 prevention efforts in cooperation with local substance abuse authorities.

1236 Section 19. Section **51-9-504** is amended to read:

1237 **51-9-504. Utah Navajo royalties and related issues.**

1238 (1) (a) Notwithstanding Title 63, Chapter 88, Navajo Trust Fund, repealed July 1,  
1239 2008, and except as provided in Subsection (7), the following are subject to this Subsection

1240 (1):

1241 (i) the repealed board of trustees;

1242 (ii) the repealed trust administrator;

1243 (iii) an employee or agent of the repealed Navajo Trust Fund; or

1244 (iv) the repealed Dineh Committee.

1245 (b) The repealed board of trustees may not:

1246 (i) beginning on March 17, 2008, take an action that imposes or may impose a liability  
1247 or obligation described in Subsection (1)(d) that is:

1248 (A) anticipated to be completed on or after January 1, 2010; or

1249 (B) equal to or greater than \$100,000;

1250 (ii) on or after May 5, 2008, take an action that imposes or may impose a liability or  
1251 obligation described in Subsection (1)(d).

1252 (c) On or after March 17, 2008 a person described in Subsections (1)(a)(ii) through  
1253 (iv) may not take an action that imposes or may impose a liability or obligation described in  
1254 Subsection (1)(d).

1255 (d) Subsection (1)(b) applies to a liability or obligation on:

1256 (i) the repealed Navajo Trust Fund;

1257 (ii) the Navajo Revitalization Fund created under Title 9, Chapter 11, Navajo  
1258 Revitalization Fund Act;

1259 (iii) the state; or

1260 (iv) any of the following related to an entity described in this Subsection (1)(d):

1261 (A) a department;

- 1262 (B) a division;
- 1263 (C) an office;
- 1264 (D) a committee;
- 1265 (E) a board;
- 1266 (F) an officer;
- 1267 (G) an employee; or
- 1268 (H) a similar agency or individual.
- 1269 (2) The Division of Finance shall:
- 1270 (a) establish a fund by no later than July 1, 2008:
- 1271 (i) to hold:
- 1272 (A) the monies in the repealed Navajo Trust Fund as of June 30, 2008;
- 1273 (B) Utah Navajo royalties received by the state on or after July 1, 2008;
- 1274 (C) revenues from investments made by the state treasurer of the monies in the fund
- 1275 established under this Subsection (2)(a); and
- 1276 (D) monies owed to the repealed Navajo Trust Fund, including monies received by the
- 1277 repealed trust administrator or repealed Dineh Committee from an agreement executed by:
- 1278 (I) the repealed board of trustees;
- 1279 (II) the repealed trust administrator; or
- 1280 (III) the repealed Dineh Committee; and
- 1281 (ii) from which monies may not be transferred or expended, except:
- 1282 (A) as provided in Subsection (7); or
- 1283 (B) as authorized by congressional action to designate a new recipient of the Utah
- 1284 Navajo royalties; and
- 1285 (b) by no later than July 1, 2008, transfer to the fund created under Subsection (2)(a)
- 1286 in a manner consistent with this section the related assets and liabilities of the repealed Navajo
- 1287 Trust Fund, including the transfer of monies in the repealed Navajo Trust Fund.
- 1288 (3) The state treasurer shall invest monies in the fund created in Subsection (2)(a) in
- 1289 accordance with Title 51, Chapter 7, State Money Management Act.

1290 (4) (a) By no later than May 5, 2008, the repealed board of trustees shall:  
1291 (i) adopt a list of all related assets and liabilities of the repealed trust fund that are not  
1292 satisfied by May 5, 2008, which may include assets and liabilities that are contingent in nature  
1293 or amount;  
1294 (ii) adopt a list of all individuals who at the time of adoption meet the requirements of  
1295 Subsection (7)(b); and  
1296 (iii) provide a copy of the lists described in [~~Subsection~~] Subsections (4)(a)(i) and (ii)  
1297 to:  
1298 (A) the state auditor; and  
1299 (B) the Department of Administrative Services.  
1300 (b) The state auditor, in addition to completing its Fiscal Year 2007-2008 audit of the  
1301 repealed Navajo Trust Fund, shall:  
1302 (i) verify the list of the related assets and liabilities of the repealed Navajo Trust Fund  
1303 adopted by the repealed board of trustees under Subsection (4)(a) by no later than June 30,  
1304 2008; and  
1305 (ii) provide a written copy of the verification to the governor and the Legislature by no  
1306 later than July 30, 2008.  
1307 (5) The governor shall ensure that the reporting requirements under P.L. 90-306, 82  
1308 Stat. 121, are met.  
1309 (6) The Department of Administrative Services, in cooperation with the Department of  
1310 Human Resources, may assist employees of the repealed Navajo Trust Fund as of June 30,  
1311 2008, in accordance with Title 67, Chapter 19, Utah State Personnel Management Act.  
1312 (7) With the fund created under Subsection (2) and the fixed assets of the repealed  
1313 Navajo Trust Fund, the Department of Administrative Services shall:  
1314 (a) fulfill the liabilities and obligations of the repealed Navajo Trust Fund as of June  
1315 30, 2008;  
1316 (b) provide monies to an individual enrolled member of the Navajo Nation who:  
1317 (i) resides in San Juan County;

1318 (ii) as of June 30, 2010, has received monies under this Subsection (7)(b) for  
1319 postsecondary education;  
1320 (iii) beginning the later of June 30 or the day on which the individual first receives  
1321 monies under this Subsection (7)(b), is enrolled in postsecondary education for the equivalent  
1322 of at least two semesters each year; and

1323 (iv) meets the eligibility requirements adopted by the repealed board of trustees as of  
1324 March 17, 2008;

1325 (c) through the Division of Facilities Construction and Management, reasonably  
1326 maintain the fixed assets of the repealed Navajo Trust Fund, to the extent that a lessee of a  
1327 fixed asset is not required by a lease to maintain a fixed asset;

1328 (d) through the Division of Facilities Construction and Management, take those steps  
1329 necessary to secure the purchase:

1330 (i) of the following that is owned by the repealed Navajo Trust Fund as of May 5,  
1331 2008:

1332 (A) the government service building; or

1333 (B) another fixed asset of the repealed Navajo Trust Fund, if the sale of the fixed asset  
1334 is consistent with the obligations of the state with regard to the Utah Navajo royalties; and

1335 (ii) (A) in an arms length manner; and

1336 (B) so that fair market compensation is paid to the repealed Navajo Trust Fund; and

1337 (e) charge the fund established under Subsection (2)(a) for the expenses that are  
1338 necessary and reasonable to comply with the requirements of this Subsection (7).

1339 (8) Unless expressly prohibited by this part, the state may take any action with regard  
1340 to the assets held by the state under this part that is consistent with the obligations of the state  
1341 related to the Utah Navajo royalties.

1342 Section 20. Section **53-3-102** is amended to read:

1343 **53-3-102. Definitions.**

1344 As used in this chapter:

1345 (1) "Cancellation" means the termination by the division of a license issued through

1346 error or fraud or for which consent under Section 53-3-211 has been withdrawn.

1347 (2) "Class D license" means the class of license issued to drive motor vehicles not  
1348 defined as commercial motor vehicles or motorcycles under this chapter.

1349 [~~(3) "Class M license" means the class of license issued to drive a motorcycle as~~  
1350 ~~defined under this chapter.~~]

1351 [(~~4~~) (3) "Commercial driver license" or "CDL" means a license issued substantially in  
1352 accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle  
1353 Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act,  
1354 which authorizes the holder to drive a class of commercial motor vehicle.

1355 [(~~5~~) (4) (a) "Commercial motor vehicle" means a motor vehicle or combination of  
1356 motor vehicles designed or used to transport passengers or property if the motor vehicle:

1357 (i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as  
1358 determined by federal regulation;

1359 (ii) is designed to transport 16 or more passengers, including the driver; or

1360 (iii) is transporting hazardous materials and is required to be placarded in accordance  
1361 with 49 C.F.R. Part 172, Subpart F.

1362 (b) The following vehicles are not considered a commercial motor vehicle for purposes  
1363 of Part 4, Uniform Commercial Driver License Act:

1364 (i) equipment owned and operated by the United States Department of Defense when  
1365 driven by any active duty military personnel and members of the reserves and national guard  
1366 on active duty including personnel on full-time national guard duty, personnel on part-time  
1367 training, and national guard military technicians and civilians who are required to wear  
1368 military uniforms and are subject to the code of military justice;

1369 (ii) vehicles controlled and driven by a farmer to transport agricultural products, farm  
1370 machinery, or farm supplies to or from a farm within 150 miles of his farm but not in  
1371 operation as a motor carrier for hire;

1372 (iii) firefighting and emergency vehicles; and

1373 (iv) recreational vehicles that are not used in commerce and are driven solely as family

1374 or personal conveyances for recreational purposes.

1375 [~~(6)~~] (5) "Conviction" means any of the following:

1376 (a) an unvacated adjudication of guilt or a determination that a person has violated or  
1377 failed to comply with the law in a court of original jurisdiction or an administrative  
1378 proceeding;

1379 (b) an unvacated forfeiture of bail or collateral deposited to secure a person's  
1380 appearance in court;

1381 (c) a plea of guilty or nolo contendere accepted by the court;

1382 (d) the payment of a fine or court costs; or

1383 (e) violation of a condition of release without bail, regardless of whether the penalty is  
1384 rebated, suspended, or probated.

1385 [~~(7)~~] (6) "Denial" or "denied" means the withdrawal of a driving privilege by the  
1386 division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or  
1387 Operator's Security, do not apply.

1388 [~~(8)~~] (7) "Director" means the division director appointed under Section 53-3-103.

1389 [~~(9)~~] (8) "Disqualification" means either:

1390 (a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state  
1391 of a person's privileges to drive a commercial motor vehicle;

1392 (b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386,  
1393 that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part  
1394 391; or

1395 (c) the loss of qualification that automatically follows conviction of an offense listed  
1396 in 49 C.F.R. Part 383.51.

1397 [~~(10)~~] (9) "Division" means the Driver License Division of the department created in  
1398 Section 53-3-103.

1399 [~~(11)~~] (10) "Drive" means:

1400 (a) to operate or be in physical control of a motor vehicle upon a highway; and

1401 (b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections

1402 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place  
1403 within the state.

1404 ~~[(12)]~~ (11) (a) "Driver" means any person who drives, or is in actual physical control  
1405 of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

1406 (b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person  
1407 who is required to hold a CDL under Part 4 or federal law.

1408 ~~[(13)]~~ (12) "Driving privilege card" means the evidence of the privilege granted and  
1409 issued under this chapter to drive a motor vehicle to a person whose privilege was obtained  
1410 without using a Social Security number.

1411 ~~[(14)]~~ (13) "Extension" means a renewal completed in a manner specified by the  
1412 division.

1413 ~~[(15)]~~ (14) "Farm tractor" means every motor vehicle designed and used primarily as a  
1414 farm implement for drawing plows, mowing machines, and other implements of husbandry.

1415 ~~[(16)]~~ (15) "Highway" means the entire width between property lines of every way or  
1416 place of any nature when any part of it is open to the use of the public, as a matter of right, for  
1417 traffic.

1418 ~~[(17)]~~ (16) "License" means the privilege to drive a motor vehicle.

1419 ~~[(18)]~~ (17) "License certificate" means the evidence of the privilege issued under this  
1420 chapter to drive a motor vehicle.

1421 ~~[(19)]~~ (18) "Motorboat" has the same meaning as provided under Section 73-18-2.

1422 ~~[(20)]~~ (19) "Motorcycle" means every motor vehicle, other than a tractor, having a seat  
1423 or saddle for the use of the rider and designed to travel with not more than three wheels in  
1424 contact with the ground.

1425 ~~[(21)]~~ (20) "Office of Recovery Services" means the Office of Recovery Services,  
1426 created in Section 62A-11-102.

1427 ~~[(22)]~~ (21) (a) "Owner" means a person other than a lienholder having an interest in  
1428 the property or title to a vehicle.

1429 (b) "Owner" includes a person entitled to the use and possession of a vehicle subject to

1430 a security interest in another person but excludes a lessee under a lease not intended as  
1431 security.

1432 [~~(23)~~] (22) "Renewal" means to validate a license certificate so that it expires at a later  
1433 date.

1434 [~~(24)~~] (23) "Reportable violation" means an offense required to be reported to the  
1435 division as determined by the division and includes those offenses against which points are  
1436 assessed under Section 53-3-221.

1437 [~~(25)~~] (24) (a) "Resident" means an individual who:

1438 (i) has established a domicile in this state, as defined in Section 41-1a-202, or  
1439 regardless of domicile, remains in this state for an aggregate period of six months or more  
1440 during any calendar year;

1441 (ii) engages in a trade, profession, or occupation in this state, or who accepts  
1442 employment in other than seasonal work in this state, and who does not commute into the  
1443 state;

1444 (iii) declares himself to be a resident of this state by obtaining a valid Utah driver  
1445 license certificate or motor vehicle registration; or

1446 (iv) declares himself a resident of this state to obtain privileges not ordinarily extended  
1447 to nonresidents, including going to school, or placing children in school without paying  
1448 nonresident tuition or fees.

1449 (b) "Resident" does not include any of the following:

1450 (i) a member of the military, temporarily stationed in this state;

1451 (ii) an out-of-state student, as classified by an institution of higher education,  
1452 regardless of whether the student engages in any type of employment in this state;

1453 (iii) a person domiciled in another state or country, who is temporarily assigned in this  
1454 state, assigned by or representing an employer, religious or private organization, or a  
1455 governmental entity; or

1456 (iv) an immediate family member who resides with or a household member of a person  
1457 listed in Subsections [~~(25)~~] (24)(b)(i) through (iii).

1458            [~~26~~] (25) "Revocation" means the termination by action of the division of a  
1459 licensee's privilege to drive a motor vehicle.

1460            [~~27~~] (26) (a) "School bus" means a commercial motor vehicle used to transport  
1461 pre-primary, primary, or secondary school students to and from home and school, or to and  
1462 from school sponsored events.

1463            (b) "School bus" does not include a bus used as a common carrier as defined in  
1464 Section 59-12-102.

1465            [~~28~~] (27) "Suspension" means the temporary withdrawal by action of the division of  
1466 a licensee's privilege to drive a motor vehicle.

1467            [~~29~~] (28) "Taxicab" means any class D motor vehicle transporting any number of  
1468 passengers for hire and that is subject to state or federal regulation as a taxi.

1469            Section 21. Section **53-3-204** is amended to read:

1470            **53-3-204. Persons who may not be licensed.**

1471            (1) (a) The division may not license a person who:

1472            (i) is younger than 16 years of age;

1473            (ii) has not completed a course in driver training approved by the commissioner;

1474            (iii) if the person is a minor, has not completed the driving requirement under Section  
1475 53-3-211;

1476            (iv) is not a resident of the state, unless the person is issued a temporary CDL under  
1477 Subsection 53-3-407(2)(b); or

1478            (v) if the person is 17 years of age or younger, has not held a learner permit issued  
1479 under Section 53-3-210.5 for six months.

1480            (b) Subsections (1)(a)(i), (ii), and (iii) do not apply to a person:

1481            (i) who has been licensed before July 1, 1967; or

1482            (ii) who is 16 years of age or older making application for a license who has been  
1483 licensed in another state or country.

1484            (2) The division may not issue a license certificate to a person:

1485            (a) whose license has been suspended, denied, cancelled, or disqualified during the

1486 period of suspension, denial, cancellation, or disqualification;

1487 (b) whose privilege has been revoked, except as provided in Section 53-3-225;

1488 (c) who has previously been adjudged mentally incompetent and who has not at the  
1489 time of application been restored to competency as provided by law;

1490 (d) who is required by this chapter to take an examination unless the person  
1491 successfully passes the examination; or

1492 (e) whose driving privileges have been denied or suspended under:

1493 (i) Section 78A-6-606 by an order of the juvenile court; or

1494 (ii) Section 53-3-231.

1495 (3) (a) Except as provided in Subsection (3)(c), the division may not grant a  
1496 motorcycle endorsement to a person who:

1497 (i) has not been granted an original or provisional class D license, a CDL, or an  
1498 out-of-state equivalent to an original or provisional class D license or a CDL; and

1499 (ii) if the person is under 19 years of age, has not held a motorcycle learner permit for  
1500 two months unless Subsection (3)(b) applies.

1501 (b) The division may waive the two month motorcycle learner permit holding period  
1502 requirement under Subsection (3)(a)(ii) if the person proves to the satisfaction of the division  
1503 that the person has completed a motorcycle rider education program that meets the  
1504 requirements under Section 53-3-903.

1505 (c) The division may grant a motorcycle endorsement to a person under 19 years of  
1506 age who has not held a motorcycle learner permit for two months if the person was issued a  
1507 motorcycle endorsement [~~or a class M license~~] prior to July 1, 2008.

1508 (4) The division may grant a class D license to a person whose commercial license is  
1509 disqualified under Part 4, Uniform Commercial Driver License Act, if the person is not  
1510 otherwise sanctioned under this chapter.

1511 Section 22. Section **53-3-205** is amended to read:

1512 **53-3-205. Application for license or endorsement -- Fee required -- Tests --**  
1513 **Expiration dates of licenses and endorsements -- Information required -- Previous**

1514 **licenses surrendered -- Driving record transferred from other states -- Reinstatement --**  
1515 **Fee required -- License agreement.**

1516 (1) An application for any original license, provisional license, or endorsement shall  
1517 be:

1518 (a) made upon a form furnished by the division; and

1519 (b) accompanied by a nonrefundable fee set under Section 53-3-105.

1520 (2) An application and fee for an original provisional class D license or an original  
1521 class D license entitle the applicant to:

1522 (a) not more than three attempts to pass both the knowledge and the skills tests for a  
1523 class D license within six months of the date of the application;

1524 (b) a learner permit if needed pending completion of the application and testing  
1525 process; and

1526 (c) an original class D license and license certificate after all tests are passed.

1527 (3) An application and fee for a motorcycle or taxicab endorsement entitle the  
1528 applicant to:

1529 (a) not more than three attempts to pass both the knowledge and skills tests within six  
1530 months of the date of the application;

1531 (b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

1532 (c) a motorcycle or taxicab endorsement when all tests are passed.

1533 (4) An application and fees for a commercial class A, B, or C license entitle the  
1534 applicant to:

1535 (a) not more than two attempts to pass a knowledge test and not more than two  
1536 attempts to pass a skills test within six months of the date of the application;

1537 (b) a commercial driver instruction permit if needed after the knowledge test is passed;  
1538 and

1539 (c) an original commercial class A, B, or C license and license certificate when all  
1540 applicable tests are passed.

1541 (5) An application and fee for a CDL endorsement entitle the applicant to:

1542 (a) not more than two attempts to pass a knowledge test and not more than two  
1543 attempts to pass a skills test within six months of the date of the application; and

1544 (b) a CDL endorsement when all tests are passed.

1545 (6) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement  
1546 test within the number of attempts provided in Subsection (4) or (5), each test may be taken  
1547 two additional times within the six months for the fee provided in Section 53-3-105.

1548 (7) (a) Except as provided under Subsections (7)(f), (g), and (h), an original license  
1549 expires on the birth date of the applicant in the fifth year following the year the license  
1550 certificate was issued.

1551 (b) Except as provided under Subsections (7)(f), (g), (h), and (i), a renewal or an  
1552 extension to a license expires on the birth date of the licensee in the fifth year following the  
1553 expiration date of the license certificate renewed or extended.

1554 (c) Except as provided under Subsections (7)(f), (g), and (i), a duplicate license  
1555 expires on the same date as the last license certificate issued.

1556 (d) An endorsement to a license expires on the same date as the license certificate  
1557 regardless of the date the endorsement was granted.

1558 (e) A license and any endorsement to the license held by a person ordered to active  
1559 duty and stationed outside Utah in any of the armed forces of the United States, which expires  
1560 during the time period the person is stationed outside of the state, is valid until 90 days after  
1561 the person has been discharged or has left the service, unless:

1562 (i) the license is suspended, disqualified, denied, or has been cancelled or revoked by  
1563 the division; or

1564 (ii) the licensee updates the information or photograph on the license certificate.

1565 (f) An original license or a renewal to an original license obtained using proof under  
1566 Subsection (8)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa,  
1567 permit, or other document granting legal presence in the United States or on the date provided  
1568 under this Subsection (7), whichever is sooner.

1569 (g) (i) An original license or a renewal or a duplicate to an original license expires on

1570 the next birth date of the applicant or licensee beginning on July 1, 2005 if:

1571 (A) the license was obtained without using a Social Security number as required under  
1572 Subsection (8); and

1573 (B) the license certificate or driving privilege card is not clearly distinguished as  
1574 required under Subsection 53-3-207(6).

1575 (ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the  
1576 birth date of the applicant in the first year following the year that the driving privilege card  
1577 was issued or renewed.

1578 (iii) The expiration dates provided under Subsections (7)(g)(i) and (ii) do not apply to  
1579 an original license or driving privilege card or to the renewal of an original license or driving  
1580 privilege card with an expiration date provided under Subsection (7)(f).

1581 (h) An original license or a renewal to an original license expires on the birth date of  
1582 the applicant in the first year following the year that the license was issued if the applicant is  
1583 required to register as a sex offender under Section 77-27-21.5.

1584 ~~[(i) An original class M license or a renewal, duplicate, or extension to an original  
1585 class M license expires on June 30, 2008.]~~

1586 (8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative  
1587 Procedures Act, for requests for agency action, each applicant shall:

1588 (i) provide the applicant's:

1589 (A) full legal name;

1590 (B) birth date;

1591 (C) gender;

1592 (D) between July 1, 2002 and July 1, 2007, race in accordance with the categories  
1593 established by the United States Census Bureau;

1594 (E) (I) Social Security number;

1595 (II) temporary identification number (ITIN) issued by the Internal Revenue Service for  
1596 a person who does not qualify for a Social Security number; or

1597 (III) (Aa) proof that the applicant is a citizen of a country other than the United States;

- 1598 (Bb) proof that the applicant does not qualify for a Social Security number; and  
1599 (Cc) proof of legal presence in the United States, as authorized under federal law; and  
1600 (F) Utah residence address as documented by a form acceptable under rules made by  
1601 the division under Section 53-3-104, unless the application is for a temporary CDL issued  
1602 under Subsection 53-3-407(2)(b);
- 1603 (ii) provide a description of the applicant;
- 1604 (iii) state whether the applicant has previously been licensed to drive a motor vehicle  
1605 and, if so, when and by what state or country;
- 1606 (iv) state whether the applicant has ever had any license suspended, cancelled,  
1607 revoked, disqualified, or denied in the last ten years, or whether the applicant has ever had any  
1608 license application refused, and if so, the date of and reason for the suspension, cancellation,  
1609 revocation, disqualification, denial, or refusal;
- 1610 (v) state whether the applicant intends to make an anatomical gift under Title 26,  
1611 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);
- 1612 (vi) state whether the applicant is required to register as a sex offender under Section  
1613 77-27-21.5;
- 1614 (vii) state whether the applicant is a military veteran and does or does not authorize  
1615 sharing the information with the state Department of Veterans' Affairs;
- 1616 (viii) provide all other information the division requires; and
- 1617 (ix) sign the application which signature may include an electronic signature as  
1618 defined in Section 46-4-102.
- 1619 (b) Each applicant shall have a Utah residence address, unless the application is for a  
1620 temporary CDL issued under Subsection 53-3-407(2)(b).
- 1621 (c) The division shall maintain on its computerized records an applicant's:
- 1622 (i) (A) Social Security number;
- 1623 (B) temporary identification number (ITIN); or
- 1624 (C) other number assigned by the division if Subsection (8)(a)(i)(E)(III) applies; and
- 1625 (ii) indication whether the applicant is required to register as a sex offender under

1626 Section 77-27-21.5.

1627 (d) An applicant may not be denied a license for refusing to provide race information  
1628 required under Subsection (8)(a)(i)(D).

1629 (9) The division shall require proof of every applicant's name, birthdate, and  
1630 birthplace by at least one of the following means:

1631 (a) current license certificate;

1632 (b) birth certificate;

1633 (c) Selective Service registration; or

1634 (d) other proof, including church records, family Bible notations, school records, or  
1635 other evidence considered acceptable by the division.

1636 (10) When an applicant receives a license in another class, all previous license  
1637 certificates shall be surrendered and canceled. However, a disqualified commercial license  
1638 may not be canceled unless it expires before the new license certificate is issued.

1639 (11) (a) When an application is received from a person previously licensed in another  
1640 state to drive a motor vehicle, the division shall request a copy of the driver's record from the  
1641 other state.

1642 (b) When received, the driver's record becomes part of the driver's record in this state  
1643 with the same effect as though entered originally on the driver's record in this state.

1644 (12) An application for reinstatement of a license after the suspension, cancellation,  
1645 disqualification, denial, or revocation of a previous license shall be accompanied by the  
1646 additional fee or fees specified in Section 53-3-105.

1647 (13) A person who has an appointment with the division for testing and fails to keep  
1648 the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee  
1649 under Section 53-3-105.

1650 (14) A person who applies for an original license or renewal of a license agrees that  
1651 the person's license is subject to any suspension or revocation authorized under this title or  
1652 Title 41, Motor Vehicles.

1653 (15) (a) The indication of intent under Subsection (8)(a)(v) shall be authenticated by

1654 the licensee in accordance with division rule.

1655 (b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
1656 Management Act, the division may, upon request, release to an organ procurement  
1657 organization, as defined in Section 26-28-102, the names and addresses of all persons who  
1658 under Subsection (8)(a)(v) indicate that they intend to make an anatomical gift.

1659 (ii) An organ procurement organization may use released information only to:

1660 (A) obtain additional information for an anatomical gift registry; and

1661 (B) inform licensees of anatomical gift options, procedures, and benefits.

1662 (16) Notwithstanding Title 63G, Chapter 2, Government Records Access and  
1663 Management Act, the division may release to the Department of Veterans' Affairs the names  
1664 and addresses of all persons who indicate their status as a veteran under Subsection (8)(a)(vii).

1665 (17) The division and its employees are not liable, as a result of false or inaccurate  
1666 information provided under Subsection (8)(a)(v) or (vii), for direct or indirect:

1667 (a) loss;

1668 (b) detriment; or

1669 (c) injury.

1670 (18) A person who knowingly fails to provide the information required under  
1671 Subsection (8)(a)(vi) is guilty of a class A misdemeanor.

1672 Section 23. Section **53-10-208** is amended to read:

1673 **53-10-208. Definition -- Offenses included on statewide warrant system --**  
1674 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**  
1675 **control -- Training -- Technical support -- Transaction costs.**

1676 (1) "Statewide warrant system" means the portion of the state court computer system  
1677 that is accessible by modem from the state mainframe computer and contains:

1678 (a) records of criminal warrant information; and

1679 (b) after notice and hearing, records of protective orders issued pursuant to:

1680 [~~(i)~~] (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act~~[-]; or~~

1681 [~~(i)~~] (ii) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act~~[-; or]~~.

1682 (2) (a) (i) The division shall include on the statewide warrant system all warrants  
1683 issued for felony offenses and class A, B, and C misdemeanor offenses in the state.

1684 (ii) For each offense the division shall indicate whether the magistrate ordered under  
1685 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in  
1686 court.

1687 (b) Infractions shall not be included on the statewide warrant system, including any  
1688 subsequent failure to appear warrants issued on an infraction.

1689 (3) The division is the agency responsible for the statewide warrant system and shall:

1690 (a) ensure quality control of all warrants of arrest or commitment and protective orders  
1691 contained in the statewide warrant system by conducting regular validation checks with every  
1692 clerk of a court responsible for entering the information on the system;

1693 (b) upon the expiration of the protective orders and in the manner prescribed by the  
1694 division, purge information regarding protective orders described in Subsection  
1695 53-10-208.1(4) within 30 days of the time after expiration;

1696 (c) establish system procedures and provide training to all criminal justice agencies  
1697 having access to information contained on the state warrant system;

1698 (d) provide technical support, program development, and systems maintenance for the  
1699 operation of the system; and

1700 (e) pay data processing and transaction costs for state, county, and city law  
1701 enforcement agencies and criminal justice agencies having access to information contained on  
1702 the state warrant system.

1703 (4) (a) Any data processing or transaction costs not funded by legislative appropriation  
1704 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.

1705 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).  
1706 Section 24. Section **53-10-208.1** is amended to read:

1707 **53-10-208.1. Magistrates and court clerks to supply information.**

1708 Every magistrate or clerk of a court responsible for court records in this state shall,  
1709 within 30 days of the disposition and on forms and in the manner provided by the division,

1710 furnish the division with information pertaining to:

1711 (1) all dispositions of criminal matters, including:

1712 (a) guilty pleas;

1713 (b) convictions;

1714 (c) dismissals;

1715 (d) acquittals;

1716 (e) pleas held in abeyance;

1717 (f) judgments of not guilty by reason of insanity for a violation of:

1718 (i) a felony offense;

1719 (ii) Title 76, Chapter 5, Offenses Against the Person; or

1720 (iii) Title 76, Chapter 10, Part 5, Weapons;

1721 (g) judgments of guilty and mentally ill;

1722 (h) finding of mental incompetence to stand trial for a violation of:

1723 (i) a felony offense;

1724 (ii) Title 76, Chapter 5, Offenses Against the Person; or

1725 (iii) Title 76, Chapter 10, Part 5, Weapons; or

1726 (i) probations granted; and

1727 (2) orders of civil commitment under the terms of Section 62A-15-631;

1728 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or

1729 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section

1730 78B-6-303, within one day of the action and in a manner provided by the division; and

1731 (4) protective orders issued after notice and hearing, pursuant to:

1732 [~~(b)~~] (a) Title 77, Chapter 36, Cohabitant Abuse Procedures Act[-]; or

1733 [~~(a)~~] (b) Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act[-or].

1734 Section 25. Section **53B-8a-105** is amended to read:

1735 **53B-8a-105. Additional powers of board as to the Utah Educational Savings**

1736 **Plan Trust.**

1737 The board has all powers necessary to carry out and effectuate the purposes, objectives,

1738 and provisions of this chapter pertaining to the Utah Educational Savings Plan Trust,  
1739 including the power to:

- 1740 (1) engage:
  - 1741 (a) one or more investment advisors, registered under the Investment [~~Advisors~~  
1742 Advisers Act of 1940, with at least 5,000 advisory clients and at least \$1,000,000,000 under  
1743 management, to provide investment advice to the board with respect to the assets held in each  
1744 account;
  - 1745 (b) an administrator to perform recordkeeping functions on behalf of the Utah  
1746 Educational Savings Plan Trust; and
  - 1747 (c) a custodian for the safekeeping of the assets of the Utah Educational Savings Plan  
1748 Trust;
- 1749 (2) carry out studies and projections in order to advise account owners regarding  
1750 present and estimated future higher education costs and levels of financial participation in the  
1751 Utah Educational Savings Plan Trust required in order to enable account owners to achieve  
1752 their educational funding objective;
- 1753 (3) contract for goods and services and engage personnel as necessary, including  
1754 consultants, actuaries, managers, counsel, and auditors for the purpose of rendering  
1755 professional, managerial, and technical assistance and advice, all of which contract obligations  
1756 and services shall be payable from any moneys of the Utah Educational Savings Plan Trust;
- 1757 (4) participate in any other way in any federal, state, or local governmental program  
1758 for the benefit of the Utah Educational Savings Plan Trust;
- 1759 (5) promulgate, impose, and collect administrative fees and charges in connection with  
1760 transactions of the Utah Educational Savings Plan Trust, and provide for reasonable service  
1761 charges, including penalties for cancellations and late payments;
- 1762 (6) procure insurance against any loss in connection with the property, assets, or  
1763 activities of the Utah Educational Savings Plan Trust;
- 1764 (7) administer the funds of the Utah Educational Savings Plan Trust;
- 1765 (8) solicit and accept for the benefit of the endowment fund gifts, grants, and other

1766 moneys, including general fund moneys from the state and grants from any federal or other  
1767 governmental agency;

1768 (9) procure insurance indemnifying any member of the board from personal loss or  
1769 accountability arising from liability resulting from a member's action or inaction as a member  
1770 of the board; and

1771 (10) make rules and regulations for the administration of the Utah Educational  
1772 Savings Plan Trust.

1773 Section 26. Section **58-60-114** is amended to read:

1774 **58-60-114. Confidentiality -- Exemptions.**

1775 (1) A mental health therapist under this chapter may not disclose any confidential  
1776 communication with a client or patient without the express consent of:

1777 (a) the client or patient;

1778 (b) the parent or legal guardian of a minor client or patient; or

1779 (c) the authorized agent of a client or patient.

1780 (2) A mental health therapist under this chapter is not subject to Subsection (1) if:

1781 (a) he is permitted or required by state or federal law, rule, regulation, or order to  
1782 report or disclose any confidential communication, including:

1783 [~~(i)~~] (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation  
1784 of Disabled Adult;

1785 [~~(i)~~] (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect  
1786 Reporting Requirements;

1787 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to  
1788 Warn; or

1789 (iv) reporting of a communicable disease as required under Section 26-6-6;

1790 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is  
1791 made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence;  
1792 or

1793 (c) the disclosure is made under a generally recognized professional or ethical standard

1794 that authorizes or requires the disclosure.

1795 Section 27. Section **58-60-509** is amended to read:

1796 **58-60-509. Confidentiality -- Exemptions.**

1797 (1) A licensee under this part may not disclose any confidential communication with a  
1798 client or patient without the express consent of:

1799 (a) the client or patient;

1800 (b) the parent or legal guardian of a minor client or patient; or

1801 (c) the authorized agent of a client or patient.

1802 (2) A licensee under this part is not subject to Subsection (1) if:

1803 (a) he is permitted or required by state or federal law, rule, regulation, or order to  
1804 report or disclose any confidential communication, including:

1805 [~~(i)~~] (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation  
1806 of Vulnerable Adults;

1807 [~~(ii)~~] (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect  
1808 Reporting Requirements;

1809 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to  
1810 Warn; [~~and~~] or

1811 (iv) reporting of a communicable disease as required under Section 26-6-6;

1812 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is  
1813 made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence;  
1814 or

1815 (c) the disclosure is made under a generally recognized professional or ethical standard  
1816 that authorizes or requires the disclosure.

1817 Section 28. Section **58-61-602** is amended to read:

1818 **58-61-602. Confidentiality -- Exemptions.**

1819 (1) A psychologist under this chapter may not disclose any confidential  
1820 communication with a client or patient without the express consent of:

1821 (a) the client or patient;

1822 (b) the parent or legal guardian of a minor client or patient; or  
1823 (c) the authorized agent of a client or patient.  
1824 (2) A psychologist under this chapter is not subject to Subsection (1) if:  
1825 (a) he is permitted or required by state or federal law, rule, regulation, or order to  
1826 report or disclose any confidential communication, including:  
1827 [~~(i)~~] (i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation  
1828 of Disabled Adult;  
1829 [~~(i)~~] (ii) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect  
1830 Reporting Requirements;  
1831 (iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to  
1832 Warn; or  
1833 (iv) reporting of a communicable disease as required under Section 26-6-6;  
1834 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is  
1835 made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence;  
1836 or  
1837 (c) the disclosure is made under a generally recognized professional or ethical standard  
1838 that authorizes or requires the disclosure.  
1839 Section 29. Section **59-2-924** is amended to read:  
1840 **59-2-924. Report of valuation of property to county auditor and commission --**  
1841 **Transmittal by auditor to governing bodies -- Certified tax rate -- Calculation of**  
1842 **certified tax rate -- Rulemaking authority -- Adoption of tentative budget.**  
1843 (1) Before June 1 of each year, the county assessor of each county shall deliver to the  
1844 county auditor and the commission the following statements:  
1845 (a) a statement containing the aggregate valuation of all taxable real property assessed  
1846 by a county assessor in accordance with Part 3, County Assessment, for each taxing entity;  
1847 and  
1848 (b) a statement containing the taxable value of all personal property assessed by a  
1849 county assessor in accordance with Part 3, County Assessment, from the prior year end values.

- 1850           (2) The county auditor shall, on or before June 8, transmit to the governing body of  
1851 each taxing entity:
- 1852           (a) the statements described in Subsections (1)(a) and (b);
  - 1853           (b) an estimate of the revenue from personal property;
  - 1854           (c) the certified tax rate; and
  - 1855           (d) all forms necessary to submit a tax levy request.
- 1856           (3) (a) The "certified tax rate" means a tax rate that will provide the same ad valorem  
1857 property tax revenues for a taxing entity as were budgeted by that taxing entity for the prior  
1858 year.
- 1859           (b) For purposes of this Subsection (3):
    - 1860           (i) "Ad valorem property tax revenues" do not include:
      - 1861           (A) collections from redemptions;
      - 1862           (B) interest;
      - 1863           (C) penalties; and
      - 1864           (D) revenue received by a taxing entity from personal property that is:
        - 1865           (I) assessed by a county assessor in accordance with Part 3, County Assessment; and
        - 1866           (II) semiconductor manufacturing equipment.
    - 1867           (ii) "Aggregate taxable value of all property taxed" means:
      - 1868           (A) the aggregate taxable value of all real property assessed by a county assessor in  
1869 accordance with Part 3, County Assessment, for the current year;
      - 1870           (B) the aggregate taxable year end value of all personal property assessed by a county  
1871 assessor in accordance with Part 3, County Assessment, for the prior year; and
      - 1872           (C) the aggregate taxable value of all real and personal property assessed by the  
1873 commission in accordance with Part 2, Assessment of Property, for the current year.
  - 1874           (c) (i) Except as otherwise provided in this section, the certified tax rate shall be  
1875 calculated by dividing the ad valorem property tax revenues budgeted for the prior year by the  
1876 taxing entity by the amount calculated under Subsection (3)(c)(ii).
  - 1877           (ii) For purposes of Subsection (3)(c)(i), the legislative body of a taxing entity shall

1878 calculate an amount as follows:

1879       (A) calculate for the taxing entity the difference between:

1880           (I) the aggregate taxable value of all property taxed; and

1881           (II) any redevelopment adjustments for the current calendar year;

1882       (B) after making the calculation required by Subsection (3)(c)(ii)(A), calculate an

1883 amount determined by increasing or decreasing the amount calculated under Subsection

1884 (3)(c)(ii)(A) by the average of the percentage net change in the value of taxable property for

1885 the equalization period for the three calendar years immediately preceding the current calendar

1886 year;

1887       (C) after making the calculation required by Subsection (3)(c)(ii)(B), calculate the

1888 product of:

1889           (I) the amount calculated under Subsection (3)(c)(ii)(B); and

1890           (II) the percentage of property taxes collected for the five calendar years immediately

1891 preceding the current calendar year; and

1892       (D) after making the calculation required by Subsection (3)(c)(ii)(C), calculate an

1893 amount determined by subtracting from the amount calculated under Subsection (3)(c)(ii)(C)

1894 any new growth as defined in this section:

1895           (I) within the taxing entity; and

1896           (II) for the following calendar year:

1897           (Aa) for new growth from real property assessed by a county assessor in accordance

1898 with Part 3, County Assessment and all property assessed by the commission in accordance

1899 with Section 59-2-201, the current calendar year; and

1900           (Bb) for new growth from personal property assessed by a county assessor in

1901 accordance with Part 3, County Assessment, the prior calendar year.

1902           (iii) For purposes of Subsection (3)(c)(ii)(A), the aggregate taxable value of all

1903 property taxed:

1904           (A) except as provided in Subsection (3)(c)(iii)(B) or (3)(c)(ii)(C), is as defined in

1905 Subsection (3)(b)(ii);

1906 (B) does not include the total taxable value of personal property contained on the tax  
1907 rolls of the taxing entity that is:

1908 (I) assessed by a county assessor in accordance with Part 3, County Assessment; and

1909 (II) semiconductor manufacturing equipment; and

1910 (C) for personal property assessed by a county assessor in accordance with Part 3,  
1911 County Assessment, the taxable value of personal property is the year end value of the  
1912 personal property contained on the prior year's tax rolls of the entity.

1913 (iv) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after  
1914 January 1, 2007, the value of taxable property does not include the value of personal property  
1915 that is:

1916 (A) within the taxing entity assessed by a county assessor in accordance with Part 3,  
1917 County Assessment; and

1918 (B) semiconductor manufacturing equipment.

1919 (v) For purposes of Subsection (3)(c)(ii)(C)(II), for calendar years beginning on or  
1920 after January 1, 2007, the percentage of property taxes collected does not include property  
1921 taxes collected from personal property that is:

1922 (A) within the taxing entity assessed by a county assessor in accordance with Part 3,  
1923 County Assessment; and

1924 (B) semiconductor manufacturing equipment.

1925 (vi) For purposes of Subsection (3)(c)(ii)(B), for calendar years beginning on or after  
1926 January 1, 2009, the value of taxable property does not include the value of personal property  
1927 that is within the taxing entity assessed by a county assessor in accordance with Part 3, County  
1928 Assessment.

1929 (vii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1930 the commission may prescribe rules for calculating redevelopment adjustments for a calendar  
1931 year.

1932 (d) (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1933 the commission shall make rules determining the calculation of ad valorem property tax

1934 revenues budgeted by a taxing entity.

1935 (ii) For purposes of Subsection (3)(d)(i), ad valorem property tax revenues budgeted  
1936 by a taxing entity shall be calculated in the same manner as budgeted property tax revenues are  
1937 calculated for purposes of Section 59-2-913.

1938 (e) The certified tax rates for the taxing entities described in this Subsection (3)(e)  
1939 shall be calculated as follows:

1940 (i) except as provided in Subsection (3)(e)(ii), for new taxing entities the certified tax  
1941 rate is zero;

1942 (ii) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

1943 (A) in a county of the first, second, or third class, the levy imposed for municipal-type  
1944 services under Sections 17-34-1 and 17-36-9; and

1945 (B) in a county of the fourth, fifth, or sixth class, the levy imposed for general county  
1946 purposes and such other levies imposed solely for the municipal-type services identified in  
1947 Section 17-34-1 and Subsection 17-36-3(22); and

1948 (iii) for debt service voted on by the public, the certified tax rate shall be the actual  
1949 levy imposed by that section, except that the certified tax rates for the following levies shall be  
1950 calculated in accordance with Section 59-2-913 and this section:

1951 (A) school leeways provided for under Sections 11-2-7, 53A-16-110, [~~53A-17a-125,~~  
1952 53A-17a-127, 53A-17a-133, 53A-17a-134, 53A-17a-143, and 53A-17a-145~~], and~~  
1953 ~~53A-21-103~~]; and

1954 (B) levies to pay for the costs of state legislative mandates or judicial or administrative  
1955 orders under Section 59-2-1604.

1956 (f) (i) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 shall be  
1957 established at that rate which is sufficient to generate only the revenue required to satisfy one  
1958 or more eligible judgments, as defined in Section 59-2-102.

1959 (ii) The ad valorem property tax revenue generated by the judgment levy shall not be  
1960 considered in establishing the taxing entity's aggregate certified tax rate.

1961 (g) The ad valorem property tax revenue generated by the capital outlay levy described

1962 in Section 53A-16-107 within a taxing entity in a county of the first class:

1963 (i) may not be considered in establishing the school district's aggregate certified tax  
1964 rate; and

1965 (ii) shall be included by the commission in establishing a certified tax rate for that  
1966 capital outlay levy determined in accordance with the calculation described in Subsection  
1967 59-2-913(3).

1968 (4) (a) For the purpose of calculating the certified tax rate, the county auditor shall  
1969 use:

1970 (i) the taxable value of real property assessed by a county assessor contained on the  
1971 assessment roll;

1972 (ii) the taxable value of real and personal property assessed by the commission; and

1973 (iii) the taxable year end value of personal property assessed by a county assessor  
1974 contained on the prior year's assessment roll.

1975 (b) For purposes of Subsection (4)(a)(i), the taxable value of real property on the  
1976 assessment roll does not include new growth as defined in Subsection (4)(c).

1977 (c) "New growth" means:

1978 (i) the difference between the increase in taxable value of the following property of the  
1979 taxing entity from the previous calendar year to the current year:

1980 (A) real property assessed by a county assessor in accordance with Part 3, County  
1981 Assessment; and

1982 (B) property assessed by the commission under Section 59-2-201; plus

1983 (ii) the difference between the increase in taxable year end value of personal property  
1984 of the taxing entity from the year prior to the previous calendar year to the previous calendar  
1985 year; minus

1986 (iii) the amount of an increase in taxable value described in Subsection (4)(e).

1987 (d) For purposes of Subsection (4)(c)(ii), the taxable value of personal property of the  
1988 taxing entity does not include the taxable value of personal property that is:

1989 (i) contained on the tax rolls of the taxing entity if that property is assessed by a

1990 county assessor in accordance with Part 3, County Assessment; and  
1991 (ii) semiconductor manufacturing equipment.  
1992 (e) Subsection (4)(c)(iii) applies to the following increases in taxable value:  
1993 (i) the amount of increase to locally assessed real property taxable values resulting  
1994 from factoring, reappraisal, or any other adjustments; or  
1995 (ii) the amount of an increase in the taxable value of property assessed by the  
1996 commission under Section 59-2-201 resulting from a change in the method of apportioning the  
1997 taxable value prescribed by:  
1998 (A) the Legislature;  
1999 (B) a court;  
2000 (C) the commission in an administrative rule; or  
2001 (D) the commission in an administrative order.  
2002 (f) For purposes of Subsection (4)(a)(ii), the taxable year end value of personal  
2003 property on the prior year's assessment roll does not include:  
2004 (i) new growth as defined in Subsection (4)(c); or  
2005 (ii) the total taxable year end value of personal property contained on the prior year's  
2006 tax rolls of the taxing entity that is:  
2007 (A) assessed by a county assessor in accordance with Part 3, County Assessment; and  
2008 (B) semiconductor manufacturing equipment.  
2009 (5) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.  
2010 (b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county  
2011 auditor of:  
2012 (i) its intent to exceed the certified tax rate; and  
2013 (ii) the amount by which it proposes to exceed the certified tax rate.  
2014 (c) The county auditor shall notify all property owners of any intent to exceed the  
2015 certified tax rate in accordance with Subsection 59-2-919(3).  
2016 Section 30. Section **61-1-2** is amended to read:  
2017 **61-1-2. Investment adviser -- Unlawful acts.**

2018 (1) It is unlawful for any person who receives any consideration from another person  
2019 primarily for advising the other person as to the value of securities or their purchase or sale,  
2020 whether through the issuance of analyses or reports or otherwise to:

2021 (a) employ any device, scheme, or artifice to defraud the other person;

2022 (b) engage in any act, practice, or course of business which operates or would operate  
2023 as a fraud or deceit upon the other person; or

2024 (c) divide or otherwise split any consideration with any person not licensed under this  
2025 chapter as an investment ~~[advisor]~~ adviser or investment adviser representative.

2026 (2) (a) Except as may be permitted by rule of the division, it is unlawful for any  
2027 investment adviser to enter into, extend, or renew any investment advisory contract unless it  
2028 provides in writing that:

2029 (i) the investment adviser shall not be compensated on the basis of a share of capital  
2030 gains upon or capital appreciation of the funds or any portion of the funds of the client;

2031 (ii) no assignment of the contract may be made by the investment adviser without the  
2032 consent of the other party to the contract; and

2033 (iii) the investment adviser, if a partnership, shall notify the other party to the contract  
2034 of any change in the membership of the partnership within a reasonable time after the change.

2035 (b) Subsection 61-1-2(2)(a)(i) does not prohibit an investment advisory contract which  
2036 provides for compensation based upon the total value of a fund averaged over a definite  
2037 period, or as of definite dates or taken as of a definite date.

2038 (c) "Assignment," as used in Subsection 61-1-2(2)(a)(ii), includes any direct or  
2039 indirect transfer or hypothecation of an investment advisory contract by the assignor or of a  
2040 controlling block of the assignor's outstanding voting securities by a security holder of the  
2041 assignor.

2042 (d) If the investment adviser is a partnership, no assignment of an investment advisory  
2043 contract is considered to result from the death or withdrawal of a minority of the members of  
2044 the investment adviser having only a minority interest in the business of the investment  
2045 adviser, or from the admission to the investment adviser of one or more members who, after

2046 admission, will be only a minority of the members and will have only a minority interest in the  
2047 business.

2048 (3) It is unlawful for any investment adviser to take or have custody of any securities  
2049 or funds of any client if:

2050 (a) the division by rule prohibits custody; or

2051 (b) in the absence of a rule, the investment adviser fails to notify the division that he  
2052 has or may have custody.

2053 (4) The division may by rule adopt exemptions from Subsections 61-1-2(2)(a)(i), (ii),  
2054 and (iii) where such exemptions are consistent with the public interest and within the purposes  
2055 fairly intended by the policy and provisions of this chapter.

2056 Section 31. Section **61-2-3** is amended to read:

2057 **61-2-3. Exempt persons and transactions.**

2058 (1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not  
2059 required for:

2060 (i) a person who as owner or lessor performs the acts described in Subsection 61-2-2  
2061 (12) with reference to property owned or leased by that person;

2062 (ii) a regular salaried employee of the owner or lessor of real estate who, with  
2063 reference to nonresidential real estate owned or leased by the employer, performs the acts  
2064 enumerated in Subsections 61-2-2(12)(a) and (b);

2065 (iii) a regular salaried employee of the owner of real estate who performs property  
2066 management services with reference to real estate owned by the employer, except that the  
2067 employee may only manage property for one employer;

2068 (iv) a person who performs property management services for the apartments at which  
2069 that person resides in exchange for free or reduced rent on that person's apartment;

2070 (v) a regular salaried employee of a condominium homeowners' association who  
2071 manages real property subject to the declaration of condominium that established the  
2072 homeowners' association, except that the employee may only manage property for one  
2073 condominium homeowners' association; and

- 2074 (vi) a regular salaried employee of a licensed property management company who  
2075 performs support services, as prescribed by rule, for the property management company.
- 2076 (b) Subsection (1)(a) does not exempt from licensing:
- 2077 (i) an employee engaged in the sale of properties regulated under:
- 2078 (A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; and
- 2079 (B) Title 57, Chapter 19, Timeshare and Camp Resort Act;
- 2080 (ii) an employee engaged in the sale of cooperative interests regulated under Title 57,  
2081 Chapter 23, Real Estate Cooperative Marketing Act; or
- 2082 (iii) a person whose interest as an owner or lessor is obtained by that person or  
2083 transferred to that person for the purpose of evading the application of this chapter, and not for  
2084 any other legitimate business reason.
- 2085 (2) A license under this chapter is not required for:
- 2086 (a) an isolated transaction by a person holding a duly executed power of attorney from  
2087 the owner;
- 2088 (b) services rendered by an attorney in performing the attorney's duties as an attorney;
- 2089 (c) a receiver, trustee in bankruptcy, administrator, executor, or a person acting under  
2090 order of any court;
- 2091 (d) a trustee or employee of a trustee under a deed of trust or a will;
- 2092 (e) a public utility, officer of a public utility, or regular salaried employee of a public  
2093 utility, unless performance of any of the acts set out in Subsection 61-2-2(12) is in connection  
2094 with the sale, purchase, lease, or other disposition of real estate or investment in real estate  
2095 unrelated to the principal business activity of that public utility;
- 2096 (f) a regular salaried employee or authorized agent working under the oversight of the  
2097 Department of Transportation when performing an act on behalf of the Department of  
2098 Transportation in connection with one or more of the following:
- 2099 (i) the acquisition of real property pursuant to Section 72-5-103;
- 2100 (ii) the disposal of real property pursuant to Section 72-5-111;
- 2101 (iii) services that constitute property management; or

- 2102 (iv) the leasing of real property;
- 2103 (g) a regular salaried employee of a county, city, or town when performing an act on
- 2104 behalf of the county, city, or town:
- 2105 (i) in accordance with:
- 2106 (A) if a regular salaried employee of a city or town:
- 2107 (I) Title 10, Utah Municipal Code; or
- 2108 (II) Title 11, Cities, Counties, and Local Taxing Units; and
- 2109 (B) if a regular salaried employee of a county:
- 2110 (I) Title 11, Cities, Counties, and Local Taxing Units; and
- 2111 (II) Title 17, Counties; and
- 2112 (ii) in connection with one or more of the following:
- 2113 (A) the acquisition of real property, including by eminent domain;
- 2114 (B) the disposal of real property;
- 2115 (C) services that constitute property management; or
- 2116 (D) the leasing of real property.
- 2117 (3) A license under this chapter is not required for a person registered to act as a
- 2118 broker-dealer, agent, or investment [~~advisor~~] adviser under the Utah and federal securities laws
- 2119 in the sale or the offer for sale of real estate if:
- 2120 (a) (i) the real estate is a necessary element of a "security" as that term is defined by
- 2121 the Securities Act of 1933 and the Securities Exchange Act of 1934; and
- 2122 (ii) the security is registered for sale:
- 2123 (A) pursuant to the Securities Act of 1933; or
- 2124 (B) by Title 61, Chapter 1, Utah Uniform Securities Act; or
- 2125 (b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec.
- 2126 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation
- 2127 D, Rule 506, 17 C.F.R. Sec. 230.506; and
- 2128 (ii) the selling agent and the purchaser are not residents of this state.
- 2129 Section 32. Section **63D-2-102** is amended to read:

2130 **63D-2-102. Definitions.**

2131 As used in this chapter:

2132 (1) (a) "Collect" means the gathering of personally identifiable information:

2133 (i) from a user of a governmental website; or

2134 (ii) about a user of the governmental website.

2135 (b) "Collect" includes use of any identifying code linked to a user of a governmental

2136 website.

2137 (2) "Court website" means a website on the Internet that is operated by or on behalf of

2138 any court created in Title 78A, Chapter 1, Judiciary.

2139 (3) "Governmental entity" means:

2140 (a) an executive branch agency as defined in Section [~~63D-1a-102~~] 63F-1-102;

2141 (b) the legislative branch;

2142 (c) the judicial branch;

2143 (d) the State Board of Education;

2144 (e) the Board of Regents;

2145 (f) an institution of higher education; and

2146 (g) a political subdivision of the state:

2147 (i) as defined in Section 17B-1-102; and

2148 (ii) including a school district.

2149 (4) (a) "Governmental website" means a website on the Internet that is operated by or

2150 on behalf of a governmental entity.

2151 (b) "Governmental website" includes a court website.

2152 (5) "Governmental website operator" means a governmental entity or person acting on

2153 behalf of the governmental entity that:

2154 (a) operates a governmental website; and

2155 (b) collects or maintains personally identifiable information from or about a user of

2156 that website.

2157 (6) "Personally identifiable information" means information that identifies:

- 2158 (a) a user by:
- 2159 (i) name;
- 2160 (ii) account number;
- 2161 (iii) physical address;
- 2162 (iv) email address;
- 2163 (v) telephone number;
- 2164 (vi) Social Security number;
- 2165 (vii) credit card information; or
- 2166 (viii) bank account information;
- 2167 (b) a user as having requested or obtained specific materials or services from a
- 2168 governmental website;
- 2169 (c) Internet sites visited by a user; or
- 2170 (d) any of the contents of a user's data-storage device.
- 2171 (7) "User" means a person who accesses a governmental website.
- 2172 Section 33. Section **63I-1-263** is amended to read:
- 2173 **63I-1-263. Repeal dates, Titles 63 to 63M.**
- 2174 [~~(10)~~] (1) Section 63A-4-204, authorizing the Risk Management Fund to provide
- 2175 coverage to any public school district which chooses to participate, is repealed July 1, 2016.
- 2176 [~~(11)~~] (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July
- 2177 1, 2016.
- 2178 [~~(12)~~] (3) Section 63C-8-106, Rural residency training program, is repealed July 1,
- 2179 2015.
- 2180 [~~(3)~~] (4) The Resource Development Coordinating Committee, created in Section
- 2181 63J-4-501, is repealed July 1, 2015.
- 2182 [~~(4)~~] (5) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.
- 2183 [~~(5)~~] (6) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act,
- 2184 is repealed July 1, 2010.
- 2185 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in

2186 recycling market development zones, are repealed for taxable years beginning on or after  
2187 January 1, 2011.

2188 (c) Notwithstanding Subsection [~~(5)~~] (6)(b), a person may not claim a tax credit under  
2189 Section 59-7-610 or 59-10-1007:

2190 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
2191 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

2192 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if  
2193 the expenditure is made on or after July 1, 2010.

2194 (d) Notwithstanding Subsections [~~(5)~~] (6)(b) and (c), a person may carry forward a tax  
2195 credit in accordance with Section 59-7-610 or 59-10-1007 if:

2196 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

2197 (ii) (A) for the purchase price of machinery or equipment described in Section  
2198 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30,  
2199 2010; or

2200 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b),  
2201 the expenditure is made on or before June 30, 2010.

2202 [~~(1)~~] (7) Title 63M, Chapter 7, Part 4, Sentencing Commission, is repealed January 1,  
2203 2012.

2204 [~~(2)~~] (8) The Crime Victim Reparations Board, created in Section 63M-7-504, is  
2205 repealed July 1, 2017.

2206 [~~(6)~~] (9) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is  
2207 repealed July 1, 2011.

2208 [~~(7)~~] (10) Title 63M, Chapter 9, Families, Agencies, and Communities Together for  
2209 Children and Youth At Risk Act, is repealed July 1, 2016.

2210 [~~(8)~~ Title 63, Chapter 88, Navajo Trust Fund, is repealed July 1, 2008.]

2211 [~~(9)~~] (11) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,  
2212 2009.

2213 Section 34. Section **63L-3-202** is amended to read:

2214           **63L-3-202. Agency actions.**

2215           (1) Using the guidelines prepared under Section 63L-3-201, each state agency shall:

2216           (a) determine whether an action has constitutional taking implications; and

2217           (b) prepare an assessment of constitutional taking implications that includes an  
2218 analysis of the following:

2219           (i) the likelihood that the action may result in a constitutional taking, including a  
2220 description of how the taking affects the use or value of private property;

2221           (ii) alternatives to the proposed action that may:

2222           (A) fulfill the government's legal obligations of the state agency;

2223           (B) reduce the impact on the private property owner; and

2224           (C) reduce the risk of a constitutional taking; and

2225           (iii) an estimate of financial cost to the state for compensation and the source of  
2226 payment within the agency's budget if a constitutional taking is determined.

2227           (2) In addition to the guidelines prepared under Section 63L-3-201, each state agency  
2228 shall adhere, to the extent permitted by law, to the following criteria if implementing or  
2229 enforcing actions that have constitutional taking implications:

2230           (a) If an agency requires a person to obtain a permit for a specific use of private  
2231 property, any conditions imposed on issuing the permit shall directly relate to the purpose for  
2232 which the permit is issued and shall substantially advance that purpose.

2233           (b) Any restriction imposed on the use of private property shall be proportionate to the  
2234 extent the use contributes to the overall problem that the restriction is to redress.

2235           (c) If an action involves a permitting process or any other decision-making process  
2236 that will interfere with, or otherwise prohibit, the use of private property pending the  
2237 completion of the process, the duration of the process shall be kept to the minimum necessary.

2238           (d) Before taking an action restricting private property use for the protection of public  
2239 health or safety, the state agency, in internal deliberative documents, shall:

2240           (i) clearly identify, with as much specificity as possible, the public health or safety risk  
2241 created by the private property use;

2242 (ii) establish that the action substantially advances the purpose of protecting public  
2243 health and safety against the specifically identified risk;

2244 (iii) establish, to the extent possible, that the restrictions imposed on the private  
2245 property are proportionate to the extent the use contributes to the overall risk; and

2246 (iv) estimate, to the extent possible, the potential cost to the government if a court  
2247 determines that the action constitutes a constitutional taking.

2248 (3) If there is an immediate threat to health and safety that constitutes an emergency  
2249 and requires an immediate response, the analysis required by ~~Paragraph~~ Subsection (2)(b) ~~[of~~  
2250 ~~this section]~~ may be made when the response is completed.

2251 (4) Before the state agency implements an action that has constitutional taking  
2252 implications, the state agency shall submit a copy of the assessment of constitutional taking  
2253 implications to the governor and the Legislative Management Committee.

2254 Section 35. Section **72-9-107** is amended to read:

2255 **72-9-107. Medical exemptions for farm vehicle operators.**

2256 Except as provided in Section 53-3-206, an operator of a farm vehicle or combination  
2257 of farm vehicles that are under 26,001 pounds gross vehicle weight rating and not operated as  
2258 a commercial motor vehicle, in accordance with Subsection 53-3-102~~[(5)]~~(4)(b)(ii), is exempt  
2259 from additional requirements for physical qualifications, medical examinations, and medical  
2260 certification.

2261 Section 36. Section **76-3-201.1** is amended to read:

2262 **76-3-201.1. Collection of criminal judgment accounts receivable.**

2263 (1) As used in this section:

2264 (a) "Criminal judgment accounts receivable" means any amount due the state arising  
2265 from a criminal judgment for which payment has not been received by the state agency that is  
2266 servicing the debt.

2267 (b) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures,  
2268 surcharges, costs, interest, penalties, restitution to victims, third party claims, claims,  
2269 reimbursement of a reward, and damages.

2270 (2) (a) A criminal judgment account receivable ordered by the court as a result of  
2271 prosecution for a criminal offense may be collected by any means authorized by law for the  
2272 collection of a civil judgment.

2273 (b) (i) The court may permit a defendant to pay a criminal judgment account  
2274 receivable in installments.

2275 (ii) In the district court, if the criminal judgment account receivable is paid in  
2276 installments, the total amount due shall include all fines, surcharges, postjudgment interest,  
2277 and fees.

2278 (c) Upon default in the payment of a criminal judgment account receivable or upon  
2279 default in the payment of any installment of that receivable, the criminal judgment account  
2280 receivable may be collected as provided in this section or Subsection 77-18-1(9) or (10), and  
2281 by any means authorized by law for the collection of a civil judgment.

2282 (3) When a defendant defaults in the payment of a criminal judgment account  
2283 receivable or any installment of that receivable, the court, on motion of the prosecution,  
2284 victim, or upon its own motion may:

2285 (a) order the defendant to appear and show cause why the default should not be treated  
2286 as contempt of court; or

2287 (b) issue a warrant of arrest.

2288 (4) (a) Unless the defendant shows that the default was not attributable to an  
2289 intentional refusal to obey the order of the court or to a failure to make a good faith effort to  
2290 make the payment, the court may find that the default constitutes contempt.

2291 (b) Upon a finding of contempt, the court may order the defendant committed until the  
2292 criminal judgment account receivable, or a specified part of it, is paid.

2293 (5) If it appears to the satisfaction of the court that the default is not contempt, the  
2294 court may enter an order for any of the following or any combination of the following:

2295 (a) require the defendant to pay the criminal judgment account receivable or a  
2296 specified part of it by a date certain;

2297 (b) restructure the payment schedule;

2298 (c) restructure the installment amount;

2299 (d) except as provided in Section 77-18-8, execute the original sentence of  
2300 imprisonment;

2301 (e) start the period of probation anew;

2302 (f) except as limited by Subsection (6), convert the criminal judgment account  
2303 receivable or any part of it to [~~community~~] compensatory service;

2304 (g) except as limited by Subsection (6), reduce or revoke the unpaid amount of the  
2305 criminal judgment account receivable; or

2306 (h) in the district court, record the unpaid balance of the criminal judgment account  
2307 receivable as a civil judgment and transfer the responsibility for collecting the judgment to the  
2308 Office of State Debt Collection.

2309 (6) In issuing an order under this section, the court may not modify the amount of the  
2310 judgment of complete restitution.

2311 (7) Whether or not a default constitutes contempt, the court may add to the amount  
2312 owed the fees established under Subsection 63A-8-201(4)(g) and postjudgment interest.

2313 (8) (a) (i) If a criminal judgment account receivable is past due in a case supervised by  
2314 the Department of Corrections, the judge shall determine whether or not to record the unpaid  
2315 balance of the account receivable as a civil judgment.

2316 (ii) If the judge records the unpaid balance of the account receivable as a civil  
2317 judgment, the judge shall transfer the responsibility for collecting the judgment to the Office  
2318 of State Debt Collection.

2319 (b) If a criminal judgment account receivable in a case not supervised by the  
2320 Department of Corrections is past due, the district court may, without a motion or hearing,  
2321 record the unpaid balance of the criminal judgment account receivable as a civil judgment and  
2322 transfer the responsibility for collecting the account receivable to the Office of State Debt  
2323 Collection.

2324 (c) If a criminal judgment account receivable in a case not supervised by the  
2325 Department of Corrections is more than 90 days past due, the district court shall, without a

2326 motion or hearing, record the unpaid balance of the criminal judgment account receivable as a  
2327 civil judgment and transfer the responsibility for collecting the criminal judgment account  
2328 receivable to the Office of State Debt Collection.

2329 (9) (a) When a fine, forfeiture, surcharge, cost permitted by statute, fee, or an order of  
2330 restitution is imposed on a corporation or unincorporated association, the person authorized to  
2331 make disbursement from the assets of the corporation or association shall pay the obligation  
2332 from those assets.

2333 (b) Failure to pay the obligation may be held to be contempt under Subsection (3).

2334 (10) The prosecuting attorney may collect restitution in behalf of a victim.

2335 Section 37. Section **76-9-802** is amended to read:

2336 **76-9-802. Definitions.**

2337 As used in this part:

2338 (1) "Criminal street gang" means an organization, association in fact, or group of three  
2339 or more persons, whether operated formally or informally:

2340 (a) that is currently in operation;

2341 (b) that has as one of its primary activities the commission of one or more predicate  
2342 gang crimes;

2343 (c) that has, as a group, an identifying name or identifying sign or symbol, or both;

2344 and

2345 (d) whose members, acting individually or in concert with other members, engage in  
2346 or have engaged in a pattern of criminal gang activity.

2347 (2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat  
2348 of harm for the purpose of causing an individual to act or refrain from acting.

2349 (3) "Minor" means a person younger than 18 years of age.

2350 (4) "Pattern of criminal gang activity" means:

2351 (a) committing, attempting to commit, conspiring to commit, or soliciting the  
2352 commission of two or more predicate gang crimes within five years;

2353 (b) the predicate gang crimes are:

- 2354 (i) committed by two or more persons; or
- 2355 (ii) committed by an individual at the direction of, or in association with a criminal
- 2356 street gang; and
- 2357 (c) the criminal activity was committed with the specific intent to promote, further, or
- 2358 assist in any criminal conduct by members of the criminal street gang.
- 2359 (5) (a) "Predicate gang crime" means any of the following offenses:
- 2360 [~~(xxiii)~~] (i) Title 41, Chapter 1a, Motor Vehicle Act:
- 2361 (A) Section 41-1a-1313, regarding possession of a motor vehicle without an
- 2362 identification number;
- 2363 (B) Section 41-1a-1315, regarding false evidence of title and registration;
- 2364 (C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;
- 2365 (D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an
- 2366 identification number; [~~and~~] or
- 2367 (E) Section 41-1a-1318, regarding the fraudulent alteration of an identification
- 2368 number[-];
- 2369 [(†)] (ii) any criminal violation of the following provisions:
- 2370 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
- 2371 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 2372 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
- 2373 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;
- 2374 [(†)] (iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;
- 2375 [(†)] (iv) Title 76, Chapter 5, Part 2, Criminal Homicide;
- 2376 [(†)] (v) Sections 76-5-301 through 76-5-304, which address kidnapping and related
- 2377 offenses;
- 2378 [(†)] (vi) any felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;
- 2379 [(†)] (vii) Title 76, Chapter 6, Part 1, Property Destruction;
- 2380 [(†)] (viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;
- 2381 [(†)] (ix) Title 76, Chapter 6, Part 3, Robbery;

2382            [~~(ix)~~] (x) any felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections  
2383 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6,  
2384 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

2385            [~~(x)~~] (xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505,  
2386 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516,  
2387 76-6-517, 76-6-518, and 76-6-520;

2388            [~~(xi)~~] (xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

2389            [~~(xii)~~] (xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except  
2390 Sections 76-8-302, 76-8-303, 76-8-304, 76-8-307, 76-8-308, and 76-8-312;

2391            [~~(xiii)~~] (xiv) Section 76-8-508, which includes tampering with a witness;

2392            [~~(xiv)~~] (xv) Section 76-8-508.3, which includes retaliation against a witness or victim;

2393            [~~(xv)~~] (xvi) Section 76-8-509, which includes extortion or bribery to dismiss a  
2394 criminal proceeding;

2395            [~~(xvi)~~] (xvii) Title 76, Chapter 10, Part 3, which addresses explosives;

2396            [~~(xvii)~~] (xviii) Title 76, Chapter 10, Part 5, Weapons;

2397            [~~(xviii)~~] (xix) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

2398            [~~(xix)~~] (xx) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

2399            [~~(xx)~~] (xxi) Section 76-10-1801, which addresses communications fraud;

2400            [~~(xxi)~~] (xxii) Title 76, Chapter 10, Part 19, Money Laundering and Currency  
2401 Transaction Reporting Act; or

2402            [~~(xxii)~~] (xxiii) Section 76-10-2002, which addresses burglary of a research facility[;].

2403            (b) "Predicate gang crime" also includes:

2404            (i) any state or federal criminal offense that by its nature involves a substantial risk  
2405 that physical force may be used against another in the course of committing the offense; and

2406            (ii) any felony violation of a criminal statute of any other state, the United States, or  
2407 any district, possession, or territory of the United States which would constitute a violation of  
2408 any offense in Subsection (4)(a) if committed in this state.

2409            Section 38. Section **78A-6-203** is amended to read:

2410           **78A-6-203. Board of Juvenile Court Judges -- Composition -- Purpose.**  
2411           (1) (a) The Judicial Council shall by rule establish a Board of Juvenile Court Judges.  
2412           (b) The board shall establish general policies for the operation of the juvenile courts  
2413 and uniform rules and forms governing practice, consistent with the provisions of this chapter,  
2414 the rules of the Judicial Council, and rules of the Supreme Court.  
2415           (c) The board may receive and expend any funds that may become available from the  
2416 federal government or private sources to carry out any of the purposes of this chapter.  
2417           (i) The board may meet any federal requirements that are conditions precedent to  
2418 receiving the funds.  
2419           (ii) The board may cooperate with the federal government in a program for training  
2420 personnel employed or preparing for employment by the juvenile court and may receive and  
2421 expend funds from federal or state sources or from private donations for these purposes.  
2422           (iii) Funds donated or paid to the juvenile court by private sources for the purpose of  
2423 [community] compensatory service programs shall be nonlapsing.  
2424           (iv) The board may:  
2425           (A) contract with public or nonprofit institutions of higher learning for the training of  
2426 personnel;  
2427           (B) conduct short-term training courses of its own and hire experts on a temporary  
2428 basis for this purpose; and  
2429           (C) cooperate with the Division of Child and Family Services and other state  
2430 departments or agencies in personnel training programs.  
2431           (d) The board may contract, on behalf of the juvenile court, with the United States  
2432 Forest Service or other agencies or departments of the federal government or with agencies or  
2433 departments of other states for the care and placement of minors adjudicated under this  
2434 chapter.  
2435           (e) The powers to contract and expend funds are subject to budgetary control and  
2436 procedures as provided by law.  
2437           (2) Under the direction of the presiding officer of the council, the chair shall supervise

2438 the juvenile courts to ensure uniform adherence to law and to the rules and forms adopted by  
2439 the Supreme Court and Judicial Council, and to promote the proper and efficient functioning  
2440 of the juvenile courts.

2441 (3) The judges of districts having more than one judge shall elect a presiding judge. In  
2442 districts comprised of five or more judges and court commissioners, the presiding judge shall  
2443 receive an additional \$1,000 per annum as compensation.

2444 (4) Consistent with policies of the Judicial Council, the presiding judge shall:

2445 (a) implement policies of the Judicial Council;

2446 (b) exercise powers and perform administrative duties as authorized by the Judicial  
2447 Council;

2448 (c) manage the judicial business of the district; and

2449 (d) call and preside over meetings of judges of the district.

2450 Section 39. Section **78A-6-1205** is amended to read:

2451 **78A-6-1205. Dispositions.**

2452 (1) Youth Court dispositional options include:

2453 (a) [~~community~~] compensatory service;

2454 (b) participation in law-related educational classes, appropriate counseling, treatment,  
2455 or other educational programs;

2456 (c) providing periodic reports to the Youth Court;

2457 (d) participating in mentoring programs;

2458 (e) participation by the youth as a member of a Youth Court;

2459 (f) letters of apology;

2460 (g) essays; and

2461 (h) any other disposition considered appropriate by the Youth Court and adult  
2462 coordinator.

2463 (2) Youth Courts may not impose a term of imprisonment or detention and may not  
2464 impose fines.

2465 (3) Youth Court dispositions shall be completed within 180 days from the date of

2466 referral.

2467 (4) Youth Court dispositions shall be reduced to writing and signed by the youth and a  
2468 parent, guardian, or legal custodian indicating their acceptance of the disposition terms.

2469 (5) Youth Court shall notify the referring source if a participant fails to successfully  
2470 complete the Youth Court disposition. The referring source may then take any action it  
2471 considers appropriate.

2472 Section 40. Section **78A-6-1206** is amended to read:

2473 **78A-6-1206. Liability.**

2474 (1) A person or entity associated with the referral, evaluation, adjudication,  
2475 disposition, or supervision of matters under this part may not be held civilly liable for any  
2476 injury occurring to any person performing [~~community~~] compensatory service or any other  
2477 activity associated with a certified Youth Court unless the person causing the injury acted in a  
2478 willful or wanton manner.

2479 (2) Persons participating in a certified Youth Court shall be considered to be  
2480 volunteers for purposes of Workers' Compensation and other risk-related issues.

2481 Section 41. Section **78B-6-115** is amended to read:

2482 **78B-6-115. Who may adopt -- Adoption of adult.**

2483 (1) For purposes of this section, "vulnerable adult" means:

2484 (a) a person 65 years of age or older; or

2485 (b) an adult, 18 years of age or older, who has a mental or physical impairment which  
2486 substantially affects that person's ability to:

2487 (i) provide personal protection;

2488 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;

2489 (iii) obtain services necessary for health, safety, or welfare;

2490 (iv) carry out the activities of daily living;

2491 (v) manage the adult's own resources; or

2492 (vi) comprehend the nature and consequences of remaining in a situation of abuse,  
2493 neglect, or exploitation.

2494 (2) Subject to this section and Section 78B-6-117, any adult may be adopted by  
2495 another adult.

2496 (3) The following provisions of this part apply to the adoption of an adult just as  
2497 though the person being adopted were a minor:

2498 (a) (i) Section 78B-6-108;

2499 (ii) Section 78B-6-114;

2500 (iii) Section 78B-6-116;

2501 (iv) Section 78B-6-118;

2502 (v) Section 78B-6-124;

2503 (vi) Section 78B-6-136;

2504 (vii) Section 78B-6-137;

2505 (viii) Section 78B-6-138;

2506 (ix) Section 78B-6-139;

2507 (x) Section 78B-6-141; and

2508 (xi) Section 78B-6-142;

2509 (b) Subsections [~~78B-6-106~~] 78B-6-105(1), (2), and (7), except that the juvenile court  
2510 does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption  
2511 arises from a case where the juvenile court has continuing jurisdiction over the adult adoptee;  
2512 and

2513 (c) if the adult adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131,  
2514 regardless of whether the adult adoptee resides, or will reside, with the adoptors, unless the  
2515 court, based on a finding of good cause, waives the requirements of those sections.

2516 (4) Before a court enters a final decree of adoption of an adult, the adoptee and the  
2517 adoptive parent or parents shall appear before the court presiding over the adoption  
2518 proceedings and execute consent to the adoption.

2519 (5) No provision of this part, other than those listed or described in this section or  
2520 Section 78B-6-117, apply to the adoption of an adult.

2521 Section 42. **Repealer.**

2522           This bill repeals:  
2523           Section **9-3-102, Definitions.**